

N.C.P.I.—CRIM 260.95  
[POSSESSION] [USE] OF DRUG PARAPHANALIA. MISDEMEANOR.  
GENERAL CRIMINAL VOLUME  
JUNE 2014  
N.C. Gen. Stat. § 90-113.22  
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260.95 [POSSESSION] [USE] OF DRUG PARAPHERNALIA. N.C. Gen. Stat. § 90-113.22.<sup>1</sup> MISDEMEANOR.

The defendant has been charged with unlawfully and knowingly [using] [possessing with intent to use] drug paraphernalia.

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

First, that the defendant [possessed] [used] certain drug paraphernalia. "Drug paraphernalia" means all equipment, products and materials of any kind that are used to facilitate, or intended or designed to facilitate, violations of the Controlled Substances Act.<sup>2</sup>

Second, that the defendant did this knowingly.

A person possesses drug paraphernalia knowingly when the defendant is aware of its presence, and has either by [*himself*] [*herself*] [together with others] both the power and intent to control the disposition or use of said paraphernalia.<sup>3</sup>

And Third, that the defendant did so with the intent to use said drug paraphernalia in order to (*name unlawful use; e.g., process*) a controlled

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<sup>1</sup> N.C. Gen. Stat. § 90-113.22 gives a shopping list of unlawful uses, i.e.: to plant, cultivate, manufacture, etc.

<sup>2</sup> See N.C. Gen. Stat. § 90-113.21 for a more detailed definition of the term drug paraphernalia.

<sup>3</sup> Prior to searching a person, a person's premises, or a person's vehicle, an officer may ask the person whether the person is in possession of a hypodermic needle or other sharp object that may cut or puncture the officer or whether such a hypodermic needle or other sharp object is on the premises or in the vehicle to be searched. If there is a hypodermic needle or other sharp object on the person, on the person's premises, or in the person's vehicle and the person alerts the officer of that fact prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object. The exemption under this subsection does not apply to any other drug paraphernalia that may be present and found during the search. For purposes of this subsection, the term "officer" includes "criminal justice officers" as defined in N.C. Gen. Stat. § 17C-2(3) and "justice officer" as defined in N.C. Gen. Stat. § 17E-2(3).

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substance which would be unlawful to possess. ((*Name substance*) is a controlled substance in North Carolina that is unlawful to possess.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant unlawfully and knowingly [used] [possessed with intent to use] certain drug paraphernalia in order to (*name unlawful use; e.g., process*) a controlled substance which would be unlawful to possess, then 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.