

## Practice Exam

## FACTS FOR QUESTIONS 1-2

Ron owns a local trucking company. On one trip an employee named Harry picked up a barrel of VIOL, a hazardous chemical, when the barrel ruptured, spilling its contents into the town's source of drinking water. A statute provides, "Any person who negligently causes a hazardous chemical to be released in or near a source of drinking water shall be guilty of a misdemeanor."

## QUESTION 1

Which of the following would be true:

- [1] Ron could not be convicted of violating the statute unless he himself was aware of the fact that Harry was transporting VIOL.
- [2] Harry could not be convicted of violating the statute if he reasonably believed that the barrel was empty.
- [3] Since this would be described as a "regulatory" offense, there is no mens rea requirement for conviction of either person.
- [4] Either Ron or Harry could be convicted of violating the statute, but not both.

## QUESTION 2

Assume the same facts as in the previous question. Suppose further that there is another providing as follows: "Any person who knowingly transports any hazardous chemical without first obtaining a Class H license shall be guilty of a misdemeanor." If Ron is prosecuted for violating this statute, which of the following would be true:

- [1] Ron could NOT be convicted if he honestly believed that VIOL was not a hazardous chemical.
- [2] Ron could NOT be convicted if he did not know that Harry was transporting VIOL, even if Harry knew.
- [3] Ron could be convicted if he knew he didn't have a license, and was reckless with respect to whether his employees were transporting hazardous chemicals.
- [4] Ron could NOT be convicted if he reasonably believed that he was exempt from the coverage of this statute.

## QUESTION 3

Motorist had an epileptic seizure and lost control of the car he was driving. The car crossed the center dividing line and struck a car occupied by a driver and two passengers. One of the passengers was killed. Would this evidence support a conviction for negligent homicide?

- [1] Yes, because epileptics are negligent if they drive a car.
- [2] Yes, but only if Motorist's behavior was a gross deviation from the behavior of a reasonable person.
- [3] No, because the seizure was not voluntary behavior on his part.
- [4] No, unless he was actually aware of the risk that his behavior would cause injury.

## ESSAY QUESTION

Mark had been dating Linda for six months. Linda had a six-year-old daughter named Debbie. Mark usually spent Friday and Saturday night at Linda's house. On Saturdays he did jobs around Linda's house. One Saturday Debbie was playing in the front yard while Mark was up on a ladder working on the rain gutters. Mark observes that a group of boys, who appeared to be a few years older than Debbie, were congregating in the front yard. Initially they were just talking and laughing, but after a while Debbie started saying, "No. Go away." Then the boys grabbed Debbie and she started screaming. Then they dragged her down the street. All this time Mark was observing from his position on the ladder. He didn't shout at the boys, he didn't call anyone using his cell phone. About fifteen minutes later there was a sound of sirens. Finally Mark got down from the ladder and walked over to see what was happening. Debbie had tried to break free of the boys and ran out into the street, where she was fatally struck by a motorist.

During the investigation that followed, Mark stated that he thought Linda was inside. Linda told police that she had told Mark she was going to the grocery store and to keep an eye on Debbie. Mark denies that she said that.

Analyze whether or not Mark can be successfully prosecuted for negligent homicide in a jurisdiction that has adopted the Model Penal Code.