

N.C.P.I.—CRIM. 260.22C SALE OR DELIVERY OF A CONTROLLED SUBSTANCE ON PROPERTY USED FOR A CHILD CARE CENTER. G.S. 90-95(e)(8). FELONY.

*NOTE WELL: This charge may be used for the manufacture of a controlled substance and for the possession with intent to sell, manufacture or deliver a controlled substance.*

The defendant has been charged with [selling] [delivering] (*name substance*), a controlled substance, [on property used for a child care center]<sup>1</sup> [within 1,000 feet of property used for a child care center].

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

First, that the defendant knowingly [sold] [delivered]<sup>2</sup> (*name substance*) to (*name buyer or distributee*).<sup>3</sup> (*Describe conduct*) would be [sale] [delivery] of a controlled substance.<sup>4</sup>

Second, that the defendant was [on property used for a child care center] [within 1,000 feet of the boundary of property used for a child care center].

And Third, that at the time of [sale] [delivery], the defendant was 21 years of age or older.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant knowingly [sold] [delivered] (*name substance*), a controlled substance, to (*name distributee or buyer*), that the defendant was [on property used for a child care center] [within 1,000 feet of the boundary of property used for a child care center] and that at the time of the [sale] [delivery], the defendant was 21 years of age or older, it would be your duty to return a verdict of guilty. If you do not so find or if you have a reasonable

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<sup>1</sup> A "child care center" is defined in G.S. 110-86(3)a.

<sup>2</sup> "Delivery" is defined in G.S. 90-87(7) (see N.C.P.I.--Crim. 260.21) but the transfer of less than 5 grams of marijuana for no remuneration does not constitute delivery. See G.S. 90-95(e)(8).

<sup>3</sup> Bill of Indictment must state the name of purchaser or that his name is unknown. *State v. Bennet*, 280 N.C. 167 (1971); *S v. Wall*, 96 N.C. App. 45 (1989).

<sup>4</sup> If the defendant contends that he didn't know the true identity of what he [sold] [delivered], add this language to the first sentence: "and the defendant knew that what he [sold] [delivered] was (*name substance*)."  
*S v. Boone*, 310 N.C. 284, 291 (1984).

SALE OR DELIVERY OF A CONTROLLED SUBSTANCE ON PROPERTY USED FOR A CHILD CARE CENTER. G.S. 90-95(e)(8). FELONY. (Continued.)

doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.<sup>5</sup>

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<sup>5</sup> If the defendant is not guilty of sale or delivery of a controlled substance on school property then instructions on a lesser included offense such as a violation of 90-95(a)(1) (see N.C.P.I.--Crim. 260.21) may be appropriate.