

AGGRAVATED MANUFACTURE OF A CONTROLLED SUBSTANCE--LESSER INCLUDED OFFENSE. G.S. 90-95 (a)(1), (e)(1-4).

The defendant has been charged with manufacture of (*name substance*), a controlled substance, (*describe aggravating condition--see N.C.P.I.--Crim. 260.45.*)

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

First, that the defendant manufactured (*name substance*). (*Describe conduct*)<sup>1</sup> of (*name substance*) would be manufacture of a controlled substance.<sup>2</sup>

And Second, (*describe aggravating condition; see N.C.P.I.--Crim. 260.45.*)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant (*describe conduct*) (*name substance*) (*describe aggravating condition*), it would be your duty to return a verdict of guilty of manufacture of (*name substance*), (*describe aggravating condition*). If you do not so find or if you have a reasonable doubt as to one or both of these things you will not return a verdict of guilty of manufacture of (*name substance*), (*describe aggravating condition*),<sup>3</sup> but would

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<sup>1</sup>"Manufacture" is defined by G.S. 90-87(15). See N.C.P.I.--Crim. 260.19.

<sup>2</sup>Where the defendant claims that his conduct was excepted from the provisions of G.S. 90-95, the exception should be set forth and the jury should be instructed that the defendant has the burden of proving to the satisfaction of the jury that his conduct was authorized. G.S. 90-113.1(a).

<sup>3</sup>If all the evidence is that the defendant is guilty of the greater offense, if he is guilty at all, the judge should conclude, ". . .it would be your duty to return a verdict of not guilty."

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consider whether the defendant is guilty of manufacture of (*name substance*). Manufacture of (*name substance*) does not require proof that (*describe aggravating condition*).

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant (*describe conduct*), (*name substance*), it would be your duty to return a verdict of guilty of manufacture of (*name substance*). If you do not so find or if you have a reasonable doubt it would be your duty to return a verdict of not guilty.