

14-3104. Controlled substance; possession with intent to distribute; essential elements.¹

For you to find the defendant guilty of "possession with intent to distribute _____²" [as charged in Count _____]³, 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 possession⁴;
2. The defendant knew it was _____² [or believed it to be _____²]⁵ [or believed it to be some drug or other substance the possession of which is regulated or prohibited by law];
3. The defendant intended to transfer it to another;
4. This happened in New Mexico on or about the _____ day of _____, _____.

USE NOTES

1. This instruction is not applicable to narcotic drugs in Schedules I or II of 30-31-6 and 30-31-7 NMSA 1978.
2. Identify the substance.
3. Insert the count number if more than one count is charged.
4. UJI 14-3130, the definition of possession in controlled substance cases, should be given if possession is in issue.
5. Use applicable alternative or alternatives if there is evidence that the defendant believed the substance to be some controlled substance other than that charged.