

SUPPLEMENTAL CHARGE TO OFFENSES SET FORTH
IN N.J.S.A. 2C:35-5.3a and N.J.S.A. 2C:35-10.3a
(BATH SALTS)

**(To be utilized in cases in which the quantity
of the CDS-Bath Salts is an element of the offense)¹**

If you have found the defendant guilty of [possession] [distribution] [dispensing] [manufacturing] [possession with intent to distribute, or dispense, or manufacture] of **[insert appropriate CDS (bath salt)]**, you then must determine the quantity of **[insert appropriate CDS (bath salt)]** involved. It is the State's burden to prove beyond a reasonable doubt the quantity of **[insert appropriate CDS (bath salt)]** that is involved. The State need not prove defendant's knowledge of the quantity of the drugs, so long as it proves beyond a reasonable doubt that defendant knowingly possessed the controlled dangerous substance.²

Specifically, you must determine which one of the following quantities have been proven:

1. One (1) ounce or more of **[insert appropriate CDS (bath salt)]**;
or
2. Less than one (1) ounce of **[insert appropriate CDS (bath salt)]**.

After determining which one of these quantities the State has proven beyond a reasonable doubt, you should mark the appropriate section of the verdict sheet which will be supplied to you.

¹ This supplemental charge should only be given when the quantity makes the offense a second degree crime under N.J.S.A. 2C:35-5.3a.b. for offenses involving distribution, manufacturing, or possession with intent to distribute, of CDS-Bath Salts. In cases in which only a third degree offense is charged (N.J.S.A. 2C:35-5.3a.c.), the supplemental charge should not be given. The same applies when the charge is unlawful possession of CDS-Bath Salts (N.J.S.A. 2C:35-10.3a). If the quantity possessed is one ounce or more, it is a third degree offense (N.J.S.A. 2C:35-10.3a.b.) and both choices should be provided to the jury. In cases where only a fourth degree offense is charged (N.J.S.A. 2C:35-10.3a.c.), the supplemental charge should not be used.

² State v. Torres, 236 N.J. Super. 6 (App. Div. 1989).