

237.20 POSSESSION OF LOTTERY TICKETS USED IN THE OPERATION OF A
LOTTERY. MISDEMEANOR.

NOTE WELL: The North Carolina Education Lottery and lawful lotteries conducted by other states are not subject to this statute.

The defendant has been charged with possessing a lottery [ticket] [order] [certificate] used in the operation of any lottery.

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

First, that the defendant knowingly possessed lottery [tickets] [certificates] [orders].¹ A person possesses lottery [tickets] [certificates] [orders] when he is aware of their presence and has (either by himself or together with others) both the power and intent to control the disposition or use of lottery [tickets] [certificates] [orders].

NOTE WELL: If constructive possession of lottery tickets, etc., is an issue, or if an amplified definition of actual possession is needed, the trial judge should refer to N.C.P.I.—Crim. 104.41.

And Second, that these [tickets] [certificates] [orders] were used in the operation of any lottery. If you find beyond a reasonable doubt that the defendant possessed lottery [tickets] [certificates] [orders], you may infer that they were used in the operation of a lottery, but you are not compelled to do so. You may consider this evidence together with all other evidence in the case in determining whether the State has proved beyond a reasonable doubt that the lottery [tickets] [certificates] [orders] were used in the operation of any lottery.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant knowingly possessed lottery [tickets] [certificates] [orders] which were used in the operation of any lottery, it

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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 both of these things it would be your duty to return a verdict of not guilty.

1. A lottery may be defined as any scheme for the distribution of prizes, by lot or chance, by which one, on paying money or giving any other thing of value to another, obtains a token which entitles him to receive a larger or smaller value, or nothing, as some formula of chance may determine. *State v. Lipkin*, 169 N.C. 265 (1915).