

1 **14-4516. Failing to give information and render aid; essential elements.**<sup>1</sup>

2 For you to find the defendant guilty of failing to give information or render aid [as charged  
3 in Count \_\_\_\_]<sup>2</sup>, the state must prove to your satisfaction beyond a reasonable doubt each of the  
4 following elements of the crime:

5 1. The defendant drove a vehicle involved in an accident involving [injury] [great  
6 bodily harm] [death] [or] [damage to any vehicle driven or attended by another person]<sup>3</sup>;

7 2. The defendant knew that there was an accident;

8 3. The defendant failed to:

9 (a) give defendant's name, address, and registration number to [the person  
10 struck] [the driver or occupant of the vehicle collided with] [or] [the person attending any vehicle  
11 collided with]<sup>4</sup>;

12 (b) display, upon request, defendant's license to [the person struck] [the driver  
13 or occupant of the vehicle collided with] [or] [the person attending any vehicle collided with]<sup>4</sup>;  
14 and

15 (c) render reasonable assistance to any person injured in the accident, including  
16 by taking or making arrangements to take the injured person to a physician or hospital for medical  
17 treatment if it was apparent that such treatment was necessary or such treatment was requested by  
18 the injured person]<sup>4</sup>;

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

20 **USE NOTES**

21 1. For use when the defendant is charged with failing to give information or render  
22 aid following an accident involving injury or damage to a vehicle driven or attended by another  
23 person under Section 66-7-203 NMSA 1978. If the defendant is charged with the misdemeanor or

1 fourth-degree felony of leaving the scene of an accident involving personal injury or death under  
2 Subsections (B) or (D) of Section 66-7-201 NMSA 1978, use UJI 14-4513 NMRA. If the defendant  
3 is charged with the third-degree felony of knowingly leaving the scene of an accident involving  
4 great bodily harm or death under Subsection (C) of Section 66-7-201, use UJI 14-4514 NMRA. If  
5 the defendant is charged with leaving the scene of an accident involving only damage to another  
6 vehicle driven or attended by someone else under Section 66-7-202 NMSA 1978, use UJI 14-4515  
7 NMRA.

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

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

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

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

19 **Committee commentary.** — *See* NMSA 1978, § 66-7-203 (1978); *see also* NMSA 1978, § 66-7-  
20 201 (1989) (Accidents involving death or personal injury); NMSA 1978, § 66-7-202 (1978)  
21 (Accidents involving damage to vehicle); UJI 14-4513 [~~NMRA~~] (Leaving the scene of an accident  
22 involving death or personal injury); UJI 14-4514 [~~NMRA~~] (Knowingly leaving the scene of an

1 accident involving great bodily harm or death); UJI 14-4515 [NMRA] (Leaving the scene of an  
2 accident involving damage to vehicle).

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

11 However, the Committee believes that New Mexico would follow the “vast majority of courts  
12 construing these statutes” and require knowledge of the accident even in the absence of any explicit  
13 statutory language. *Pardo v. State*, 160 A.3d 1136, 1146-47 (Del. 2017); *State v. Sidway*, 431 A.2d  
14 1237, 1239 (Vt. 1981) (“A majority of the states . . . have hit and run statutes, and many of these  
15 statutes, like ours, contain no express requirement of knowledge on the part of the driver of the car  
16 [~~that he was involved~~] . . . [of involvement] in an accident. Most courts, however, in interpreting  
17 the legislative intent behind these statutes, have taken the view that actual knowledge of the  
18 collision is an essential element of the offense.”).

19 New Mexico law has long recognized that “[w]hen a criminal statute is silent about whether a  
20 *mens rea* element is required, we do not assume that the [L]egislature intended to enact a no-fault  
21 or strict liability crime. Rather, we presume criminal intent as an essential element of the crime  
22 unless it is clear from the statute that the [L]egislature intended to omit the *mens rea* element.”  
23 *State v. Ramos*, 2013-NMSC-031, ¶ 16, 305 P.3d 921 (alterations in original) (internal quotation

1 marks and citations omitted). Hence, New Mexico courts have repeatedly determined that  
2 knowledge of particular circumstances giving rise to or increasing criminal penalties is required  
3 even when the statutes are otherwise silent on the required mental state. *See id.* ¶ 26 (requiring a  
4 knowing violation of a protection order); *State v. Nozie*, 2009-NMSC-018, ¶ 30, 146 N.M. 142,  
5 207 P.3d 1119 (deeming knowledge that the victim is a peace officer an element of battery on a  
6 peace officer); *see also State v. Valino*, 2012-NMCA-105, ¶¶ 15, 17, 287 P.3d 372 (holding that  
7 knowledge that a victim is a health care worker is an essential element of the crime of battery on  
8 a health care worker).

