**T.P.I. -- CRIM. 31.01**

**CONTROLLED SUBSTANCES: MANUFACTURE, DELIVERY OR SALE**

Any person who commits the offense of unlawful *[manufacture] [delivery] [sale]* of a controlled substance is guilty of a crime.

For you to find the defendant guilty of this offense, the state must have proven beyond a reasonable doubt the existence of the following essential elements:

1. that the defendant *[manufactured] [delivered] [sold]* [specify controlled substance], a Schedule [insert schedule number] controlled substance;

and

1. that the defendant acted knowingly.

[ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ] is a Schedule [ \_\_\_\_\_\_\_ ] controlled substance.

["Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.]

[“Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. “Manufacture” does not include the preparation or compounding of a controlled substance by an individual for the individual’s own use [**Only for methamphetamine offenses committed on or after 3/30/05:** unless the controlled substance is methamphetamine, its salts, isomers, or salts of its isomers].“Production” includes the manufacturing, planting, cultivating, growing or harvesting of a controlled substance.]

[“Sell” or “sale” means a bargained-for offer and acceptance and an actual or constructive transfer or delivery of the substance.]

"Knowingly" means that a person acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly with respect to a result of the person's conduct when the person is aware that the conduct is reasonably certain to cause the result.

The requirement of "knowingly" is also established if it is shown that the defendant acted intentionally.

"Intentionally" means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person's conscious objective or desire to engage in the conduct or cause the result.

[The trial judge should now instruct the jury with respect to fixing the weight of the drug alleged to have been manufactured, delivered or sold, if more than the minimum amount is alleged in the indictment. See T.P.I. – Crim. 31.13, Fixing Weight.]

[If the defendant is charged with committing this crime in a drug-free zone or with the intended recipient having been under eighteen (18) years of age, which substantially enhances the punishment, the trial judge should now instruct the jury as to either T.P.I. – Crim. 31.12(a) or 31.12(b), but not both, pursuant to T.C.A. § 39-17-432(g).]