

1 **14-4513. Leaving the scene of an accident involving death or personal injury; essential**  
2 **elements.<sup>1</sup>**

3 For you to find the defendant guilty of leaving the scene of an accident involving death or  
4 personal injury [as charged in Count \_\_\_\_]<sup>2</sup>, the state must prove to your satisfaction beyond a  
5 reasonable doubt each of the following elements of the crime:

- 6 1. The defendant drove a vehicle involved in an accident;
- 7 2. The defendant knew that there was an accident;
- 8 3. The accident resulted in [injury] [great bodily harm] [or] [death]<sup>3</sup> to \_\_\_\_\_;
- 9 4. The defendant [failed to immediately stop at the scene or stop as close to the scene  
10 as possible without obstructing traffic more than necessary]

11 [or]

12 [failed to remain at the scene until defendant had:

- 13 (a) given defendant's name, address, and registration number to [the person  
14 struck] [the driver or occupant of the vehicle collided with] [or] [the person attending any vehicle  
15 collided with]<sup>4</sup>;

- 16 (b) displayed, upon request, defendant's license to [the person struck] [the  
17 driver or occupant of the vehicle collided with] [or] [the person attending any vehicle collided  
18 with]<sup>4</sup>; and

- 19 (c) rendered reasonable assistance to any person injured in the accident,  
20 including by taking or making arrangements to take the injured person to a physician or hospital  
21 for medical treatment if it was apparent that such treatment was necessary or such treatment was  
22 requested by the injured person]<sup>4</sup>;

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

USE NOTES

1  
2 1. For use when the defendant is charged under Subsections (B) or (D) of Section 66-  
3 7-201 NMSA 1978. For knowingly leaving the scene of an accident involving great bodily harm  
4 or death under Subsection (C) of Section 66-7-201, use UJI 14-4514 NMRA. When the defendant  
5 is charged with leaving the scene of an accident involving only damage to another vehicle driven  
6 or attended by someone else under Section 66-7-202 NMSA 1978, use UJI 14-4515 NMRA. If the  
7 defendant is charged with failing to give information or render aid following an accident involving  
8 personal injury or death or damage to a vehicle driven or attended by another person under Section  
9 66-7-203 NMSA 1978, use UJI 14-4516 NMRA.

10 2. Insert the count number if more than one count is charged.

11 3. Use only the applicable bracketed alternative established by the evidence. If there  
12 is dispute as to whether there is personal injury, which may establish a misdemeanor, or great  
13 bodily harm or death, which may establish a fourth-degree felony, separate instructions should be  
14 given or a special verdict form should be used to clarify the jury's finding. If great bodily harm is  
15 instructed, the definition of great bodily harm contained in UJI 14-131 NMRA should be given.

16 4. Use only the applicable bracketed alternative or alternatives established by the  
17 evidence.

18 [Adopted by Supreme Court Order No. S-1-RCR-2023-00029, effective for all cases pending or  
19 filed on or after December 31, 2023.]

20 **Committee commentary.** — *See* NMSA 1978, § 66-7-201 (1989); *see also* NMSA 1978, § 66-7-  
21 202 (1978) (Accidents involving damage to vehicle); NMSA 1978, § 66-7-203 (1978) (Duty to  
22 give information and render aid); UJI 14-4514 [~~NMRA~~] (Knowingly leaving the scene of an  
23 accident involving great bodily harm or death); UJI 14-4515 [~~NMRA~~] (Leaving the scene of an

1 accident involving damage to vehicle); UJI 14-4516 [~~NMRA~~] (Failing to give information and  
2 render aid).

3 This instruction is to be used when the defendant is charged with the misdemeanor or [~~fourth-~~  
4 ~~degree~~] fourth-degree felony of leaving the scene of an accident involving personal injury or death  
5 under Subsections (B) or (D) of Section 66-7-201. If the defendant is charged with the [~~third-~~  
6 ~~degree~~] third-degree felony of knowingly leaving the scene of an accident involving great bodily  
7 harm or death under Subsection (C) of the same statute, use UJI 14-4514.

