

RECKLESSLY RISKING WIDESPREAD INJURY OR DAMAGE
(N.J.S.A. 2C:17-2c)

Count _____ of the indictment charges the defendant with recklessly creating a risk of widespread injury or damage in violation of a statute which provides as follows:

A person who recklessly creates a risk of widespread injury or damage commits a crime. . .even if no such injury or damage occurs.

In order for the defendant to be found guilty of recklessly creating a risk of widespread injury or damage, the State must prove the following elements beyond a reasonable doubt:

- (1) that the defendant created a risk of widespread injury or damage; and
- (2) that the defendant acted recklessly.

The first element the State must prove beyond a reasonable doubt is that the defendant created a risk of widespread injury or damage. The term “widespread injury or damage” means serious bodily injury to five or more people or damage to five or more habitations or to a building which would normally have contained 25 or more persons at the time of the offense. “Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

The second element the State must prove beyond a reasonable doubt is that the defendant acted recklessly. A person acts recklessly with respect to the nature of his/her conduct or a result thereof when he/she consciously disregards a substantial and unjustifiable risk. The risk must be of such a nature and degree that, considering the nature and purpose of the actor’s conduct and the circumstances known to him/her, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor’s situation.¹

¹ See N.J.S.A. 2C:2-2b(3).

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You must realize that recklessness is a state of mind which cannot be seen but can only be determined by drawing inferences from one's conduct, words or actions, and from all of the surrounding circumstances. It therefore is not necessary for the State to produce witnesses to testify that the defendant said he/she knew or believed that he/she was acting recklessly. His/Her state of mind is to be determined by you after you examine his/her conduct and actions, all that was said or done at that particular time and place, and all the surrounding circumstances.

If the State has failed to prove any one or more of the elements as I have described them to you beyond a reasonable doubt, you must find the defendant not guilty of recklessly creating a risk of creating widespread injury or damage. If the State has proven each element beyond a reasonable doubt, you must find the defendant guilty of the crime of recklessly causing widespread injury or damage.

[CHARGE IF APPROPRIATE]

This count of the indictment also alleges that [the risk of widespread injury or damage resulted from the reckless handling or storage of hazardous materials] and/or that [the handling or storage of hazardous materials violated any law, rule or regulation intended to protect the public health and safety].² If you find that the State has proven each of the elements I have previously described beyond a reasonable doubt, then you must determine whether it has also proven, beyond a reasonable doubt, that [the risk of widespread injury or damage resulted from the reckless handling or storage of hazardous materials] and/or that [the handling or storage of hazardous materials violated any law, rule or regulation intended to protect the public health and safety].

² Advise the jury of the law, rule or regulation charged in the indictment.