

Ala. Code 1975, § 13A-9-52

**Sale and Delivery of Coal Mixed with Other Substances or
Materials with Different Quality of Coal**

The defendant is charged with sale and delivery of coal mixed with other substances or materials or with different quality of coal.

A person commits the crime of sale and delivery of coal mixed with other substances or materials or with different quality of coal if, he/she knowingly sells and delivers any coal which has been mixed or loaded in the delivery container together with any substance or material other than coal or together with coal of a different quality with intent to defraud the purchaser of such coal or with the intent to obtain a higher price for such coal by inducing the purchaser to believe that such coal is of a higher quality or different quality than is actually delivered.

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

- (1) The Defendant knowingly sold and delivered any coal, **[describe the coal]**, which had been mixed or loaded in the delivery container together with any substance or material other than coal or together with coal of a different quality;
- (2) The Defendant did so with the intent to: **[Read as appropriate]**
 - (A) Defraud the purchaser of such coal; **(OR)**
 - (B) Obtain a higher price for such coal by inducing the purchaser to believe that such coal was of a higher quality or different quality than was actually delivered.

A delivery container is a truck, railroad car, barge or any other means or device by which coal is delivered to the purchaser. [13A-9-52(b)]

Sale and delivery is consummated when the container is accepted by the purchaser. [13A-9-52(b)]

A person acts *intentionally* with respect to a result or to conduct when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of sale and delivery of coal mixed with other substances or materials or with different quality of coal, then you shall find the defendant guilty of sale and delivery of coal mixed with other substances or materials or with different quality of coal.

If you find that the State has failed to prove any one or more of the elements of sale and delivery of coal mixed with other substances or materials or with different quality of coal, then you cannot find the defendant guilty of sale and delivery of coal mixed with other substances or materials or with different quality of coal.

Use Notes

The blending of coal with coal of a different quality in order to achieve contract specifications is not prohibited by this section. [13A-9-52(a)]

The sale and delivery of each delivery container shall constitute a separate offense. [13A-9-52(b)]

[Approved 02-27-17.]