8 New Mexico courts have not squarely decided whether, for purposes of Subsections (B) and (D)  
9 of Section 66-7-201, the defendant must have knowledge of an accident or of injury to another or  
10 whether some lesser awareness may suffice. *See State v. Hertzog*, 2020-NMCA-031, ¶ 9 n.2, 464  
11 P.3d 1090 (questioning whether knowledge of the accident was a required element of the offense  
12 under Subsection (B) of Section 66-7-201 but deeming it unnecessary to decide based on the issues  
13 raised on appeal); *State v. Kuchan*, 1943-NMSC-025, ¶¶ 6-7, 47 N.M. 209, 139 P.2d 592 (declining  
14 to decide if, under a prior version of the statute, knowledge of the accident or knowledge that a  
15 person was struck or injured are elements of the crime).

16 However, the Committee believes that New Mexico would follow the “vast majority of courts  
17 construing these statutes” and require knowledge of the accident even in the absence of any explicit  
18 statutory language. *Pardo v. State*, 160 A.3d 1136, 1146-47 (Del. 2017); *State v. Sidway*, 431 A.2d  
19 1237, 1239 (Vt. 1981) (“A majority of the states . . . have hit and run statutes, and many of these  
20 statutes, like ours, contain no express requirement of knowledge on the part of the driver of the car  
21 [~~that he was involved~~] . . . [of involvement] in an accident. Most courts, however, in interpreting  
22 the legislative intent behind these statutes, have taken the view that actual knowledge of the  
23 collision is an essential element of the offense.”).

1 New Mexico law has long recognized that “[w]hen a criminal statute is silent about whether a  
2 *mens rea* element is required, we do not assume that the [L]egislature intended to enact a no-fault  
3 or strict liability crime. Rather, we presume criminal intent as an essential element of the crime  
4 unless it is clear from the statute that the [L]egislature intended to omit the *mens rea* element.”  
5 *State v. Ramos*, 2013-NMSC-031, ¶ 16, 305 P.3d 921 (alterations in original) (internal quotation  
6 marks and citations omitted). Hence, New Mexico courts have repeatedly determined that  
7 knowledge of particular circumstances giving rise to or increasing criminal penalties is required  
8 even when the statutes are otherwise silent on the required mental state. *See id.* ¶ 26 (requiring a  
9 knowing violation of a protection order); *State v. Nozie*, 2009-NMSC-018, ¶ 30, 146 N.M. 142,  
10 207 P.3d 1119 (deeming knowledge that the victim is a peace officer an element of battery on a  
11 peace officer); *see also State v. Valino*, 2012-NMCA-105, ¶¶ 15, 17, 287 P.3d 372 (holding that  
12 knowledge that a victim is a health care worker is an essential element of the crime of battery on  
13 a health care worker).

14 In addition, the majority of other jurisdictions require knowledge of an accident or collision. *See*  
15 Marjorie A. Caner, Annotation, *Necessity and Sufficiency of Showing, in Criminal Prosecution*  
16 *under “Hit-And-Run” Statute, [Accused’s] Accused’s Knowledge of Accident, Injury, or Damage*,  
17 26 A.L.R. 5th 1 (1995) (“Under most ‘hit-and-run’ statutes, knowledge of the occurrence of the  
18 collision, injury, or damage is a prerequisite to a conviction under the statute.”); *accord* 1 Charles  
19 E. Torcia, [~~Wharton’s Criminal Law~~] Wharton’s Criminal Law § 27 (15th ed.) [~~(August)~~] Aug.  
20 2020 Update)[~~; but~~]. But *see People v. Manzo*, 144 P.3d 551, 556, 558-59 (Colo. 2006) (en banc)  
21 (noting that imposing strict liability for leaving the scene of an accident with injury was  
22 constitutional despite the resulting felony conviction because the statute constitutes a public  
23 welfare offense and the penalties, including up to eight years imprisonment, “are small in

1 comparison to many common law crimes”); *see also* *People v. Hernandez*, 250 P.3d 568, 573  
2 (Colo. 2011) ([*en-banc*] en banc) (describing the Colorado hit-and-run statute as a “strict liability  
3 offense” (citing *Manzo*, 144 P.3d at 555, 558)).

