

28.5 RECKLESS DRIVING
§ 316.192(1)(a) and (1)(b), Fla. Stat.

To prove the crime of Reckless Driving, the State must prove the following beyond a reasonable doubt:

Give if § 316.192(1)(a), Fla. Stat. is charged.

(Defendant) **drove a vehicle in Florida with a willful or wanton disregard for the safety of persons or property.**

Give if Fla. Stat. § 316.192(1)(b), Fla. Stat. is charged.

(Defendant), **while driving a motor vehicle, fled from a law enforcement officer.**

Give if applicable. Fla. Stat. § 316.192(3).

If you find (defendant) guilty of Reckless Driving, you must also determine whether the State has proven beyond a reasonable doubt that [he] [she] caused [damage to the [property] [or] [person] of another] [or] [serious bodily injury to another] as a result of operating the vehicle recklessly.

Definitions. Give if applicable.

W.E.B. v. State, 553 So. 2d 323 (Fla. 1st DCA 1989).

“Willful” means intentionally, knowingly and purposely.

“Wanton” means with a conscious and intentional indifference to consequences and with knowledge that damage is likely to be done to persons or property.

Fla. Stat. § 316.003(75).

A “vehicle” is any device in, upon, or by which any person or property is, or may be, transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

Give if applicable. Fla. Stat. § 316.192(3)(c)2.

“Serious bodily injury” means an injury to another person which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Give if applicable.

Fla. Stat. § 316.003(21).

A “motor vehicle” is a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, swamp buggy, or moped.

Fla. Stat. § 316.1935.

“Fleeing a law enforcement officer” means 1) the defendant was operating a motor vehicle upon a street or highway in Florida; 2) a duly authorized law enforcement officer ordered the defendant to stop or remain stopped; 3) the defendant, knowing [he] [she] had been ordered to stop by a duly authorized law enforcement officer, either willfully refused or failed to stop the vehicle in compliance with the order or having stopped the vehicle, willfully fled in a vehicle in an attempt to elude the officer.

Fla. Stat. § 316.003(53).

“Highway” means:

(a) the entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic;

(b) the entire width between the boundary lines of any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons, or any limited access road owned or controlled by a special district, whenever, by written agreement entered into under Fla. Stat. 316.006(2)(b) or (3)(b), a county or municipality exercises traffic control jurisdiction over said way or place;

(c) any area, such as a runway, taxiway, ramp, clear zone, or parking lot, within the boundary of any airport owned by the state, a county, a municipality, or a political subdivision, which area is used for vehicular traffic but which is not open for vehicular operation by the general public; or

(d) any way or place used for vehicular traffic on a controlled access basis within a mobile home park recreation district which has been created under Fla. Stat. 418.30 and the recreational facilities of which district are open to the general public.

Lesser Included Offenses

RECKLESS DRIVING CAUSING SERIOUS BODILY INJURY — 316.192(1); 316.192(3)(a)(b)(c)2			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Reckless driving causing injury		316.192(3)(a)(b)(c)1	28.5
Reckless driving		316.192(1)(a)	28.5
	Reckless driving causing property damage	316.192(3)(a)(b)(c)1	28.5

Comment

This instruction was adopted in 1981 and amended in 2013.