

[SALE] [OFFER FOR SALE] [INTRODUCTION INTO COMMERCE IN NORTH CAROLINA] OF AN E-LIQUID CONTAINER WITHOUT CHILD-RESISTANT PACKAGING. MISDEMEANOR.

JUNE 2016

N.C. Gen. Stat. § 14-401.18A

272.60 [SALE] [OFFER FOR SALE] [INTRODUCTION INTO COMMERCE IN NORTH CAROLINA] OF AN E-LIQUID CONTAINER WITHOUT CHILD-RESISTANT PACKAGING. MISDEMEANOR.

NOTE WELL: Effective for offenses committed on or after December 1, 2015, N.C. Gen. Stat. § 14-401.18A prohibits any person, firm, or corporation from selling, offering for sale, or introducing into commerce in this State an e-liquid container unless the container constitutes child-resistant packaging. Any person, firm, or corporation violating this provision shall be held liable in damages to any person injured as a result of the violation.

The defendant has been charged with the [sale] [offer for sale] [introduction into commerce in North Carolina] of an e-liquid container for an e-liquid product without child-resistant packaging.

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

First, that defendant [sold] [offered for sale] [introduced into commerce in North Carolina] an e-liquid container for an e-liquid product. An e-liquid¹ is a liquid product, whether or not it contains nicotine, that is intended to be vaporized and inhaled using a vapor product.² An e-liquid container is a bottle or other container of e-liquid.³

And Second, that the e-liquid container for an e-liquid product that defendant [sold] [offered for sale] [introduced into commerce in North Carolina] did not constitute child resistant packaging. “Child resistant packaging” means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein

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within a reasonable time and not difficult for adults to use properly.

The term “child resistant packaging” does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.⁴

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [sold] [offered for sale] [introduced into commerce in North Carolina] an e-liquid container for an e-liquid product that did not constitute child-resistant packaging, 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 both of these things, it would be your duty to return a verdict of not guilty.

1 See N.C. Gen. Stat. § 14-401.18A(a)(2).

2 Vapor product means any noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid solution contained in a vapor cartridge. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, and electronic pipe. See N.C. Gen. Stat. § 14-401.18A(a)(4).

3 The term “e-liquid container” does not include a container holding liquid that is intended for use in a vapor product if the container is pre-filled and sealed by the manufacturer and is not intended to be opened by the consumer. See N.C. Gen. Stat. § 14-401.18A(a)(3).

4 See N.C. Gen. Stat. § 14-401.18A(a)(1).