§ 360.50 Court's submission of information to jury; counts and offenses to be submitted.

1. The term definitions contained in section 300.30 are applicable to this section, except that the word "information" is to be substituted for the word "indictment" wherever the latter appears in said section 300.30.

2. The court may submit to the jury only those counts of an information remaining therein at the time of its charge which are supported by legally sufficient trial evidence, and every count not so supported should be dismissed by a trial order of dismissal. If the trial evidence is not legally sufficient to establish a misdemeanor charged in a particular count which the court would otherwise be required to submit pursuant to this section, but is legally sufficient to establish a lesser included offense, the court may submit such lesser included offense and, upon the people's request, must do so. In submitting a count charging a misdemeanor established by legally sufficient trial evidence, the court in its discretion may, in addition to submitting such misdemeanor, submit in the alternative any lesser included offense if there is a reasonable view of the evidence which would support a finding that the defendant committed such lesser offense but did not commit the misdemeanor charged.

3. If the information contains but one count, the court must submit such count.

4. If a multiple count information contains consecutive counts only, the court must submit every count thereof.

5. In any case where the information may be more complex by reason of concurrent counts or inconsistent counts or other factors indicated in subdivisions three, four and five of section 300.40, relating to multiple count indictments, the court, in its submission of such information to the jury, should, so far as practicable, be guided by the provisions of the said subdivisions of said section 300.40.

6. Notwithstanding any other provision of this section, the court is not required to submit to the jury any particular count of a multiple count information if the people consent that it not be submitted.

7. Every count not submitted to the jury is deemed to have been dismissed by the court. Where the court, over objection of the people, refuses to submit a count which is consecutive as to every count actually submitted, such count is deemed to have been dismissed by a trial order of dismissal even though no such order was expressly made by the court.