

14-3122. Counterfeit substance; possession with intent to deliver; essential elements.

For you to find the defendant guilty of "possession with intent to deliver a counterfeit substance" [as charged in Count _____]¹, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant had _____² in his possession³;
2. The defendant knew the substance was _____² [or believed it to be _____²]⁴ [or believed it to be some drug or other substance the possession of which is regulated or prohibited by law];
3. The _____² had an unauthorized _____⁵ which falsely represented its manufacturer, distributor or dispenser;
4. The defendant knew that the use of the _____⁵ was unauthorized;
5. The defendant intended to transfer the _____² to another;
6. This happened in New Mexico on or about the _____ day of _____, _____.

USE NOTES

1. Insert the count number if more than one count is charged.
2. Identify the substance.
3. UJI 14-3130, the definition of possession in controlled substance cases, should be given if possession is in issue.
4. Use applicable alternative or alternatives if there is evidence that the defendant believed the substance to be some controlled substance other than that charged.
5. Insert one or more of the following terms in the alternative: trademark, trade name, imprint, number, device, identifying mark.