

**14-4506. Aggravated driving with alcohol concentration of (.16) or more; essential elements.<sup>1</sup>**

For you to find the defendant guilty of aggravated driving while under the influence of intoxicating liquor [as charged in Count \_\_\_\_\_]<sup>2</sup>, 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 vehicle<sup>3</sup>;
2. Within three hours of driving, the defendant had an alcohol concentration of sixteen one-hundredths (.16) grams or more in [one hundred milliliters of blood;]<sup>4</sup> [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. If the evidence supports more than one theory of aggravated driving while intoxicated the applicable alternatives set forth in UJI 14-4509 NMRA are to be given. This instruction is to be used if the only theory of aggravated driving in issue is aggravated driving with an alcohol concentration of (.16) or more.

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

3. For a definition of “motor vehicle,” see § 66-1-4.11 NMSA 1978 (2007).

4. Use applicable alternative or alternatives.

[Adopted, effective May 1, 1997; 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.]