

1 **14-1611. Shoplifting; alteration of label or container; essential elements.**¹

2 For you to find the defendant guilty of shoplifting [as charged in Count _____]^{[1]2},
3 the state must prove to your satisfaction beyond a reasonable doubt each of the following elements
4 of the crime:

5 1. [~~The defendant~~] _____ (*name of defendant*) [altered a label, price tag,
6 or marking [~~upon~~] on _____ (*describe merchandise*)]^{[2]3} [transferred
7 _____ (*describe merchandise*) from the container [in] [on]^{[2]3} which it was
8 displayed to another container];

9 2. The [altered] [transferred]^{[2]3} merchandise had [~~a~~] an aggregated retail market
10 value^{[3]4} [over \$ _____ ^{[4]5}];

11 [~~1~~]3. The [altered] [transferred]^{[2]3} merchandise was offered for sale to the public by
12 _____ (*name of retailer or store*), a retailer⁶, located at _____ (*address of retailer*);
13 [~~in a store;~~]⁵

14 4. [~~The defendant~~] _____ (*name of defendant*) intended to deprive
15 _____ (*name of [~~merchant~~] retailer*) of all or some part of the value of this
16 merchandise;

17 5. This happened in New Mexico on or about the _____ day of
18 _____, _____.

19 USE NOTES

20 1. If using the aggregated retail market value of merchandise based on a person
21 engaging in shoplifting more than once over a ninety (90)-day period under NMSA 1978, Section
22 30-16-20(D), each discrete act of shoplifting should be instructed separately unless the parties
23 agree to include multiple instances within a single instruction, in which case this instruction may

1 be modified accordingly. If there is dispute about whether the incidents occurred within a ninety
2 (90)-day period, a special verdict form in UJI 14-1610A NMRA should be used.

3 [4.] 2. Insert the count number if more than one count is charged. If a particular count
4 number includes multiple instances of shoplifting within a ninety (90)-day period which the parties
5 instruct on separately, then a letter referring to each incident should be given after the count
6 number.

7 [2.] 3. Use applicable alternative.

8 [3.] 4. See UJI [14-1602] 14-1617 NMRA for the definition of aggregated retail market
9 value. Use this bracketed provision for merchandise if the value is over \$250. State whether the
10 value of the merchandise at issue is “over \$250,” “over \$500,” “over \$2,500,” or “over \$20,000.”
11 If the charge is a petty misdemeanor (\$250 or less), do not use this bracketed alternative.

12 [4.] 5. If the charge is a second-degree felony (over \$20,000), use \$20,000 in the blank. If
13 the charge is a third-degree felony (over \$2,500), use \$2,500 in the blank. If the charge is a fourth-
14 degree felony (over \$500), use \$500 in the blank. If the charge is a misdemeanor (over \$250), use
15 \$250 in the blank.

16 [5.] 6. ~~[For use if there is an issue as to whether or not the items were merchandise in a~~
17 ~~store.] If there is an issue about whether the merchandise was taken from a retailer, UJI 14-1618~~
18 NMRA, the definition of “retailer,” should be given.

19 [As amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010; as
20 amended by Supreme Court Order No. S-1-RCR-2025-00167, effective for all cases pending or
21 filed on or after December 31, 2025.]

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- 1 **Committee commentary.** — *See* NMSA 1978, § 30-16-20 (2023); committee commentary to UJI
- 2 14-1610 NMRA.
- 3 [As amended by Supreme Court Order No. S-1-RCR-2025-00167.]