
216.48B POSSESSION OF CONTROLLED SUBSTANCES—PURSUANT TO A BREAKING OR ENTERING OF A PHARMACY. FELONY.

The defendant has been charged with possession of controlled substances stolen pursuant to a breaking or entering of a pharmacy, which is possessing property which the defendant knew or had reasonable grounds to believe had been stolen pursuant to a breaking or entering.

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

First, that the controlled substance¹ was stolen from a pharmacy.² Property is stolen when it is taken and carried away without the owner's consent by someone who intends at the time to deprive the owner of its use permanently and knows that *he* is not entitled to take it. (*Name substance*) is a controlled substance.)

Second, that this controlled substance was stolen pursuant to a breaking or entering of a pharmacy.³ Breaking or entering is the breaking into or entering into another's building, including a pharmacy, without the [owner's] [tenant's] consent.

Third, that the defendant possessed the property. One has possession of property when one has both the power and intent to control its disposition or use.

NOTE WELL: When constructive possession is at issue or when a fuller definition of actual possession is desired, incorporate the relevant portions of N.C.P.I.—Crim. 104.41 at this point.

Fourth, that the defendant knew or had reasonable grounds to believe that the controlled substance had been stolen.

And Fifth, that the defendant possessed it with a dishonest purpose. (*Describe purpose, e.g., "Converting it to his own use"*) would be a dishonest purpose.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date a controlled substance was stolen from a pharmacy, that it was stolen pursuant to a breaking or entering of a pharmacy, that the defendant possessed this controlled substance for a dishonest purpose, and that the defendant knew or had reasonable grounds to believe that this controlled substance was stolen, it would be your duty to return a verdict of guilty. If you do not so find or if you have a reasonable doubt as to any of these things, it would be your duty to return a verdict of not guilty.⁴

1. Controlled substances are defined in G.S. 90-87(5).

2. When the charge is possession, as opposed to receiving, it is not necessary for the State to prove that someone other than the defendant stole the property, as it is under a receiving charge.

3. A pharmacy is a business that has a pharmacy permit under G.S. 90-85.21.

4. If there are lesser included offenses, the last phrase should be ". . . you would not return a verdict of guilty of possession of stolen controlled substances pursuant to a breaking and entering of a pharmacy, but would consider whether the defendant is guilty of"