IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

 Defendant.

DEFENDANT’S INSTRUCTION NO. \_\_\_\_

 Possession with the Intent to Deliver a Counterfeit Substance is committed when a person knowingly and intentionally possesses a counterfeit substance with the intention of delivering the controlled substance to another person. In order to prove this offense, the State must overcome the presumption of innocence and prove beyond a reasonable doubt that:

1. the defendant,

2. on the \_\_ day of [insert month], [insert year],

3. in [insert county] County, West Virginia;

4. knowingly and intentionally

5. possessed

6. a counterfeit substance, specifically, [insert controlled substance], a Schedule [insert] Counterfeit Substance,

7. with the intent to deliver the counterfeit substance to another person.

 After consideration of all the evidence, if each of you is convinced beyond a reasonable doubt that the State has proven all these elements of Possession with Intent to Deliver a Counterfeit Substance, then you may find the defendant guilty as charged in Count \_\_ of the indictment. However, if any of you has a reasonable doubt as to any one or more of these elements, you shall find the defendant not guilty.

GIVEN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REFUSED:\_\_\_\_\_\_\_\_\_\_\_\_\_

MODIFIED:\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 JUDGE