

CHAPTER 42

MOTOR VEHICLES AND TRAFFIC

- 42:01 DRIVING UNDER RESTRAINT
- 42:02 PROOF OF KNOWLEDGE
- 42:03 DRIVING AFTER JUDGMENT PROHIBITED
- 42:04 DRIVING UNDER THE INFLUENCE
- 42:05 DRIVING WHILE ABILITY IMPAIRED
- 42:06 DRIVING WITH EXCESSIVE ALCOHOL CONTENT
- 42:07 RECKLESS DRIVING
- 42:08 CARELESS DRIVING
- 42:09 ACTUAL PHYSICAL CONTROL
- 42:10 INFERENCES WHICH MAY BE DRAWN FROM EVIDENCE OF BLOOD ALCOHOL LEVEL
- 42:11 SPEEDING
- 42:12 SPEED CONTEST
- 42:13 FACILITATING A SPEED CONTEST
- 42:14 DRIVING UNDER THE INFLUENCE OF DRUGS
- 42:15 FAILURE TO GIVE NOTICE, INFORMATION, AND AID
- 42:16 FAILURE TO GIVE NOTICE, INFORMATION, AND AID (PROPERTY DAMAGE ONLY)
- 42:17 FAILURE TO DISCHARGE DUTY UPON STRIKING AN UNATTENDED VEHICLE OR OTHER PROPERTY
- 42:18 FAILURE TO DISCHARGE DUTY UPON STRIKING HIGHWAY FIXTURES OR TRAFFIC CONTROL DEVICES
- 42:19 DUTY TO REPORT ACCIDENTS
- 42:20 [ELUDING][ATTEMPTING TO ELUDE] A POLICE OFFICER
- 42:21 FAILURE TO YIELD TO A DISABLED PERSON
- 42:22 DRIVING WITHOUT A VALID DRIVERS LICENSE
- 42:23 DRIVING WITHOUT INSURANCE
- 42:24 FAILURE TO PROVIDE PROOF OF INSURANCE
- 42(1-7) DEFINITIONS

This chapter contains instructions for offenses in §42-2-138; §42-2-206; §42-4-1301; §§42-4-1401 and 1402; §42-4-1101; §42-4-1105; §§42-4-1601 through -1606; §42-4-1413; §42-4-808; §42-2-101; and §42-4-1409, C.R.S.

42:01 DRIVING UNDER RESTRAINT

The elements of the driving under restraint are:

1. That the defendant.
2. in the State of Colorado, at or about the date and place charged,
3. drove a motor vehicle
4. upon any highway of this state
5. at a time when his driving privilege was under restraint
6. with knowledge that his driving privilege was under restraint
7. [without the affirmative defense in instruction number _____.]

"Knowledge" means actual knowledge of any restraint from whatever source, or knowledge of circumstances sufficient to cause a reasonable person to be aware that such person's license or privilege to drive was under restraint. "Knowledge" does not mean knowledge of a particular restraint or knowledge of the duration of the restraint.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of driving under restraint.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of driving under restraint.

NOTES ON USE

The definition of "motor vehicle" and "knowingly" should be given with this instruction. Additionally, with respect to at least the felony offense of driving after judgment, actual knowledge of the revocation as a habitual offender is an essential element, *Griego v. People*, 19 P.3d 1 (Colo. 2001).

SOURCE & AUTHORITY

§42-2-138, C.R.S.

COLJI-Crim. No. 37:01 (1993).

CLASSIFICATION OF OFFENSE

Unspecified misdemeanor:

5 days to 6 months incarceration

\$50 to \$500 fine

42:02 PROOF OF KNOWLEDGE

In any prosecution for driving under [restraint] [suspension] [revocation] [denial], it may be inferred that the defendant had knowledge of the fact of such [restraint] [suspension] [revocation] [denial], from one or more of the following:

(a) Certification that a notice of the restraint was mailed by first class mail or by delivery to the last known address of the defendant as shown by the records of the Department of Revenue, Division of Motor Vehicles, or

(b) Personal service of such notice upon the defendant, or

(c) From whatever source.

You may consider this evidence, together with all the other evidence in this case, in determining whether or not the defendant had knowledge of the restraint upon his driving privilege.

You must bear in mind that you may, but are not required, to make this finding. The prosecution always has the burden of proving each element of the offense charged, beyond a reasonable doubt. The defendant is never required to present any evidence.

NOTES ON USE

This instruction must be given whenever the elemental instruction on driving under restraint is given and when knowledge of restraint on driving privilege is in issue.

Whenever this instruction is given, the general instruction on inferences should follow it.

SOURCE & AUTHORITY

§42-2-138(a), C.R.S.

COLJI-Crim. 37:02 (1983).

Jolly v. People, 742 P.2d 891 (Colo. 1987).

42:03 DRIVING AFTER JUDGMENT PROHIBITED

The elements of the crime of driving after judgment prohibited are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. having been found by the Department of Revenue, Division of Motor Vehicles, to be a habitual traffic offender,
4. with notice and knowledge of revocation of his privilege to drive,
5. operated a motor vehicle,
6. while the revocation of the Department of Revenue, Division of Motor Vehicles prohibiting such operation remained in effect.
7. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable

doubt, you should find the defendant guilty of driving after judgment prohibited.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of driving after judgment prohibited.

