, the defendant in this case, has been charged with the crime of vehicle theft in the second degree.

To prove that the defendant committed this crime, the state must prove beyond a reasonable doubt each of the following elements:

(1) the defendant knowingly drove, towed away, or took the propelled vehicle of another person; and

(2) the defendant had no right and no reasonable ground to believe [he] [she] had a right, to drive, tow away, or take the propelled vehicle.

#### USE NOTE

The following terms are defined in other instructions:

"aircraft" – 11.46.360(b)(1)

"knowingly" – 11.81.900(a)

"motorcycle" – 11.46.360(b)(3)

"propelled vehicle" – 11.81.900(b)

"watercraft" – 11.46.360(b)(4)

The "knowingly" mental state is included in the first element based on AS 11.81.610(b)(1).

Dobberke v. State, 40 P.3d 1244 (Alaska App. 2002) does not explicitly resolve whether the implied element of initial trespass applies to vehicle theft in the second degree.

If this offense is charged as a lesser included offense of Vehicle Theft in the First Degree on the theory that the propelled vehicle is not a car, truck, motorcycle, motor home, bus, aircraft, or watercraft, a third element should be added, as follows:

“The propelled vehicle was not a car, truck, motorcycle, motor home, bus, aircraft, or watercraft.”