

TRANSPORTATION WITHIN PASSENGER AREA OF MOTOR VEHICLE OF FORTIFIED WINE OR SPIRITUOUS LIQUOR IN OTHER THAN MANUFACTURER'S UNOPENED ORIGINAL CONTAINER. G.S. 18B-401(a). MISDEMEANOR.

The defendant has been charged with transporting within the passenger area of a motor vehicle<sup>1</sup> [fortified wine] [spirituous liquor] in other than the manufacturer's unopened original container.<sup>2</sup>

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

First, that the defendant was driving a motor vehicle on a public highway.<sup>3</sup>

Second, that a container was within the passenger area of the motor vehicle, and that it contained [fortified wine]<sup>4</sup> [spirituous liquor].<sup>5</sup>

Third, that the beverage was not in the manufacturer's unopened original container. (A container with the seal broken is opened within the meaning of the statute.)<sup>6</sup>

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<sup>1</sup>"Passenger area of a motor vehicle" is defined in G.S. 18B-401(c). "Motor vehicle" is defined in G.S. 20-4.01(23).

<sup>2</sup>G.S. 18B-401(b) provides, "It shall be unlawful for a person operating a for-hire passenger vehicle as defined in G.S. 20-4.01(27)(b), to transport fortified wine or spirituous liquor unless the vehicle is transporting a paying passenger who owns the alcoholic beverage being transported (emphasis added)."

<sup>3</sup>Public highway is defined in G.S. 20-4.01.

<sup>4</sup>G.S. 18B-101(7) defines fortified wine.

<sup>5</sup>G.S. 18B-101(14) defines spirituous liquor.

<sup>6</sup>G.S. 18B-401(c).

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(Continued.)

And Fourth, that the defendant knew he was transporting that container in the passenger area of the motor vehicle.<sup>7</sup>

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant drove a motor vehicle on a public highway, that a container within the passenger area of the motor vehicle contained [fortified wine] [spirituous liquor] which was not in the manufacturer's unopened original container, and that the defendant knew that he was transporting that opened container in the passenger area of the motor vehicle, 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.

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<sup>7</sup>Guilty knowledge is essential for conviction for illegally transporting intoxicating liquors, and this section (G.S. 18B-401) will be interpreted in light of the common law principle that guilty knowledge is an essential element of crime. State v. Welch, 232 N.C. 77, 59 S.E.2d 199 (1950).