

**POSSESSION OF CERTAIN FRAUDULENT RECEIPTS,
UPC LABELS AND CHECKS**
(N.J.S.A. 2C:21-2.4)

Defendant is charged in count _____ of the indictment with possession of certain fraudulent receipts, universal product code (UPC) labels and checks. The statute upon which this charge is based states in pertinent part:

[A]ny person who knowingly possesses a forged or altered [choose appropriate] retail sales receipt, universal product code label or check for the purpose of defrauding a retail merchant is guilty of an offense.

In order to find the defendant guilty of this the State must prove beyond a reasonable doubt the following elements:

- (1) That defendant knowingly possessed forged or altered [choose appropriate] retail sales receipts, universal product code labels or checks.
- (2) That defendant possessed these forged or altered [choose appropriate] retail sales receipts, universal product code labels or checks with the purpose of defrauding a retail merchant.

The first element that the State must prove beyond a reasonable doubt is that defendant knowingly possessed forged or altered [choose appropriate] retail sales receipts, universal product code labels or checks.

A person acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if he/she is aware that his/her conduct is of the nature, or that such circumstances exist, or he/she is aware of a high probability of their existence. A person acts knowingly with respect to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result. "Knowingly," "with knowledge," or equivalent terms have the same meaning.

(Use appropriate model jury charge on possession)

To forge means falsely making or materially altering a genuine writing. To alter means to modify or change.

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The second element that the State must prove beyond a reasonable doubt is that defendant acted with the purpose to defraud a retail merchant.

A person acts purposely with respect to the nature of his/her conduct or the result of that conduct if it is his/her conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if the person is aware of the existence of such circumstances or believes or hopes that they exist. “With purpose,” “designed,” “with design,” or equivalent terms have the same meaning.

To defraud means to deprive a person of property or any interest, estate, or right by deceit, artifice, trickery or cheat.

A retail merchant means a person engaged in the business of selling or exchanging goods for cash or barter or any consideration on the assumption that the purchaser of the goods has acquired the goods for ultimate consumption or use.¹

Purposely or knowingly are states of mind and cannot be seen and can only be determined by inference from conduct, words or acts. Therefore, it is not necessary that witnesses be produced by the State to testify that a defendant said that he/she purposely or knowingly did something. His/Her purpose or knowledge may be gathered from his/her acts and his/her conduct and from all he/she said and did at the particular time and place and from all the surrounding circumstances reflected in the testimony [and evidence adduced at trial].

If you find that the State has proven the elements of the offense beyond a reasonable doubt, then you must find defendant guilty. If, however, you find that the State has failed to prove any of these elements of the offense beyond a reasonable doubt, then you must find defendant not guilty.

If you find that the State has proven both elements beyond a reasonable doubt, then you must further determine whether defendant possessed 15 or more forged or altered retail sales receipts. You must indicate whether you find that the State has proven beyond a reasonable doubt that defendant possessed 15 or more forged or altered sales receipts, UPC labels or checks.

¹ N.J.S.A. 18:38-1.3.