

Failure to Control or Report a Dangerous Fire

N.J.S.A. 2C:17-1c (fourth degree)

The indictment charges the defendant with failure to control or report a dangerous fire in violation of a statute which reads in pertinent part as follows:

A person who knows that a fire is endangering life or a substantial amount of property of another and either fails to take reasonable measures to put out or control the fire, when he can do so without substantial risk to himself, or to give prompt fire alarm, commits a crime. . .if:

- (1) He knows that he is under an official, contractual, or other legal duty to prevent or to combat the fire; or
- (2) The fire was started, albeit lawfully, by him or with his assent, or on property in his custody or control.

In order for the defendant to be guilty of failure to control or report a dangerous fire, the State must prove the following three elements beyond a reasonable doubt:

1. The first element the State must prove beyond a reasonable doubt is that the defendant knew that a fire was endangering life or a substantial amount of property of another. and
2. The second element the State must prove beyond a reasonable doubt is that the defendant either (a) failed to take reasonable measures to put out or control the fire, when (he/she) could have done so without substantial risk to (him/her)self; or (b) failed to give prompt fire alarm; and

[SELECT APPROPRIATE SECTION OR SECTIONS]

3. The third element the State must prove beyond a reasonable doubt is that defendant knew that (he/she) was under an official, contractual or other legal duty to prevent or combat the fire;

OR

3. The third element the State must prove beyond a reasonable doubt is that the fire was

started, albeit lawfully, by defendant or with (his/her) assent, or on property in (his/her) custody or control.¹

[CHARGE THE FOLLOWING DEFINITION IN ALL CASES]

A person acts knowingly with respect to the nature of (his/her) conduct or the attendant circumstances if (he/she) is aware that (his/her) conduct is of that nature, or that such circumstances exist, or (he/she) is aware of a high probability of their existence. A person acts knowingly with respect to a result of (his/her) conduct if (he/she) is aware that it is practically certain that (his/her) conduct will cause such a result. Knowledge is a condition of the mind that cannot be seen and can only be determined by inferences drawn from the defendant's conduct, words or acts. It is not necessary for the State to prove the existence of such a mental state by direct evidence such as a statement by the defendant that he had particular knowledge. It is within the power of the jury to find that the proof of knowledge has been furnished beyond a reasonable doubt by inferences which you may draw from the nature of the acts and the circumstances surrounding the conduct of the defendant as they have been presented in the evidence you have heard and seen in this case.

If the State has failed to prove any of the elements as I have described them to you beyond a reasonable doubt, you must find the defendant not guilty of the crime of failure to control or report a dangerous fire. If the State has proven every element beyond a reasonable doubt, you must find defendant guilty of that crime.

¹Many of the concepts discussed in this charge, i.e., promptness of an alarm, reasonable measures to control a fire and official, contractual or other legal duty to prevent or combat a fire, will be highly fact-sensitive. If necessary, the Court should not hesitate to tailor this charge to better fit the facts before the jury.