

1 **14-4514. Knowingly leaving the scene of an accident involving great bodily harm or death;**
2 **essential elements.¹**

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 ____]², 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 [great bodily harm] [or] [death]³ to _____;

9 4. [The defendant knew that the accident involved injury;]⁴

10 5. The defendant [failed to immediately stop at the scene of an accident or stop as
11 close to the scene as possible without obstructing traffic more than necessary]

12 [or]

13 [failed to remain at the scene of an accident until defendant had:

14 (a) given defendant's name, address, and registration number to [the person
15 struck] [the driver or occupant of the vehicle collided with] [or] [the person attending any vehicle
16 collided with]⁵;

17 (b) displayed, upon request, defendant's license to [the person struck] [the
18 driver or occupant of the vehicle collided with] [or] [the person attending any vehicle collided
19 with]⁵; and

20 (c) rendered reasonable assistance to any person injured in the accident,
21 including by taking or making arrangements to take the injured person to a physician or hospital
22 for medical treatment if it was apparent that such treatment was necessary or such treatment was
23 requested by the injured person]⁵;

1 **Committee commentary.** — See NMSA 1978, § 66-7-201 (1989); *see also* NMSA 1978, § 66-7-
2 202 (1978) (Accidents involving damage to vehicle); NMSA 1978, § 66-7-203 (1978) (Duty to
3 give information and render aid); UJI 14-4513 [NMRA] (Leaving the scene of accident involving
4 death or personal injury); UJI 14-4515 [NMRA] (Leaving the scene of an accident involving
5 damage to vehicle); UJI 14-4516 [NMRA] (Failing to give information and render aid).

6 This instruction is to be used when the defendant is charged with the third-degree felony of
7 knowingly leaving the scene of an accident involving great bodily harm or death under Subsection
8 (C) of Section 66-7-201. If the defendant is charged with the misdemeanor or fourth-degree felony
9 of leaving the scene of an accident involving personal injury or death under Subsections (B) and
10 (D) of the same statute, use UJI 14-4513.

11 New Mexico courts have not squarely determined whether defendants must have knowledge of the
12 accident or any awareness of injury for the misdemeanor or fourth-degree felony versions of the
13 offense of leaving the scene of an accident under Subsections (B) and (D) of Section 66-7-201.
14 *See* UJI 14-4513 [NMRA] comm. cmt. Because the “vast majority of courts construing these
15 statutes” have determined that knowledge of the accident is required even in the absence of any
16 explicit statutory language, the Committee believes that knowledge of the accident is required as
17 an element for all versions of leaving the scene of accident contained in Section 66-7-201. *Pardo*
18 *v. State*, 160 A.3d 1136, 1146-47 (Del. 2017); *State v. Sidway*, 431 A.2d 1237, 1239 (Vt. 1981)
19 (“A majority of the states [---] . . . have hit and run statutes, and many of these statutes, like ours,
20 contain no express requirement of knowledge on the part of the driver of the car [~~that he was~~
21 ~~involved~~] . . . [of involvement] in an accident. Most courts, however, in interpreting the legislative
22 intent behind these statutes, have taken the view that actual knowledge of the collision is an
23 essential element of the offense.”); *see* UJI 14-4513 [NMRA], comm. cmt. The Legislature’s use

1 of the term “knowingly” in Subsection (C) of Section 66-7-201 further necessitates that knowledge
2 of the accident is required and therefore includes it as an element.

3 The Committee believes the Legislature’s use of the term “knowingly” in Subsection (C) also
4 requires the defendant to have some degree of knowledge that the accident involved injury. *See*
5 Model Penal Code § 202(4) (2021) (“When the law defining an offense prescribes the kind of
6 culpability that is sufficient for the commission of an offense, without distinguishing among the
7 material elements thereof, such provision shall apply to all the material elements of the offense,
8 unless a contrary purpose plainly appears.”); *see also State v. Granillo*, 2016-NMCA-094, ¶ 16,
9 384 P.3d 1121 (collecting authority relying upon the Model Penal Code and “look[ing] to the
10 Model Penal Code to inform our definition of an intentional *mens rea*”).

11 In *State v. Cumpston*, 2000-NMCA-033, 129 N.M. 47, 1 P.3d 429, the New Mexico Court of
12 Appeals indicated that “the knowledge required of [~~Defendant~~] [the defendant] under Subsection
13 (C)] is not the degree of [~~his~~] [the] crime, but the extent of the factual circumstances of the
14 incident.” *Id.* ¶¶ 14-15. This suggests some degree of knowledge of injury to another is required
15 under Subsection (C), but it does not clarify if actual knowledge of the extent of the injury or some
16 lesser awareness will suffice. *See, e.g.* [~~r~~], [~~Barbara J. Van Arsdale et al., Driver’s knowledge or~~
17 ~~mental state after accident,~~] 7A Am. Jur. 2d [~~Automobiles~~] *Automobiles & Highway Traffic* § 328
18 ([~~August~~] Aug. 2021 Update) (“Criminal liability under a [hit-and-run] statute . . . may require
19 proof that the motorist knew of the damage or injury, or, at least, proof that the motorist reasonably
20 should have known, from the nature of the accident, of the resulting damage or injury, or that the
21 circumstances were such that a reasonable person would have believed that an accident had
22 occurred resulting in death, damage, or injury to another.”). Accordingly, the Committee includes

1 knowledge of injury as an element for purposes of Subsection (C), but takes no position on whether
2 actual knowledge of great bodily harm or death is required.

3 The statute does not define the term “accident” or the phrase “involved in an accident,” but the
4 New Mexico Court of Appeals has explained that the phrase “involved in an accident” has a
5 broader meaning than “collision” and includes scenarios where someone jumps out of a moving
6 vehicle, whether or not the vehicle collides with anything. *State v. Hertzog*, 2020-NMCA-031, ¶
7 18, 464 P.3d 1090.

8 The New Mexico Court of Appeals has also explained that a driver may be convicted under Section
9 66-7-201 “by failing to ‘immediately stop the vehicle at the scene of the accident or as close thereto
10 as possible’ *or* failing to ‘immediately return to’ and ‘remain at the scene of the accident until [he
11 ~~has fulfilled~~] . . . fulfill[ing] the requirements of Section 66-7-203.’” *State v. Esparza*, 2020-
12 NMCA-050, ¶ 17, 475 P.3d 815 (quoting § 66-7-201). Because “[t]he failure to perform either of
13 these duties is grounds for a violation,” the Committee has crafted an instruction reflecting these
14 alternative means of committing the crime. *Id.*

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

1 [Adopted by Supreme Court Order No. S-1-RCR-2023-00029[, ~~effective for all cases pending or~~
2 ~~filed on or after December 31, 2023~~]; as amended by Supreme Court Order No. S-1-RCR-2025-
3 00126.]