

**Ala. Code 1975, § 13A-2-7**

**CONSENT NOT A DEFENSE**

Consent of the alleged victim is not a defense if:

- (1) the law itself seeks to prevent an element of the crime and/or the anticipated harm or evil; **(OR)**
- (2) given by a person not legally competent to consent; **(OR)**
- (3) due to immaturity, mental disease or defect, or intoxication the person is manifestly unable and known by the defendant to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct; **(OR)**
- (4) is given by a person whose consent is prevented by law; **(OR)**
- (5) is induced by force, duress, or deception.

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**CONSENT TO CONDUCT**

The Defendant has raised consent as a defense. Therefore, to convict, the State must prove beyond a reasonable doubt that the defendant was not acting with the consent of the alleged victim.

**Use Notes**

Give this instruction only when sufficient evidence tending to establish consent as a defense has been injected by the defendant.

Consent of the victim is not always a defense. See Instructions 2.11, 2.12, *infra*.

[Adopted 09-19-14.]