, the defendant in this case, has been charged with the crime of vehicle theft in the first 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;

(2) when the defendant initially drove, towed away, or took the propelled vehicle, [he] [she] had no right to do so and no reasonable ground to believe [he] [she] had such a right; and

(3) [the vehicle or any other property of another was damaged in a total amount of $1,000 or more] [the owner incurred reasonable expenses as a result of the loss of use of the vehicle, in a total amount of $1,000 or more] [the owner was deprived of the use of the vehicle for seven days or more] [the vehicle was marked as a police or emergency vehicle].

#### USE NOTE

The following terms are defined in other instructions:

"knowingly" – 11.81.900(a)

"propelled vehicle" – 11.81.900(b)

The "knowingly" mental state is included in the first element based on Dobberke v. State, 40 P.3d 1244 (Alaska App. 2002): "it is a felony to knowingly drive, tow away, or take a car belonging to another while having no right or reasonable belief in a right to do so." Id. at 1247 (emphasis added).

The second element states that the defendant had no right or reasonable belief in a right to take the vehicle "when" the vehicle was "initially" taken. This language is also based on Dobberke, where the court held in a prosecution under AS 11.46.360(a)(1): "Accordingly, in first-degree vehicle theft cases, the State must prove that the defendant’s initial taking of the vehicle was trespassory." Id. at 1247 (emphasis added).