

N.C.P.I.—Crim 270A.25

OPERATING VESSEL WHILE UNDER THE INFLUENCE OF AN IMPAIRING
SUBSTANCE. MISDEMEANOR.

JUNE 2017

N.C. Gen. Stat. § 75A-10(b1)

270A.25 OPERATING VESSEL WHILE UNDER THE INFLUENCE OF AN
IMPAIRING SUBSTANCE. MISDEMEANOR.

The defendant has been charged with operating a vessel while under the influence of an impairing substance.

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

First, that the defendant was operating a vessel on the waters of this State.¹

And Second, that the defendant did so

- (a) [while defendant was under the influence of an impairing substance.] (*Name substance involved*) is an impairing substance.² The defendant is under the influence of an impairing substance when the defendant has [taken] [consumed] a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the defendant's [bodily] [mental faculties] [both], to such an extent that there is an appreciable impairment of [either] [both of these faculties.³]];
- (b) [after having consumed sufficient alcohol that at any relevant time after the boating, the defendant had an alcohol concentration⁴ of [0.08] [more than 0.08] of alcohol [per 210 liters of breath] [per 100 milliliters of blood].⁵ A relevant time is any time after the boating that the [operator] still has in the body alcohol consumed [before] [during] the boating].⁶ The results of a chemical analysis are deemed sufficient evidence to prove a person's alcohol concentration.⁷

If you find from the evidence beyond a reasonable doubt that on or

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about the alleged date the defendant was operating a vessel on the waters
of this State and that the defendant

- (a) [was under the influence of an impairing substance.];
- (b) [after having consumed sufficient alcohol that at any relevant
time after the boating, the defendant had an alcohol
concentration of [0.08] [more than 0.08] of alcohol [per 210
liters of breath] [per 100 milliliters of blood],

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.

1 See N.C. Gen. Stat. § 75A-2(6). "Waters of this State" means any waters within
the territorial limits of this State, and the marginal sea adjacent to this State and the high
seas when navigated as a part of a journey or ride to or from the shore of this State, but
does not include private ponds as defined in N.C. Gen. Stat. § 113-129.

2 An impairing substance includes alcohol, controlled substance under Chapter 90 of
the General Statutes, or any other drug or psychoactive substance capable of impairing a
person's physical or mental faculties, or any combination of these substances. N.C. Gen.
Stat. § 20-4.01(14a).

3 N.C. Gen. Stat. § 20-4.01(48a).

4 N.C. Gen. Stat. § 20-4.01(0.2) defines alcohol concentration as "the concentration
of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood;
or (b) grams of alcohol per 210 liters of breath."

5 The fact that a person charged with this violation is or has been legally entitled to
use alcohol or a drug is not a defense. See N.C. Gen. Stat. § 75A-10(b1).

6 N.C. Gen. Stat. § 20-4.01(33a).

7 The term "deemed sufficient" is not defined in N.C. Gen. Stat. § 20.138.1 or N.C.
Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific
definition, it can be presumed that the legislature intended the words to be given their
ordinary meaning.