

N.C.P.I.—Crim 235.17

[CARRYING] [POSSESSING] WEAPONS [ON EDUCATIONAL PROPERTY] [AT SCHOOL SPONSORED ACTIVITY]. FELONY, MISDEMEANOR.

CRIMINAL VOLUME

REPLACEMENT JUNE 2016

N.C. Gen. Stat. § 14-269.2(b) and (b1)

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235.17 [CARRYING] [POSSESSING] WEAPONS [ON EDUCATIONAL PROPERTY] [AT SCHOOL SPONSORED ACTIVITY]. FELONY, MISDEMEANOR.

*NOTE WELL: As to the curricular or extracurricular activity sponsored by a school prohibition, this crime became effective for offenses committed on or after December 1, 1999.*

*NOTE WELL: Amended G.S. 14-269.2(k) adds exemptions for the offense of carrying or possessing weapons on educational property for (1) a person who has a valid concealed handgun permit under Article 54B Ch. 14, (2) a person who is exempted from having a permit under that Article, or (3) a person who has a handgun in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit.*

The defendant has been charged with knowingly [carrying] [possessing] a weapon [on educational property] [at a curricular or extracurricular activity sponsored by a school].<sup>1 2 3 4</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 knowingly [carried]<sup>5</sup> [possessed]<sup>6</sup> a (*name weapon*).

And Second, that the defendant was knowingly<sup>7</sup> [on educational property] [at a curricular or extracurricular activity sponsored by a school].<sup>8</sup>

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant knowingly [carried] [possessed] a (*describe weapon*) and that the defendant knowingly was [on educational property] [at a curricular or extracurricular activity sponsored by a school], it would be your duty to return a verdict of guilty. If you do not so find or

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have a reasonable doubt as to one or both of these things, it would be your duty to return a verdict of not guilty.

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1 See N.C. Gen. Stat. § 14-269.2(a)(1) for a definition of educational property. N.C. Gen. Stat. § 14-269.2(g) explains situations where the statute does not apply. In addition, N.C. Gen. Stat. § 14-269.2(h) provides a statutory defense.

2 N.C. Gen. Stat. § 14-269.2(b) deals with firearms and lists examples, punished as a Class I felony. N.C. Gen. Stat. § 14-269.2(b1) deals with explosives and lists examples, punished as a Class G felony.

3 See N.C. Gen. Stat. § 14-269.2(d) and (f) for a list of weapons and situations which qualify this offense as a misdemeanor.

4 See N.C. Gen. Stat. § 14-269.2(i), (j), and (k) that note exclusions from the statute's coverage.

5 The statute applies whether or not the weapon is concealed.

6 If constructive possession is an issue in the case refer to N.C.P.I.-Crim. 104.41. If the defendant contends that he did not know the true identity of what he possessed, add this language to the first sentence: "and the defendant knew that what he possessed was (*name item*)."  
*State v. Boone*, 310 N.C. 284, 291 (1984).

7 See *State v. Huckelba*, 771 S.E.2d 809 (N.C. Ct. App.), writ allowed, 775 S.E.2d 833 (N.C. 2015), and rev'd, 780 S.E.2d 750 (N.C. 2015) (in a per curiam decision, the Supreme Court reversed the Court of Appeals, relying on a dissent in that court, which had concluded that, while the statute may require a showing that the defendant knew she was on educational property, it was not plain error for the trial court to omit this requirement from its instruction to the jury, where there was substantial evidence that defendant knew she was on educational property and defendant did not introduce any evidence to the contrary).

8 The statute does not require the state to prove *mens rea* or criminal intent. Necessity is not a defense to this charge. See *State v. Haskins*, 160 N.C. App. 349 (2003).