

260.15B POSSESSION OF AN IMMEDIATE PRECURSOR CHEMICAL. FELONY.

The defendant has been charged with unlawfully [possessing] [distributing] an immediate precursor chemical.

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<sup>1</sup> [possessed] [distributed] (*name substance*). (*Name substance*) is an immediate precursor chemical.<sup>2</sup> [A person possesses a chemical when he is aware of its presence and has, (either by himself or together with others), both the power and intent to control the disposition or use of that substance.] [A person distributes a chemical when he transfers it to another.]<sup>3</sup>

*NOTE WELL: If constructive possession of the immediate precursor chemical is an issue, or if an amplified definition of actual possession is needed, refer to N.C.P.I.—Crim. 104.41 for further instructions.*

And Second, that the defendant

- a. [knew or had reasonable cause to believe that the immediate precursor chemical would be used to manufacture (*name substance*), a controlled substance.] (or)
- b. [intended to manufacture<sup>4</sup> (*name substance*), which is a controlled substance. (Intent is seldom, if ever, provable by direct evidence. It must ordinarily be proved by circumstances from which it may be inferred.)]

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant knowingly [possessed] [distributed] (*name chemical*) and [intended to manufacture a controlled substance] (or) [knew or had reasonable cause to believe it would be used to manufacture a

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controlled substance], 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.

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1. If the defendant contends that he did not know the true identity of what he possessed, add this language: "and the defendant knew that what he possessed was an immediate precursor chemical." *S. v. Boone*, 310 N.C. 284 (1984).

2. G.S. 90-95(d2) lists forty-five immediate precursor chemicals.

3. "Distribute" is defined in G.S. 90-87(10).

4. "Manufacturing" is defined in G.S. 90-87(15). See N.C.P.I.—Crim. 160.19