

12.2 ARSON — SECOND DEGREE

§ 806.01(2), Fla. Stat.

To prove the crime of Arson — Second Degree, the State must prove the following two elements beyond a reasonable doubt:

1. (Defendant) [willfully and unlawfully] [while engaged in the commission of a [felony] [(felony alleged)]] caused a[n] [explosion] [fire].
2. A structure, owned by the defendant or another, was damaged by the [explosion] [fire].

Give if applicable.

The court instructs you that (name of felony) **is a felony.**

Knighten v. State, 568 So. 2d 1001 (Fla. 2d DCA 1990) and N.K.D. v. State, 799 So. 2d 428 (Fla. 1st DCA 2001).

In order to convict the defendant of Arson, it is not necessary for the State to prove [he] [she] intended to damage the structure.

Definitions.

Patterson v. State, 512 So. 2d 1109 (Fla. 1st DCA 1987).

“Willfully” means intentionally, knowingly, and purposely.

Berry v. State, 566 So. 2d 22 (Fla. 1st DCA 1990).

“Unlawfully” means without a legitimate, lawful purpose.

§ 806.01(3) Fla. Stat.

“Structure” means any building of any kind, any enclosed area with a roof over it, any real property and appurtenances, any tent or other portable building, and any vehicle, vessel, watercraft, or aircraft.

If the defendant is charged with causing a fire or explosion while committing a felony, define the felony that the defendant was allegedly committing.

Lesser Included Offenses

ARSON — 806.01(2)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1
	Criminal mischief	806.13	12.4

Comment

This instruction was adopted in 1981 and amended in 1992 and 2014.

