

POSSESSION OF NONTAXPAID ALCOHOLIC BEVERAGES. G.S. 18B-101(4),  
18B-102. MISDEMEANOR.

NOTE WELL: Generally this charge covers only offenses involving white, non-tax paid liquor. Under G.S. 18B-306, an individual may make, possess and transport native wines and malt beverages for his own use and the use of his family and guests. No ABC permit is required to make such beverages, and they are exempt from taxation. Wine kits and malt beverage kits may be sold in North Carolina.

The defendant has been charged with possession of nontaxpaid alcoholic beverages.

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

First, that the defendant possessed (an) alcoholic beverage(s). [An alcoholic beverage is any beverage containing at least one-half of one per cent alcohol by volume, including [malt beverages] [unfortified wine] [fortified wine] [spirituous liquor] (and) [mixed beverages].] A person possesses an alcoholic beverage when he is aware of its presence, and (either by himself or together with others), has both the power and intent to control its disposition or use.

NOTE WELL: Where constructive possession of the alcoholic beverage is an issue, or where an amplified definition of actual possession is needed, the trial judge

POSSESSION OF NONTAXPAID ALCOHOLIC BEVERAGES. G.S. 18B-101(4),  
18B-102. MISDEMEANOR. (Continued.)

*should refer to N.C.P.I.--Crim. 104.41 for further  
instructions.*

And Second, the State must prove that the taxes imposed on  
the alcoholic beverage(s) either by the United States or by the  
[State] [territorial jurisdiction] in which the alcoholic  
beverage(s) was purchased had not been paid.

(There is evidence tending to show that the alcoholic  
beverage was not in its original container. You may consider  
this in determining whether federal and state taxes had been paid  
on the alcoholic beverage.)

(There is evidence tending to show that the alcoholic  
beverage was in a container which did not have a [federal tax  
stamp] [local Alcoholic Beverage Control Board stamp]. You may  
consider this in determining whether [federal] [state] taxes had  
been paid on the alcoholic beverage.)<sup>1</sup>

If you find from the evidence beyond a reasonable doubt that  
on or about the alleged date, the defendant possessed nontaxpaid  
alcoholic beverages, 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.

---

<sup>1</sup>Use this second parenthetical only where the alcoholic beverage is  
spirituous liquor.