

238.22 SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR (PRODUCING MATERIAL). FELONY.

The defendant has been charged with second degree sexual exploitation of a minor.<sup>1</sup>

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

First, that the defendant [recorded] [photographed] [filmed] [developed] (or) [duplicated] material<sup>2</sup> that contains a visual representation of a minor engaged in sexual activity.<sup>3</sup>

And Second, that the defendant knew the [character] (or) [content] of the material.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [recorded] [photographed] [filmed] [developed] [duplicated] material that contains a visual representation of a minor engaged in sexual activity, and that the defendant knew the [character] (or) [content] of the material, 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.

*NOTE WELL: G.S. 14-190.17(c) provides that mistake of age is not a defense to prosecution.*

*G.S. 14-190.17(b) states that "[i]n a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations, or otherwise represents or depicts as a minor is a minor."*

N.C.P.I.—CRIMINAL 238.22  
SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR (PRODUCING MATERIAL). FELONY.  
GENERAL CRIMINAL VOLUME  
REPLACEMENT JANUARY 2000  
N.C. Gen. Stat. § 14-190.17(a)(1)  
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1. G.S. 14-190.13(3) defines "minor" as "an individual who is less than eighteen (18) years and is not married or judicially emancipated."

2. G.S. 14-190.13(2) defines "material" as "pictures, drawings, video recordings, films or other visual depictions or representations but not material consisting entirely of written words."

3. G.S. 14-190.13(5) defines sexual activity.