

**CRIMINAL LAW, FALL, 2009 - HANDOUT # 2**

***MENS REA:***

**§ 702-204 State of mind required.**

Except as provided in § 702-212, a person is not guilty of an offense unless he acted intentionally, knowingly, recklessly, or negligently, as the law specifies, with respect to each element of the offense. When the state of mind required to establish an element of an offense is not specified by the law, that element is established if, with respect thereto, a person acts intentionally, knowingly, or recklessly.

**§ 702-206 Definition of States of Mind.**

(1) **“Intentionally.”**

- (a) A person acts intentionally with respect to his conduct when it is his conscious object to engage in such conduct.
- (b) A person acts intentionally with respect to attendant circumstances when he is aware of the existence of such circumstances or believes or hopes that they exist.
- (c) A person acts intentionally with respect to a result of his conduct when it is his conscious object to cause such a result.

(2) **“Knowingly.”**

- (a) A person acts knowingly with respect to his conduct when he is aware that his conduct is of that nature.
- (b) A person acts knowingly with respect to attendant circumstances when he is aware that such circumstances exist.
- (c) A person acts knowingly with respect to a result of his conduct when he is aware that it is practically certain that his conduct will cause such a result.

(3) **“Recklessly.”**

- (a) A person acts recklessly with respect to his conduct when he consciously disregards a substantial and unjustifiable risk that the person’s conduct is of the specified nature.
- (b) A person acts recklessly with respect to attendant circumstances when he consciously disregards a substantial and unjustifiable risk that such circumstances exist.
- (c) A person acts recklessly with respect to a result of his conduct when he consciously disregards a substantial and unjustifiable risk that his conduct will cause such a result.
- (d) A risk is substantial and unjustifiable within the meaning of this section if, considering the nature and purpose of the person’s conduct and the circumstances known to him, the disregard of the risk involves a gross deviation from the standard of conduct that a law-abiding person would observe in the same situation.

(4) **“Negligently.”**

- (a) A person acts negligently with respect to his conduct when he should be aware of a substantial and unjustifiable risk taken that the person’s conduct is of the specified nature.
- (b) A person acts negligently with respect to attendant circumstances when he should be aware of a substantial and unjustifiable risk that such circumstances exist.

(c) A person acts negligently with respect to a result of his conduct when he should be aware of a substantial and unjustifiable risk that his conduct will cause such a result.

(d) A risk is substantial and unjustifiable within the meaning of this subsection if the person's failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a law-abiding person would observe in the same situation.

**§ 702-208 Substitutes for negligence, recklessness and knowledge.**

When the law provides that negligence is sufficient to establish an element of an offense, that element also is established if, with respect thereto, a person acts intentionally, knowingly, or recklessly.

When the law provides that recklessness is sufficient to establish an element of an offense, that element also is established if, with respect thereto, a person acts intentionally or knowingly.

When the law provides that acting knowingly is sufficient to establish an element of an offense, that element also is established if, with respect thereto, a person acts intentionally.

**§ 702-210 Requirement of wilfulness satisfied by acting knowingly.**

A requirement that an offense be committed wilfully is satisfied if a person acts knowingly with respect to the elements of the offense, unless a purpose to impose further requirements appears.

**§ 702-212 When state of mind requirements are inapplicable to violations and to crimes defined by statutes other than this Code.**

The state of mind requirements prescribed by sections 702-204 and 702-207 through 702-211 do not apply to:

- (1) An offense which constitutes a violation, unless the state of mind requirement involved is included in the definition of the violation or a legislative purpose to impose such a requirement plainly appears; or
- (2) A crime defined by statute other than this Code, insofar as a legislative purpose to impose absolute liability for such offense or with respect to any element thereof plainly appears.