4 States requiring knowledge of an accident or collision include jurisdictions with “hit-and-run  
5 statutes nearly identical to New Mexico’s [statutes].” *Hertzog*, 2020-NMCA-031, ¶¶ 16-17  
6 (deeming authority from Alaska, Arizona, and Texas persuasive because of similar statutory  
7 language); *see, e.g.* [7], *Kimoktoak v. State*, 584 P.2d 25, 29-33 (Alaska 1978) (requiring knowledge  
8 of an accident and knowledge of injury or “that the accident was of such a nature that one would  
9 reasonably anticipate that it resulted in injury to a person”); *State v. Porras*, 610 P.2d 1051, 1053-  
10 54 (Ariz. Ct. App. 1980) (requiring knowledge of an accident and knowledge of injury or “that the  
11 accident was of such a nature that one would reasonably anticipate that it resulted in injury to a  
12 person”); *Mayer v. State*, 494 S.W.3d 844, 848-50 (Tex. Crim. App. 2016) (requiring knowledge  
13 of an accident). Given New Mexico’s strong presumption against strict-liability offenses and the  
14 consensus on this element elsewhere, the Committee believes New Mexico’s statute requires  
15 knowledge of an accident as an element of the offense.

16 There is less agreement as to whether knowledge of injury is also required. *See Pardo*, 160 A.3d  
17 at 1146-47 (indicating courts “are divided as to whether knowledge of the collision alone is  
18 required to hold a driver accountable, or whether the prosecution must prove both the driver’s  
19 knowledge of [his] ... involvement in a collision and that [he] [the driver] knew death or injury  
20 resulted”); 7A Am. Jur. 2d *Automobiles & Highway Traffic* § 328 (Feb. 2022 Update) (“Criminal  
21 liability under a [hit-and-run] statute [...] ... may require proof that the motorist knew of the  
22 damage or injury, or, at least, proof that the motorist reasonably should have known, from the  
23 nature of the accident, of the resulting damage or injury, or that the circumstances were such that

1 a reasonable person would have believed that an accident had occurred resulting in death, damage,  
2 or injury to another.”). Accordingly, the Committee takes no position on whether a defendant’s  
3 knowledge of injury or some lesser degree of knowledge is required and has not included such an  
4 element in the instruction at this time.

5 The statute does not define the term “accident” or the phrase “involved in an accident.” However,  
6 the New Mexico Court of Appeals has explained that, “[b]ased on the plain meaning of the term,  
7 the history of Section 66-7-201, the purposes of the hit-and-run statute, and guidance from courts  
8 in other jurisdictions,” the language “involved in an accident” has a broader meaning than  
9 “collision” and includes scenarios where someone jumps out of a moving vehicle, whether or not  
10 the vehicle collides with anything. *Hertzog*, 2020-NMCA-031, ¶¶ 7, 18.

11 The New Mexico Court of Appeals has also explained that “a driver may be convicted under  
12 Section 66-7-201(D) by failing to ‘immediately stop the vehicle at the scene of the accident or as  
13 close thereto as possible’ or failing to ‘immediately return to’ and ‘remain at the scene of the  
14 accident until [~~he has fulfilled~~] . . . fulfill[ing] the requirements of Section 66-7-203.” *State v.*  
15 *Esparza*, 2020-NMCA-050, ¶ 17, 475 P.3d 815 (quoting § 66-7-201(A)). Because “[t]he failure to  
16 perform either of these duties is grounds for a violation,” the Committee has crafted an instruction  
17 reflecting these alternative means of committing the crime. *Id.*

18 To further ensure consistency with *Esparza* and the language of Section 66-7-201, the Committee  
19 has included the defendant’s failure to satisfy the requirements of Section 66-7-203 before leaving  
20 the scene as “an essential element when it is alleged that the driver unlawfully failed to remain at  
21 the scene of the accident.” *Id.* ¶ 12. A defendant is not required to remain at the scene indefinitely  
22 under Section 66-7-201. Inclusion of this element thus ensures that criminal liability attaches only

1 if the jury finds that the defendant has failed “to satisfy the requirements of Section 66-7-203  
2 before leaving the scene.” *Id.*  
3 [Adopted by Supreme Court Order No. S-1-RCR-2023-00029~~], effective for all cases pending or~~  
4 ~~filed on or after December 31, 2023~~]; as amended by Supreme Court Order No. S-1-RCR-2025-  
5 00126.]