

272.10 POSSESSION OF NONTAXPAID ALCOHOLIC BEVERAGES.
MISDEMEANOR.

NOTE WELL: Generally, this charge covers only offenses involving white, non-tax paid liquor. Under G.S. 18B-306, an individual may make, possess, and transport native wines and malt beverages for his own use and the use of his family and guests. No ABC permit is required to make such beverages, and they are exempt from taxation. Wine kits and malt beverage kits may be sold in North Carolina.

The defendant has been charged with possession of nontaxpaid alcoholic beverages.

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

First, that the defendant possessed (an) alcoholic beverage(s) [An alcoholic beverage is any beverage containing at least one-half of one per cent alcohol by volume, including [malt beverages] [unfortified wine] [fortified wine] [spirituous liquor] (and) [mixed beverages].] A person possesses an alcoholic beverage when he is aware of its presence, and (either by himself or together with others), has both the power and intent to control its disposition or use.

NOTE WELL: Where constructive possession of the alcoholic beverage is an issue, or where an amplified definition of actual possession is needed, the trial judge should refer to N.C.P.I.—Crim. 104.41 for further instructions.

And Second, the State must prove that the taxes imposed on the alcoholic beverage(s) either by the United States or by the [State] [territorial jurisdiction] in which the alcoholic beverage(s) was purchased had not been paid.

(There is evidence tending to show that the alcoholic beverage was not in its original container. You may consider this in determining whether federal

and state taxes had been paid on the alcoholic beverage.)

(There is evidence tending to show that the alcoholic beverage was in a container which did not have a [federal tax stamp] [local Alcoholic Beverage Control Board stamp]. You may consider this in determining whether [federal] [state] taxes had been paid on the alcoholic beverage.)¹

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant possessed nontaxpaid alcoholic beverages, 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. Use this second parenthetical only where the alcoholic beverage is spirituous liquor.