

14-1694. Fraudulent acts by merchants or their employees; representing that something of value has been furnished; essential elements.

For you to find the defendant guilty of fraudulently representing that something of value has been furnished [as charged in Count _____¹], the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. In the defendant's capacity as [a merchant²] [an employee of _____]³, the defendant falsely represented in writing to _____ (*issuer or participating party*²) that he furnished _____ (*describe money, goods or services allegedly furnished*) on a credit card² of the issuer², which had a market value⁴ of _____⁵;
2. The defendant [did not furnish such goods or services]³ [furnished goods or services of a market value only of _____⁵]³;
- [3. The difference between the represented market value and the actual market value is _____⁶];
4. The defendant intended to deceive or cheat; and
5. This happened in New Mexico on or about the _____ day of _____, _____.

USE NOTES

1. Insert the count number if more than one count is charged.
 2. If the jury requests a definition of "merchant," "credit card," "issuer" or "participating party," the statutory definition set forth in Section 30-16-25 NMSA 1978 is to be given.
 3. Use applicable alternative.
 4. See UJI 14-1602 for definition of "market value."
 5. Insert the applicable represented or actual value.
 6. If the charge is a second degree felony (over \$20,000), use "over \$20,000" in the blank. If the charge is a third degree felony (over \$2,500), use "over \$2,500" in the blank. If the charge is a fourth degree felony (over \$500), use "over \$500" in the blank. If the charge is a misdemeanor (over \$250), use "over \$250" in the blank. If the charge is a petty misdemeanor (under \$250), use "under \$250" in the blank.
- [As amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010.]