

1978 WL 34684 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 3, 1978

*1 Mr. John Bethea
Town Administrator
Central, South Carolina 29630

Dear Mr. Bethea:

In your letter to our office dated January 18, 1978, you requested our opinion as to the proper charge for a person who enters a house without touching the door and once inside steals the owner's possessions. The following response to your request is based on the assumption that the individual entered the house through an open door or window without exerting any physical force, however slight. In order for the charge to be house-breaking or burglary, the element of breaking is required. [State v. Clamp](#), 225 S.C. 89, 80 S.E.2d 918 (1954); [State v. Green](#), 118 S.C. 279, 110 S.E. 145 (1920). The correct charge on the facts presented by you is privily stealing from a person or house under [Section 16-13-20 of South Carolina Code](#) of Laws, 1976. This charge applies to any offense where a person enters a house in the nighttime or daytime and steals something. The element of breaking is not required under [Section 16-13-20](#). The offense is considered to be the same as common law grand larceny regardless of the value of the articles stolen and is punishable under [Section 17-25-20 of South Carolina Code](#) of Laws, 1976, by imprisonment for not less than three (3) months nor more than ten (10) years.

This information should be sufficient to answer your inquiry. May I suggest that you contact your city attorney if you have questions of this nature in the future. He is there to serve as a source of legal information for you and should be able to respond to your requests more expeditiously than we are able to do.

Sincerely,

(Ms.) B. J. Willoughby
Staff Attorney

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