

**Ala. Code 1975, § 13A-3-2**

**Intoxication Defense**

**I. Voluntary Intoxication**

A defense asserted in this case is intoxication by use of **[insert name of substance]**.

*Intoxication* is a disturbance of mental or physical capacities resulting from the introduction of any substance into the body.

*Voluntary intoxication* means intoxication caused by substances that the actor knowingly introduced into his/her body, the tendency of which to cause intoxication he/she knows or ought to know, unless he/she introduces them under circumstances that would afford a defense to the charge.

Voluntary intoxication does not excuse a crime but its excessiveness may produce such a mental condition as to render the intoxicated person incapable of forming a specific intent.

Intoxication is not a defense to an offense generally. However, intoxication of the defendant, whether voluntary or involuntary, is admissible in evidence whenever it is relevant to negate an element of the offense, such as intent.

Where a certain mental state is an essential element of a crime, and a person was so intoxicated that he/she could not form that mental state, the mental state would not exist and therefore the crime could not be committed.

In this case **[insert the mental state]** is an essential element of the crime charged. If you find from the evidence that the defendant was so intoxicated from the voluntary use of **[insert name of substance]** as to be incapable of forming **[insert the mental state]**, or you have a reasonable doubt about it, you should find the defendant not guilty of **[insert the crime charged]**.

You must first decide whether the defendant was intoxicated at the time of the alleged crime; and second, whether the defendant was incapable of forming **[insert the mental state]** to commit acts constituting the offense of **[insert charge]**.

**[Read if appropriate]** - When recklessness is an element of the offense and the actor is unaware of a risk because of voluntary intoxication, his/her unawareness is immaterial in a prosecution.

If you find that the defendant, although intoxicated, was still capable of forming **[insert the mental state]**, then he/she is responsible.

## II. Involuntary Intoxication

A defense asserted in this case is involuntary intoxication by use of **[insert name of substance]**.

*Intoxication* is a disturbance of mental or physical capacities resulting from the introduction of any substance into the body.

*Involuntary intoxication* is when the defendant became intoxicated because of a substance given to him/her against his/her will or without his/her knowledge.

Intoxication is not a defense to an offense generally. Intoxication of the defendant is admissible in evidence whenever it is relevant to negate an element of the offense, such as intent.

Where a certain mental state is an essential element of a crime, and a person was so intoxicated that he/she could not form that mental state, the mental state would not exist and therefore the crime could not be committed.

In this case **[insert the mental state]** is an essential element of the crime charged. If you find from the evidence that the defendant was so intoxicated from the involuntary use of **[insert name of substance]** as to be incapable of forming **[insert the mental state]**, or you have a reasonable doubt about it, you should find the defendant not guilty of **[insert the crime charged]**.

You must first decide whether the defendant was involuntarily intoxicated at the time of the alleged crime; and second, whether the defendant was incapable of forming **[insert the mental state]** to commit acts constituting the offense of **[insert charge]**.

If you find that the defendant, although intoxicated, was still capable of forming **[insert the mental state]**, then he/she is responsible.

### Use Notes

Although voluntary intoxication does not serve as an excuse, the intoxication may render the defendant incapable of forming the essential mental element of the charged crime. If evidence exists that the defendant was intoxicated at the time of the charged offense, the jury should be instructed on intoxication and any relevant lesser-included offense(s). See, e.g. *Fletcher v. State*, 621 So. 2d 1010 (Ala. Cr. 1993).

[Adopted 12-22-14.]