9 In addition, the majority of other jurisdictions require knowledge of an accident or collision. *See*  
10 Marjorie A. Caner, Annotation, *Necessity and Sufficiency of Showing, in Criminal Prosecution*  
11 *under “Hit-And-Run” Statute, [Accused’s] Accused’s Knowledge of Accident, Injury, or Damage*,  
12 26 A.L.R. 5th 1 (1995) (“Under most ‘hit-and-run’ statutes, knowledge of the occurrence of the  
13 collision, injury, or damage is a prerequisite to a conviction under the statute.”); *accord* 1 Charles  
14 E. Torcia, [~~Wharton’s Criminal Law~~] Wharton’s Criminal Law § 27 (15th ed.) (~~August~~] Aug.  
15 2020 Update)]~~;~~ but. *But see People v. Manzo*, 144 P.3d 551, 556, 558-59 (Colo. 2006) (noting  
16 that imposing strict liability for leaving the scene of an accident with injury was constitutional  
17 despite the resulting felony conviction because the statute constitutes a public welfare offense and  
18 the penalties, including up to eight years imprisonment, “are small in comparison to many common  
19 law crimes”); *see also People v. Hernandez*, 250 P.3d 568, 573 (Colo. 2011) (~~en banc~~] en banc)  
20 (describing the Colorado hit-and-run statute as a “strict liability offense” (citing *Manzo*, 144 P.3d  
21 at 555, 558)).

22 States requiring knowledge of an accident or collision include jurisdictions with “hit-and-run  
23 statutes nearly identical to New Mexico’s [statutes].” *Hertzog*, 2020-NMCA-031, ¶¶ 16-17

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

11 There is less agreement as to whether knowledge of injury is also required. *See Pardo*, 160 A.3d  
12 at 1146-47 (indicating courts “are divided as to whether knowledge of the collision alone is  
13 required to hold a driver accountable, or whether the prosecution must prove both the driver’s  
14 knowledge of [his] . . . involvement in a collision and that [he] [the driver] knew death or injury  
15 resulted”); 7A Am. Jur. 2d *Automobiles & Highway Traffic* § 328 (Feb. 2022 Update) (“Criminal  
16 liability under a [hit-and-run] statute [---] . . . may require proof that the motorist knew of the  
17 damage or injury, or, at least, proof that the motorist reasonably should have known, from the  
18 nature of the accident, of the resulting damage or injury, or that the circumstances were such that  
19 a reasonable person would have believed that an accident had occurred resulting in death, damage,  
20 or injury to another.”). Accordingly, the Committee takes no position on whether a defendant’s  
21 knowledge of injury or some lesser degree of knowledge is required and has not included such an  
22 element in the instruction at this time.

1 The statute does not include a definition of the term “accident” or of the phrase “involved in an  
2 accident,” but the New Mexico Court of Appeals has held that the phrase “involved in an accident”  
3 has a broader meaning than “collision.” *Hertzog*, 2020-NMCA-031, ¶ 18 (interpreting identical  
4 language in Section 66-7-201). Nonetheless, the Committee does not believe that the phrase is so  
5 broad for purposes of Section 66-7-203 as to include situations where the only vehicle involved in  
6 the accident is the defendant’s vehicle. Instead, the Committee believes that the statutory scheme  
7 requires involvement of another vehicle driven or attended by someone other than the defendant.  
8 *See, e.g.*, § 66-7-203 (requiring a defendant to provide information to “the driver or occupant of or  
9 person attending any vehicle collided with”). The Committee has therefore specified in element 1  
10 of this instruction that the vehicle damaged must be “driven or attended by another person.”  
11 [Adopted by Supreme Court Order No. S-1-RCR-2023-00029~~], effective for all cases pending or~~  
12 ~~filed on or after December 31, 2023~~]; as amended by Supreme Court Order No. S-1-RCR-2025-  
13 00126.]