

1 **13-1209. Negligence of driver not attributable to passenger.**

2 Negligence on the part of the driver of the vehicle in which plaintiff was a passenger cannot
3 be charged to plaintiff.

4 USE NOTES

5 This instruction is not to be used where an issue exists as to the plaintiff's right of control
6 over the driver.

7 [As amended, effective January 1, 1987.]

8 **Committee commentary.** — This instruction is not intended to absolve the passenger of
9 negligence but only to avoid imputation of the negligence of the driver to ~~him~~ passenger. See
10 *Ford v. Etheridge*, 1962-NMSC-171, 71 N.M. 204, 377 P.2d 386[~~(1962)~~]; *Mills v. [Southwest]Sw.*
11 *Bldrs., Inc.*, 1962-NMSC-115, 70 N.M. 407, 374 P.2d 289 (1962); *Perini v. Perini*, 1958-NMSC-
12 052, 64 N.M. 79, 324 P.2d 779[~~(1958)~~]; *Silva v. Waldie*, 1938-NMSC-048, 42 N.M. 514, 82 P.2d
13 282[~~(1938)~~]; [~~and~~] *Archuleta v. Johnston*, 1971-NMCA-158, 83 N.M. 380, 492 P.2d 997[~~(Ct.~~
14 ~~App.)~~], cert. denied, 83 N.M. 379, 492 P.2d 996 (1971).

15 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]