

1 **14-1651. Receiving stolen property; dealers; statutory presumptions on knowledge or**
2 **belief.[4]**

3 If you find that the defendant was a person in the business of buying and selling goods and²
4 [was in possession or control of property stolen from two or more persons on separate
5 occasions]

6 [acquired stolen property for a price which [~~he~~defendant knew was far below the
7 property[']s market³ value]

8 [had possession of five or more items of stolen property within one (1) year prior to
9 [~~his~~defendant's possession of the property involved in this charge]

10 you may, but are not required to, find that the defendant knew or believed that the property
11 involved in this case had been stolen. However, you may do so only if, upon consideration of all
12 the evidence, you are convinced beyond a reasonable doubt that the defendant knew or believed
13 that the property had been stolen.

14 USE NOTES

15 1. For use when the state relies on the statutory presumption to prove the
16 defendant[']s knowledge or belief that the goods were stolen.

17 2. Use only the applicable presumptions.

18 3. See UJI 14-1602 NMRA for the definition of market value.

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

21 **Committee commentary.** — See NMSA 1978, § [30-16-11B & 30-16-11C NMSA 1978]30-16-
22 11(B)-(C). The use of evidence of independent offenses to prove knowledge is a recognized
23 exception to the rule against introducing evidence of other crimes. See commentary to UJI 14-

1 5028 NMRA. The statutory [“presumption”] of knowledge is treated as an inference. New
2 Mexico Rules of Evidence, Rule 11-303 NMRA. *State v. Jones*, 1975-NMCA-078, 88 N.M. 110,
3 537 P.2d 1006[~~(Ct. App.)~~], *cert. denied*, 88 N.M. 318, 540 P.2d 248 (1975).
4 By the 1975 amendment to this statute, the legislature limited the use of these presumptions to
5 cases involving [“dealers.”] The statute includes a further presumption that a dealer knows the
6 fair market value of the property when ~~he~~dealer acquires property ~~he~~dealer knows is far below
7 the property’s reasonable value. This further presumption was not included in this instruction
8 because it would require the jury to find a presumption within a presumption.
9 Some doubt has been expressed concerning the constitutionality of the first bracketed presumption
10 in this instruction. *See State v. Elam*, 1974-NMCA-075, 86 N.M. 595, 526 P.2d 189[~~(Ct. App.)~~],
11 *cert. denied*, 86 N.M. 593, 526 P.2d 187 (1974).
12 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]