

**28.18 FAILURE TO OBEY THE LAWFUL ORDER OF A [POLICE] [FIRE]
[TRAFFIC] OFFICIAL**
§ 316.072(3), Fla. Stat.

To prove the crime of Failure to Obey the Lawful Order of a (*insert type of official from the list in § 316.072(3), Fla. Stat.*), **the State must prove the following five elements beyond a reasonable doubt:**

1. (Defendant) **was [operating a [vehicle] [bicycle]] [walking] upon [a state-maintained highway] [county-maintained highway] [municipal street or alley] [place where vehicles have the right to travel].**
2. (Name of official) **gave a lawful [order] [or] [direction] to (defendant) regarding the operation of a vehicle or bicycle or the movement of a pedestrian.**
3. **At the time,** (name of official) **was acting in [his] [her] capacity as a [law enforcement officer] [traffic crash investigation officer] [traffic infraction enforcement officer] [member of the fire department who was at the scene of a fire, rescue operation, or other emergency].**
4. (Defendant) **knew that [he] [she] had been given a[n] [order] [direction] by a [law enforcement officer] [traffic crash investigation officer] [traffic infraction enforcement officer] [member of the fire department who was at the scene of a fire, rescue operation, or other emergency].**
5. (Defendant) **willfully failed to obey [or] [willfully refused to comply] with the [order] [or] [direction] given.**

Give as applicable.

§ 316.003, Fla. Stat. *Some of these terms have their own statutory definitions, which should be given if necessary.*

A “vehicle” is every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway[, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks].

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

“Willfully” means intentionally, knowingly, and purposely.

§ 316.003, Fla. Stat.

A “bicycle” is every vehicle propelled solely by human power having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. [The term does not include a scooter or similar device.]

§ 316.640, Fla. Stat.

A “traffic crash investigation officer” is an individual who successfully completed instruction in traffic accident investigation and court presentation through the Selective Traffic Enforcement Program as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration or a similar program approved by the Criminal Justice Standards and Training Commission, and who is employed by (insert relevant agency listed in § 316.640, Fla. Stat.).

A “traffic infraction enforcement officer” is an individual who successfully completed instruction in traffic enforcement procedures and court presentation through the Selective Traffic Enforcement Program as approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program, and who is employed by (insert relevant agency listed in § 316.640, Fla. Stat.).

Lesser Included Offenses

FAILURE TO OBEY LAWFUL ORDER— 316.072(3)			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comments

A special instruction will be necessary in cases where the defense claims the order or direction was not lawful.

This instruction was adopted in 2015 [166 So. 3d 161] and amended in 2017 [211 So. 3d 995], 2019 [262 So. 3d 59], and on October 2, 2020.