

5.01B
Knowledge--Willfulness

[1] A person [(knows) (acts knowingly with regard to) (acts with knowledge of)] the nature or attendant circumstances of his conduct when he is consciously aware that his conduct is of that nature or that those circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that the fact exists.

[2] A person [(knows) (acts knowingly with regard to) (acts with knowledge of)] the result of his conduct when he is consciously aware that that result is practically certain to be caused by his conduct.

[3] [Conduct performed knowingly or with knowledge is performed willfully.]

Committee Note

Instruction and Committee Note Approved October 28, 2016

720 ILCS 5/4-5 (West 2016), amended by P.A. 96-710, effective Jan. 1, 2010.

The Committee takes no position as to whether this definition should be routinely given in the absence of a specific jury request. *See People v. Powell*, 159 Ill.App.3d 1005, 512 N.E.2d 1364 (1st Dist. 1987), for the general proposition that the words “intentionally” and “knowingly” have a plain meaning within the jury's common understanding. If given, it should only be given when the result or conduct at issue is the result or conduct described by the statute defining the offense.

In cases where the instruction is given, use paragraph [1] if the offense is defined in terms of prohibited conduct. Use paragraph [2] if the offense is defined in terms of a prohibited result. If both conduct and result are at issue, use *both* paragraphs [1] and [2]. *See People v. Lovelace*, 251 Ill.App.3d 607, 622 N.E.2d 859 (2d Dist. 1993), where the trial court committed reversible error by giving the jury only paragraph [1], and not both paragraphs [1] and [2], when both conduct and result were at issue.

The bracketed third paragraph is for use in conjunction with offenses including a mental state of “willfulness”. In such cases, give the bracketed third paragraph defining that term. Also give the first or second paragraph, or both, as appropriate.

When willfulness is an issue, Section 4-6 requires the trial court to determine whether the statute using that word “clearly requires another meaning”. If so, the jury should be instructed accordingly.

The bracketed numbers are present solely for the guidance of the court and counsel and should not be included in the instruction submitted to the jury.

Use applicable paragraphs and bracketed material.