

260.42 PARTICIPATING IN A DRUG VIOLATION BY A MINOR. FELONY.

The defendant has been charged with participating in a drug violation by a minor.

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

First, that the defendant [purchased] [received] a controlled substance¹ from (*name minor*).

Second, that (*name minor*) was 13 years of age or younger at the time the defendant [purchased] [received] the controlled substance.²

Third, that (*name minor*) [possessed] [sold] [delivered] the controlled substance. (*Name substance*) is a controlled substance.

And Fourth, that at the time he [purchased] [received] the controlled substance from (*name minor*) 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 [purchased] [received] a controlled substance from a minor who was 13 years of age or younger who [possessed] [sold] [delivered] the controlled substance, and that at the time 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 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. G.S. 90 -95 provides listings of controlled substances.

2. If the defendant contends that he was mistaken about the age of the minor, the jury should be instructed as follows: "Mistake of age is not a defense to a prosecution under this section." G.S. 90-95.7(b).