

220.40 FRAUDULENT AND DECEPTIVE ADVERTISING. MISDEMEANOR.

The defendant has been charged with fraudulent and deceptive advertising.

For you to find the defendant guilty of this offense, the State must prove five things beyond a reasonable doubt:

First, that the defendant [made public] [disseminated] [circulated] [placed before the public]¹ an advertisement (of any sort) regarding (*describe merchandise, securities, service, or other thing offered to the public*).

Second, that this advertisement was in (*describe publication or media*).²

Third, that the advertisement contained a(n) [assertion] [representation] [statement of fact] which was [untrue] [deceptive] [misleading].

Fourth, that the defendant acted with the intent to sell³ (*describe merchandise, securities, service, or other thing offered to the public*).

And Fifth, that the defendant acted willfully and with the intent to mislead.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [made public] [disseminated] [circulated] [placed before the public] an advertisement (of any sort) regarding (*describe merchandise, securities, service, or other thing offered to the public*) in (*describe publication or media*) which contained a(n) [assertion] [representation] [statement of fact] which was [untrue]

[deceptive] [misleading] and that the defendant acted willfully, with the intent to mislead and with the intent to sell (*describe merchandise, securities, service, or other thing offered to the public*), it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public in this State.

2. Forms included are "newspaper or other publications, or in the form of a book, notice, handbill, poster, bill circular, pamphlet or letter, or in any other way." The statute was enacted in 1915 which raises the question of its applicability to television.

3. Also included is intent to dispose of, increase consumption of, induce the public in any manner to enter into an obligation relating to, acquire title to, or acquire interest in.