

1 **14-1697. Receipt of property obtained by fraudulent use of credit card; essential elements.**

2 For you to find the defendant guilty of receiving property obtained by fraudulent use of a  
3 credit card [as charged in Count \_\_\_\_\_],<sup>1</sup> the state must prove to your satisfaction beyond a  
4 reasonable doubt each of the following elements of the crime:

5 1. The defendant received \_\_\_\_\_ (*describe money, goods or services*  
6 *received*);

7 2. This property was obtained by another's fraudulent use of a credit card;<sup>2</sup>

8 3. The defendant knew or had reason to believe that:<sup>4</sup>

9 [the credit card was obtained in violation of law and then used]; or

10 [the credit card was invalid, expired, or had been revoked, and was used with the intent to  
11 deceive or cheat]; or

12 [the credit card was used with the intent to deceive or cheat by a person misrepresenting  
13 that ~~he~~ defendant was the cardholder, or was authorized by the cardholder to use the credit card];

14 or

15 [the credit card was used without the cardholder's consent by a person with the intent to  
16 deceive or cheat];

17 4. These goods or services had a [value]<sup>3</sup> [value over \$300.00];

18 5. This happened in New Mexico on or about the \_\_\_\_\_ day of  
19 \_\_\_\_\_, \_\_\_\_\_.

20 USE NOTES

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

22 2. If the jury requests a definition of "credit card," the statutory definition set forth in  
23 NMSA 1978, Section 30-16-25[~~NMSA 1978~~] is to be given.

1           3.     Use applicable alternative.

2           4.     Use only the applicable bracketed phrase or phrases set forth in Element 3. If there  
3 is an issue [~~as to~~] about the underlying elements of one of the crimes set forth in Element 3 of this  
4 instruction, then [~~upon~~] on request, the court shall give the applicable essential elements instruction  
5 modified in the manner illustrated by UJI 14-140 NMRA.

6 [As amended by Supreme Court Order No. 20-8300-004, effective for all cases pending or filed  
7 on or after December 31, 2020; as amended by Supreme Court Order No. S-1-RCR-2025-00126,  
8 effective for all cases pending or filed on or after December 31, 2025.]

9     **Committee commentary.** — For general information on credit card crimes, *see* committee  
10 commentary to UJI 14-1680; *see also State v. Castillo*, 2011-NMCA-046, ¶¶ 7-12, 149 N.M. 536,  
11 252 P.3d 760 (discussing definition of “credit card” and concluding that a debit card does not fall  
12 within the statutory definition of “credit card”).

13 Section 30-16-36 NMSA 1978 is similar to our receiving stolen property statute, Section 30-16-  
14 11 NMSA 1978. Here though, the property was not technically stolen, but was obtained by  
15 another’s fraudulent use of a credit card. The knowledge requirement is the same: the defendant  
16 “knows or has reason to believe” the money, goods or services were obtained in violation of law.  
17 For a discussion on the aggregation of amounts provided for in this section, *see* committee  
18 commentary to UJI 14-1689 NMRA.

19 The committee is of the opinion that one or more of the alternatives set forth in Element 3 may be  
20 given. *See* UJI 14-1686 NMRA.

21 [As amended by Supreme Court Order No. 20-8300-004, effective for all cases pending or filed  
22 on or after December 31, 2020.]