

28.4(b) LEAVING THE SCENE OF A CRASH INVOLVING DAMAGE TO AN UNATTENDED VEHICLE OR UNATTENDED PROPERTY

§ 316.063(1), Fla. Stat.

To prove the crime of Leaving the Scene of a Crash Involving Damage to an Unattended Vehicle or Unattended Property, the State must prove the following four elements beyond a reasonable doubt:

1. (Defendant) was the driver of a vehicle involved in a crash or collision.
2. The crash or collision resulted in damage to another vehicle or other property.
3. The vehicle or other property was not driven or attended by any person.
4. (Defendant) failed to immediately stop at the scene of the crash or collision and then and there either
 - a. locate and notify the operator or owner of the vehicle or other property of [his] [her] name and address and the registration number of the vehicle [he] [she] was driving, or
 - b. attach securely in a conspicuous place in or on the vehicle or other property a written notice giving [his] [her] name and address and the registration number of the vehicle [he] [she] was driving, and, without unnecessary delay, notify the nearest office of a duly authorized police authority.

Gaulden v. State, 195 So. 3d 1123 (Fla. 2016).

A vehicle is “involved in a crash” if it collides with another vehicle, person, or object.

§ 316.003(75), Fla. Stat.

“Vehicle” means every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

Lesser Included Offense

LEAVING THE SCENE OF A CRASH INVOLVING DAMAGE TO AN UNATTENDED VEHICLE OR UNATTENDED PROPERTY—316.063(1)			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comments

It is unclear whether the courts will interpret the statutory phrase of “involved in a crash” as including instances where the defendant’s vehicle did not collide with another vehicle, person, or object, but the defendant’s driving pattern caused vehicle 2 to collide with a person, an object, or vehicle 3. *See State v. Elder, 975 So. 2d 481 (Fla. 2d DCA 2007) (decided before Gaulden v. State, 195 So. 3d 1123 (Fla. 2016)).*

As of August 2017, there was no case law directly addressing the issue of whether the State must prove the defendant knew, or should have known, of either the crash or the property damage. *Compare State v. Dorsett*, 158 So. 3d 557 (Fla. 2015), and *Mancuso v. State*, 652 So. 2d 370 (Fla. 1995), dealing with § 316.027, Fla. Stat., which, unlike § 316.063, Fla. Stat., contains an explicit willfulness requirement.

This instruction was adopted in 2016 [192 So. 3d 1190] and amended in 2018.