

**AUTO STRIPPING  
Third DEGREE  
(A Misdemeanor)  
(Abandoned Vehicle)  
PENAL LAW 165.09(2)  
(Committed on or after Nov. 1, 1996)<sup>1</sup>**

The \_\_\_\_\_ count is Auto Stripping in the Third Degree.

Under our law, a person is guilty of Auto Stripping in the Third Degree when that person intentionally removes or intentionally destroys or intentionally defaces any part of an abandoned vehicle.<sup>2</sup>

[NOTE: Add if appropriate:

It is a defense to this charge that such person was authorized to do so pursuant to law (or by permission of the owner).]

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms:<sup>3</sup> "intentionally," [and] "abandoned vehicle" [and "owner"].

A person acts INTENTIONALLY when that person's conscious objective or purpose is to cause a particular result or to engage in particular conduct.<sup>4</sup> Thus, a person intentionally

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<sup>1</sup> This crime was initially named Auto Stripping in the Second Degree and applied to crimes committed on or after November 1, 1984. Effective November 1, 1996, the crime was renamed Auto Stripping in the Third Degree.

<sup>2</sup> The word "intentionally" has been added before "removes" and "defaces," in accordance with Penal Law § 15.15(1).

<sup>3</sup> If the term "vehicle" is in issue, see Penal Law § 10.00(14).

<sup>4</sup> See Penal Law § 15.05(1).

removes or destroys or defaces any part of an abandoned vehicle when that person's conscious objective or purpose is to remove or destroy or deface any part of an abandoned vehicle.

A motor vehicle is deemed to be an ABANDONED VEHICLE if it is left unattended

*[NOTE: Select appropriate alternative(s):*

- (a) with no number plates affixed to it, for more than six (6) hours on any highway or other public place;
- (b) for more than twenty-four (24) hours on any highway or other public place, except a portion of a highway or public place on which parking is legally permitted;
- (c) for more than forty-eight (48) hours, after the parking of such vehicle shall have become illegal, if left on a portion of a highway or public place on which parking is legally permitted;
- (d) for more than ninety-six (96) hours on property of another if left without permission of the property owner].<sup>5</sup>

[An OWNER of a vehicle means a person who has a right to possession of the vehicle which is superior to that of the person who intentionally removes or destroys or defaces any part of such vehicle.]<sup>6</sup>

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<sup>5</sup> See Vehicle and Traffic Law § 1224(1). Subdivision (d) has been modified for clarity.

<sup>6</sup> See Penal Law § 155.00(5), which has been modified for this crime. Also see that section for special definitions of "owner" to cover the situations (1) where the alleged owner obtained the property by theft, (2) where the alleged owner is a joint or common owner of the property, and (3) where the property is in the possession of the alleged owner but some other person has a security interest in the property.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both [each] of the following two [three] elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), removed or destroyed or defaced any part of an abandoned vehicle; [and]
2. That the defendant did so intentionally.

[NOTE: Add if appropriate:

and

3. That the defendant was not authorized to do so pursuant to law (or by permission of the owner).]

Therefore, if you find that the People have proven beyond a reasonable doubt both [each] of those elements, you must find the defendant guilty of the crime of Auto Stripping in the Third Degree as charged in the \_\_\_\_\_ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both [any one or more] of those elements, you must find the defendant not guilty of the crime of Auto Stripping in the Third Degree as charged in the \_\_\_\_\_ count.