

[SELLING] [DELIVERING]¹ A CONTROLLED SUBSTANCE. G.S. 90-95(a)(1). FELONY.

NOTE WELL: Use this instruction only when the defendant is a "street trafficker" and not a "practitioner" or a "registrant". Use N.C.P.I.--Crim. 260.80 when the defendant is a "practitioner" or a "registrant". See the notes to that instruction for further explanation.

Effective December 1, 1997 the sale of Schedule I or II drugs is a Class G felony and the sale of Schedule III, IV, V, or VI drugs is a Class H felony. For offenses occurring before December 1, 1997 the sale of Schedule I or II drugs is a Class H felony and the sale of Schedule III, IV, V, or VI is a Class I felony.

The defendant has been charged with [selling] [delivering] (name controlled substance), a controlled substance.

For you to find the defendant guilty of this offense, the State must prove beyond a reasonable doubt that the defendant knowingly² [sold] [delivered] (name substance) to (name buyer or distributee).³

¹See S v. Moore, 327 N.C. 378 (1990), construing G.S. 90-95(a)(1) as creating an offense of "transfer" of a controlled substance by either sale or delivery, and discussion of indictments, convictions, and double jeopardy.

²If the defendant contends that he didn't 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 substance)." S v. Boone, 310 N.C. 284, 291 (1984).

³Bill of indictment must state the name of the purchaser or that his name is unknown. S v. Bennett, 280 N.C. 167 (1971); S v. Wall, 96 N.C. App. 45 (1989).

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FELONY. (Continued.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant knowingly [sold] [delivered] (*name substance*) to (*name buyer or distributee*), it would be your duty to return a verdict of guilty. 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.