

14-4508. Aggravated driving while under influence of alcohol or drugs and refusing to submit to chemical testing; essential elements.¹

For you to find the defendant guilty of aggravated driving while under the influence of [intoxicating liquor] [or] [drugs] [as charged in Count _____]², the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant operated a motor vehicle³;
2. At that time the defendant was under the influence of [intoxicating liquor; that is, as a result of drinking liquor the defendant was less able to the slightest degree, either mentally or physically, or both, to exercise the clear judgment and steady hand necessary to handle a vehicle with safety to the person and the public;]⁴
[or]
[drugs to such a degree that the defendant was incapable of safely driving a vehicle;]
3. The defendant refused to submit to chemical testing⁵;
4. This happened in New Mexico, on or about the _____ day of _____, _____.

USE NOTES

1. If the evidence supports more than one theory of aggravated driving while intoxicated, the applicable alternatives set forth in Instruction 14-4509 are to be given. This instruction is to be used if the only theory of aggravated driving in issue is refusing to submit to chemical testing while driving under the influence.

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

3. See Section 66-1-4.11 NMSA 1978 for the definition of a motor vehicle.

4. Use applicable alternative or alternatives.

5. Instruction 14-4510, the definition of refusal to submit to chemical testing, must be given immediately after this instruction.

[Adopted, effective May 1, 1997.]