

**ROBBERY IN THE SECOND DEGREE**  
**(C Felony)**  
**PENAL LAW § 160.10(3)**  
**(Committed on or after November 1, 1995)**

*[NOTE: Before instructing a jury on any specific robbery charge, read once the introductory Robbery charge found at the beginning of this chapter.]*

The \_\_\_\_\_ count is Robbery in the Second Degree.

Under our law, a person is guilty of Robbery in the Second Degree when he forcibly steals property and when the property consists of a motor vehicle<sup>1</sup>.

The term, motor vehicle, used in this definition has its own special meaning in our law. I will now give you the meaning of that term.

MOTOR VEHICLE means every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power.<sup>2</sup>

In order for you to find the defendant guilty of this crime, the

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<sup>1</sup> At this point, the statute continues: "as defined in section one hundred twenty-five of the vehicle and traffic law."

<sup>2</sup> The definition of "motor vehicle," as defined by Vehicle and Traffic Law § 125, continues as follows:  
"except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (b) vehicles which run only upon rails or tracks, (c) snowmobiles as defined in article forty-seven of this chapter, and (d) all terrain vehicles as defined in article forty-eight-B of this chapter. For the purposes of title four, the term motor vehicle shall exclude fire and police vehicles other than ambulances. For the purposes of titles four and five the term motor vehicles shall exclude farm type tractors and all terrain type vehicles used exclusively for agricultural purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site."

People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), forcibly stole property from (specify); and
2. That the property consisted of a motor vehicle.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Robbery in the Second 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 of those elements, you must find the defendant not guilty of the crime of Robbery in the Second Degree as charged in the \_\_\_ count.