, the defendant in this case, has been charged with the crime of criminal mischief in the fifth degree.

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

[(1) the defendant knowingly tampered with property of another;

(2) the defendant had no right to do so or any reasonable ground to believe that the defendant had such a right; and

(3) the defendant [recklessly disregarded the risk of harm or loss of the property] [intended to cause substantial inconvenience to another].]

[(1) the defendant intentionally damaged the property of another;

(2) the defendant had no right to do so or any reasonable ground to believe that the defendant had such a right; and

(3) the damage to the property was in any amount.]

[(1) the defendant rode in a propelled vehicle;

 (2) the defendant knew that the vehicle [was stolen] [that it was being used in violation of AS 11.46.360 or 11.46.365(a)(1)]; and]

(3) the defendant had no right to do so or any reasonable ground to believe that the defendant had such a right.

# USE NOTE

The following terms are defined in other instructions:

 "intentionally" – 11.81.900

"knowingly" – 11.81.900

"propelled vehicle" – 11.81.900

"property" – 11.81.900

"recklessly" – 11.81.900

"stolen property" – 11.46.990

"tamper" – 11.46.495

The criminal mischief statutes do not require the state to prove that the defendant knew of or had reason to know that the damage caused would exceed a particular amount or value. Ortberg v. State, 751 P.2d 1368 (Alaska App.1988).

The amount of damage caused by an act of criminal mischief may be established through evidence showing either diminution in value or reasonable cost of repair. Willett v. State, 826 P.2d 1142, 1144 (Alaska App. 1992).

The State bears the burden of proving beyond a reasonable doubt that a defendant has no reasonable ground to believe that his actions are necessary for self-protection in a prosecution for criminal mischief in which the defendant asserts a necessity defense. McGee v. State, 162 P.3d 1251, 1255 (Alaska App. 2007).

Criminal Mischief in the Fifth Degree is defined as damage to property in an amount less than $250; however, any value will suffice. Because property damage in an amount greater than $250 is not a defense, this instruction does not include the value element. *See* AS 11.81.615.