

14-4503. Driving with a blood or breath alcohol concentration of eight one-hundredths (.08) or more; essential elements.

For you to find the defendant guilty of driving with a blood or breath alcohol concentration of eight one-hundredths (.08) or more [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. The defendant operated a motor vehicle²;
2. Within three (3) hours of driving, the defendant had an alcohol concentration of eight one-hundredths (.08) grams or more in [one hundred milliliters of blood]³ [or] [two hundred ten liters of breath] and the alcohol concentration resulted from alcohol consumed before or while driving the vehicle.
3. This happened in New Mexico, on or about the _____ day of _____, _____.

USE NOTES

1. Insert count number if more than one count is charged.
2. For the definition of “motor vehicle,” see § 66-1-4.11 (H) NMSA 1978 (2007).
3. Use only the applicable alternative or alternatives.
[Adopted, October 1, 1985; UJI Criminal Rule 35.02 NMSA 1978; UJI 14-4502 SCRA 1986; as amended, effective August 1, 1989; May 1, 1997; as amended by Supreme Court Order No. 08-8300-008, effective March 21, 2008; as amended by Supreme Court Order No. 16-8300-010, effective for all cases pending or filed on or after December 31, 2016.]