

Ala. Code 1975, § 13A-9-21(a)(6)

Making or Obtaining Unauthorized Copy of Licensing Exam or Retaining Copy

The defendant is charged with making or obtaining an unauthorized copy of the licensing exam or retaining a copy.

A person commits the crime of making or obtaining an unauthorized copy of the licensing exam or retaining a copy if in connection with an examination administered by the Board of Medical Examiners, he/she attempts to make or obtain an unauthorized copy of the examination or questions of the examination or retains a copy of the examination or a question of the examination which he/she is directed to return to the board.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant attempted to make or obtain an unauthorized copy of the examination or questions of the examination or retained a copy of the examination or a question of the examination which he/she was directed to return to the board, **[describe]**, in connection with sitting for an examination administered by the Board of Medical Examiners; **(AND)**
- (2) The defendant acted **[Insert appropriate mens rea element - See Use Note]**.

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of the offense of making or obtaining an unauthorized copy of the licensing exam or retaining a copy, then you shall find the defendant guilty of making or obtaining an unauthorized copy of the licensing exam or retaining a copy.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of making or obtaining an unauthorized copy of the licensing exam or retaining a copy, then you cannot find the defendant guilty of making or obtaining an unauthorized copy of the licensing exam or retaining a copy.

[If lesser-included offenses are included, the Court should instruct on these offenses at this point.]

Use Notes

The statute does not state a specific mens rea element.

Insert the appropriate mens rea element considering the indictment and the evidence before the court. There are few, if any, strict liability offenses in the Code. See Commentary for 13A-2-3 and 13A-2-4(b) There are four mens rea elements in the

Alabama Code: intentionally, knowingly, recklessly and with criminal negligence. See 13A-2-2.

1. A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]
2. A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]
3. A person acts *recklessly* with respect to a result or to a circumstance when he/she is aware of and consciously disregards a substantial and unjustifiable risk that the risk will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. [13A-2-2(3)]
4. A person acts with *criminal negligence* with respect to a result or to a circumstance when he/she fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. A court or jury may consider statutes or ordinances regulating the defendant's conduct as bearing upon the question of criminal negligence. [13A-2-2(4)]

[Approved 6-17-16.]