**CONCEALMENT OF MERCHANDISE (FELONY) 11.46.220(c)(1)(A) or (B)**

**Revised 2017**

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 , the defendant in this case, has been charged with the crime of concealment of merchandise.

To prove that the defendant committed this crime, the state must prove beyond a reasonable doubt each of the following elements:

(1) the defendant knowingly concealed on or about the defendant’s person the merchandise of a commercial establishment;

(2) the defendant had no authority to conceal the merchandise;

(3) the defendant had not purchased the merchandise;

(4) the defendant was still upon the premises of the commercial establishment when the merchandise was concealed;

(5) the defendant intended to deprive the owner of the merchandise or appropriate the merchandise; and

(6) [the merchandise was a firearm.][the value of the merchandise was $1000 or more.]

# USE NOTE

The following terms are defined in other instructions:

“appropriate” – 11.46.990

“deprive” – 11.46.990

“firearm” – 11.81.900(b)

“intentionally” – 11.81.900(a)

“knowingly” – 11.81.900(a)

“premises” – 11.81.900(b)

For determination of value, see 11.46.980.

**CONCEALMENT OF MERCHANDISE (FELONY) 11.46.220(c)(1)(C) #1**

**Revised 2017**

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This theory of felony concealment of merchandise requires proof that the defendant has two or more prior convictions. In Ostlund v. State, 51 P.3d 938 (Alaska App. 2002), the court held that the trial court shall bifurcate the determination of previous convictions unless the trial judge determines the convictions are relevant for a purpose other than to establish that the offense was a felony and are admissible under Evidence Rule 403. The prior convictions element is therefore placed in a separate instruction to be given in the bifurcated second stage of the trial.