

## **CR1017: Open Container in a Motor Vehicle**

(DEFENDANT'S NAME) is charged [in Count \_\_\_\_] with committing Open Container in a Motor Vehicle [on or about (DATE)]. You cannot convict [him] [her] of this offense unless, based on the evidence, you find beyond a reasonable doubt each of the following elements:

1. (DEFENDANT'S NAME);
2. Kept, carried, possessed, or transported, [or allowed another to keep, carry, possess or transport];
3. In the passenger compartment of a [motor vehicle,] [on a golf cart,] [on a motor assisted scooter,] [or on a class 2 electric assisted bicycle];
4. On any [highway] [or waters of the state];
5. Any container that contained an alcoholic beverage; and
6. The container had [been opened,] [its seal broken,] [or][the contents of the container partially consumed].

After you carefully consider all the evidence in this case, if you are convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant GUILTY. On the other hand, if you are not convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant NOT GUILTY.

## **References**

- Utah Code sect. 41-6a-526(3)

## **Committee Notes**

This instruction contains bracketed language, which suggests optional language. Please review and edit before finalizing this instruction.

Please note that this offense has several exceptions as outlined in 41-6a-526(4) and (5). The offense does not apply to passengers in the living quarters of a motor home or camper; who have carried an alcoholic beverage onto a limousine or chartered bus (in compliance with Subsections 32B-4-415(4)(b) and (c)); or in a motorboat on the waters of the state. Further, the prohibition on keeping, carrying, possessing, transporting, or allowing another to do those acts does not apply to passengers traveling in any licensed taxicab or bus.

Practitioners may also find value in using additional instructions to define pertinent statutory terms, such as "Alcoholic Beverage," "Chartered Bus," "Limousine," "Passenger Compartment," or "Waters of the State."