

[TRANSPORTATION] [POSSESSION] OF POISONOUS SPIRITUOUS LIQUOR FOR USE AS A BEVERAGE. G.S. 14-329(d). MISDEMEANOR.

The defendant has been charged with [transportation] [possession] of poisonous spirituous liquor for use as a beverage.

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

First, that the defendant [transported] [possessed] spirituous liquor. Spirituous liquor means distilled spirits or ethyl alcohol, including [spirits of [wine] [whiskey] [rum] [brandy] [gin]] (and) [all (other) distilled spirits] (and) [mixtures of cordials] [liqueur] (and) [premixed cocktails], in closed containers for beverage use regardless of their dilution.<sup>1</sup> (The defendant possessed spirituous liquor if he was aware of its presence, and (either by himself or together with others) had both the power and intent to control its disposition or use.)

NOTE WELL: *If the constructive possession of the spirituous liquor is an issue, or if an amplified definition of actual possession is needed, the trial judge should refer to N.C.P.I.--Crim. 104.41 for further instructions.*

Second, that the defendant [transported] [possessed] the spirituous liquor for use as a beverage.

And Third, that the spirituous liquor contained foreign properties or ingredients poisonous to the human system.

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<sup>1</sup>G.S. 18B-101(14).

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If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [transported] [possessed] spirituous liquor for use as a beverage, and that it contained foreign properties or ingredients poisonous to the human system, 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.

NOTE WELL: *Anyone charged under G.S. 14-329(d) may show as a complete defense that the spirituous liquor in question was legally obtained and possessed and that he had no knowledge of the poisonous nature of the beverage.*