

N.C.P.I.—Criminal 260.22A  
SALE OR DELIVERY OF A CONTROLLED SUBSTANCE ON OR WITHIN 1,000  
FEET OF SCHOOL PROPERTY. FELONY.  
GENERAL CRIMINAL VOLUME  
REPLACEMENT JUNE 2012  
G.S. 90-95 (e) (8)  
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SALE OR DELIVERY OF A CONTROLLED SUBSTANCE ON OR WITHIN 1,000  
FEET OF SCHOOL PROPERTY. FELONY.

*NOTE WELL: This charge may be used for the manufacture of a controlled substance, and the possession with intent to sell, manufacture or deliver a controlled substance.*

The defendant has been charged with [selling]<sup>1</sup> [delivering]<sup>2</sup> [manufacturing]<sup>3</sup> [possessing with intent to [sell] [manufacture] [deliver]]<sup>4</sup> (*name substance*), a controlled substance, [on property used for [an

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<sup>1</sup> "Sale" is defined as "the transfer of property or title for a price." Black's Law Dictionary, 1141 (Bryan A. Garner, Abridged 9th ed. 2010)

<sup>2</sup> G.S. 90-87 (7) defines "Deliver" or "delivery" as "the actual constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship."

<sup>3</sup> G.S. 90-87 (15) defines "Manufacture" as the "means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance by any means, whether directly or indirectly, artificially or naturally, or by extraction from substances of a natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; and "manufacture" further includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance: a. By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or b. By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to research, teaching, or chemical analysis and not for sale."

<sup>4</sup> "Possession" is defined as "the fact of having or holding property in one's power; the exercise of dominion over property." Black's Law Dictionary, 1006 (Bryan A. Garner, Abridged 9th ed. 2010)

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elementary] [a secondary] school]<sup>5</sup> [within 1,000 feet of the boundary of  
 property used for [an elementary] [secondary] school].

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

First, that the defendant knowingly [sold] [delivered]<sup>6</sup> [manufactured]  
 [possessed with intent to [sell] [manufacture] [deliver]] (*name substance*)  
 to (*name buyer or distributee*).<sup>7</sup> (*Describe conduct*) would be [sale]  
 [delivery] [manufacture] [possession with intent to [sell] [manufacture]  
 [deliver]] of a controlled substance.<sup>8</sup>

Second, that the defendant was [on property used for [an elementary]  
 [a secondary] school] [within 1,000 feet of the boundary of property used  
 for [an elementary] [a secondary] school].

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<sup>5</sup> Grades K-5 or K-6 constitute an elementary school. Grades 6-12 or 7-12  
 constitute a secondary school.

<sup>6</sup> "Delivery" is defined in G.S. 90-87(7) (see N.C.P.I.—Crim. 260.21) but the transfer  
 of less than 5 grams of marijuana for no remuneration does not constitute delivery. See  
 G.S. 90-95(e)(8).

<sup>7</sup> Bill of Indictment must state the name of purchaser or that his name is unknown.  
*State v. Bennet*, 280 N.C. 167 (1971); *S v. Wall*, 96 N.C. App. 45 (1989).

<sup>8</sup> If the defendant contends that he did not know the true identity of what he [sold]  
 [delivered] [manufactured] [possessed with intent to [sell] [manufacture] [deliver]], add  
 this language to the first sentence: "and the defendant knew that what he [sold]  
 [delivered] [manufactured] [possessed with intent to sell] was (*name substance*)."  
*S v. Boone*, 310 N.C. 284, 291 (1984).

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And Third, that at the time of [sale] [delivery] [manufacture] [possession with intent to [sell] [manufacture] [deliver]], the defendant was 21 years of age or older.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant knowingly [sold] [delivered] [manufactured] [possessed with intent to [sell] [manufacture] [deliver]] (*name substance*), a controlled substance, to (*name distributee or buyer*), that the defendant was [on property used for [an elementary] [a secondary] school] [within 1,000 feet of the boundary of property used for [an elementary] [a secondary] school], and that at the time of the [sale] [delivery] [manufacture] [possession with intent to [sell] [manufacture] [deliver]], the defendant was 21 years of age or older, it would be your duty to return a verdict of guilty. If you do not so find or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.<sup>9</sup>

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<sup>9</sup> If the defendant is not guilty of [sale] [delivery] [manufacture] [possession with intent to [sell] [manufacture] [deliver]] of a controlled substance on school property, then instructions on a lesser included offense such as a violation of 90-95(a)(1) (see N.C.P.I.—Crim. 260.21) may be appropriate.

