**14-3121. Counterfeit substance; delivery; essential elements.**

For you to find the defendant guilty of "delivering 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 [transferred]2 [caused the transfer of] [attempted to transfer] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_3 to another;

2. The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_3 had an unauthorized \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_4 which falsely represented its manufacturer, distributor or dispenser;

3. The defendant knew that the use of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_4 was unauthorized;

4. The defendant knew the substance was \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_3 [or believed it to be \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_3]5 [or believed it to be some drug or other substance the possession of which is regulated or prohibited by law];

5. 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. Use only the applicable alternatives.

3. Identify the substance.

4. Insert one or more of the following terms in the alternative: trademark, trade name, imprint, number, device, identifying mark.

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.