

1 **14-1621. Armed robbery; essential elements.**

2 For you to find the defendant guilty of armed robbery [as charged in Count _____]¹,
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 took and carried away² _____ (*identify property*),
6 from _____ (*name of victim*) or from [~~his~~the victim's immediate control intending
7 to permanently deprive _____ (*name of victim*) of the _____
8 (*property*); [the property had some value;]³

9 2. The defendant was armed with a _____⁴;

10 3. The defendant took the _____ (*property*) by [force or violence]⁵
11 [or] [threatened force or violence];

12 4. This happened in New Mexico on or about the _____ day of
13 _____, _____.

14 USE NOTES

15 1. Insert the count number if more than one count is charged.

16 2. Use UJI 14-1602 NMRA if asportation is in issue.

17 3. Use the bracketed provision only if there is a question as to whether or not the
18 property taken had any value.

19 4. Insert the name of the weapon when the instrument is a deadly weapon as defined
20 in NMSA 1978, [~~Section~~§ ~~[30-1-12B NMSA 1978]~~30-1-12(B), or use the phrase ["an
21 instrument or object which, when used as a weapon, could cause death or very serious injury.[""]

22 5. Use the applicable bracketed phrase.

1 [As amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending
2 or filed on or after December 31, 2025.]

3 **Committee commentary.** — See NMSA 1978, § 30-16-2~~[NMSA 1978]~~. Armed robbery is an
4 aggravated form of robbery by use of a deadly weapon. Some courts indicate that being armed
5 means only that the defendant has the ability to inflict an injury by having the weapon in ~~[his]~~their
6 possession, not that the weapon is exhibited. See, e.g., *Commonwealth v. Chapman*,~~[345 Mass.~~
7 ~~251,]~~ 186 N.E.2d 818 (Mass. 1962); *People v. Rhem*, 261 N.Y.S.2d 808~~[, 24 A.D.2d 517]~~ (N.Y.
8 App. Div. 1965). See also *State v. Encee*, 1968-NMCA-012, 79 N.M. 23, 439 P.2d 240~~[(Ct. App.~~
9 ~~1968)]~~ and *State v. Sweat*, 1972-NMCA-092, 84 N.M. 122, 500 P.2d 207~~[(Ct. App. 1972)]~~. Where
10 the jury may find the absence of a deadly weapon, it should be instructed on simple robbery as a
11 lesser included offense. Cf. *State v. Mitchell*, 1939-NMSC-007, 43 N.M. 138, 87 P.2d 432~~[~~
12 ~~(1939)]~~.

13 A deadly weapon may include an unloaded gun. *State v. Montano*, 1961-NMSC-174, 69 N.M. 332,
14 367 P.2d 95~~[(1961)]~~. If the weapon is not listed in the statute as a deadly weapon, it must be
15 established that it was a deadly weapon as a matter of fact under the general, statutory definition.
16 *State v. Gonzales*, 1973-NMCA-153, 85 N.M. 780, 517 P.2d 1306~~[(Ct. App. 1973)]~~ (tire tool used
17 as a deadly weapon).

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