NOTES ON USE

For cases in which the defendant is alleged to have committed aggravated driving while judgment prohibited as set forth in §42-2-206(1)(b), there must be a determination beyond a reasonable doubt that he or she committed driving under the influence, driving while ability impaired, reckless driving, eluding or attempting to elude a police officer, leaving the scene of an accident, or vehicular eluding. Additionally, with respect to the felony offense, actual knowledge of the revocation as a habitual offender is an essential element, *Griego v. People*, 19 P.3d 1 (Colo. 2001); *People v. Parga*, 964 P.2d 571 (Colo. App. 1998).

The definition of "motor vehicle" and "knowingly" should be given with this instruction.

SOURCE & AUTHORITY

§42-2-206, C.R.S.

COLJI-Crim. No. 37:03 (1983).

CLASSIFICATION OF OFFENSE

F6

42:04 DRIVING UNDER THE INFLUENCE

The elements of driving under the influence are

- a. That the defendant,
- b. in the state of Colorado, at or about the date and place charged,

- c. drove a vehicle,
- d. while under the influence of [alcohol][drugs][a combination of drugs and alcohol],
- e. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of driving under the influence of alcohol.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of driving under the influence of alcohol.

NOTES ON USE

When this instruction is used, the instruction on inferences to be drawn from evidence of blood alcohol must also be given if evidence of chemical analysis is presented. The instructions defining "under the influence" and "vehicle" must also be given.

SOURCE & AUTHORITY

§42-4-1301(1)(a), C.R.S.

COLJI-Crim. No. 37:08 (1983).

CLASSIFICATION OF OFFENSE

See § 42-4-1301, C.R.S. for penalties

42:05 DRIVING WHILE ABILITY IMPAIRED

The elements of driving while ability impaired are:

1. That the defendant,

2. in the state of Colorado, at or about the date and place charged,

3. drove a vehicle,

4. while his ability to operate a vehicle was impaired by [alcohol][drugs][a combination of drugs and alcohol],

5. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of driving while ability impaired.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of driving while ability impaired.

NOTES ON USE

When this instruction is used, the instruction on inferences to be drawn from evidence of blood alcohol must also be given if evidence of chemical analysis is presented. The instructions defining "while ability impaired" and "vehicle" must also be given.

SOURCE & AUTHORITY

§42-4-1301(1)(b), C.R.S.

COLJI-Crim. No. 37:07 (1983).

CLASSIFICATION OF OFFENSE

See §42-4-1301, C.R.S. for penalties

42:06 DRIVING WITH EXCESSIVE ALCOHOL CONTENT

The elements of driving with excessive alcohol content are:

1. That the defendant,
2. in the state of Colorado, at or about the date and place charged,
3. drove a vehicle,
4. when the amount of alcohol in his blood was [0.08 or more grams of alcohol per hundred milliliters of blood] [0.08 or more grams of alcohol per two hundred ten liters of breath], as shown by chemical analysis of such person's blood or breath within two hours after driving.
5. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of driving with excessive alcohol content.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of driving with excessive alcohol content.

SOURCE & AUTHORITY

§42-4-1301(5)(c), C.R.S.
COLJI-Crim. No. 37:08.1 (1993).

42:07 RECKLESS DRIVING

The elements of reckless driving are:

1. That the defendant,
2. in the state of Colorado, at or about the date and place charged,
3. drove a [motor vehicle] [bicycle] [motorized bicycle],
4. in such a manner as to indicate either a wanton or a willful disregard for the safety of persons or property,

5. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of reckless driving.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of reckless driving.

NOTES ON USE

The willful and wanton disregard for the safety of others or property is the same as the "reckless" mens rea. *People v. Pena*, 962 P.2d 285 (Colo. App. 1997).

SOURCE & AUTHORITY

§42-4-1401, C.R.S.

COLJI-Crim. No. 27:11 (1983).

CLASSIFICATION OF OFFENSE

M2 - traffic offense

42:08 CARELESS DRIVING

The elements of careless driving are:

1. That the defendant,
2. in the state of Colorado, at or about the date and place charged,
3. drove a [motor vehicle] [bicycle] [motorized bicycle],
4. in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and

use of the streets and highways and all other attendant circumstances.

5. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of careless driving.

After considering all the evidence, if you decide **the** prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of careless driving.

NOTES ON USE

Careless driving is not a crime of strict liability, but contains the mental element of due regard. See *People v. Chapman*, 557 P.2d 1211 (Colo. 1977).

SOURCE & AUTHORITY

§42-4-1402, C.R.S.

COLJI-Crim. No. 37:12 (1983).

CLASSIFICATION OF OFFENSE

M2 - traffic offense

42:09 ACTUAL PHYSICAL CONTROL

NOTES ON USE

Because of the number of potential fact situations, this issue does not easily submit itself to a single instruction or set of instructions. The following cases are pertinent:

People v. Stewart, 55 P.3d 107 (Colo. 2002)

People v. Gregor, 26 P.3d 530, 532 (Colo. App. 2000)

People v. Swain, 959 P.2d 426 (Colo. 1998)

Caple v. Dept. of Revenue, 804 P.2d 874 (Colo. App. 1990)

Motor Vehicle Division v. Warman, 763 P.2d 558 (Colo. 1988)

Colorado Div. Of Revenue v. Lounsbury, 743 P.2d. 23 (Colo. 1987)

Smith v. Charnes, 728 P.2d 1287 (Colo. 1986)

Brewer v. M.V.D., 720 P.2d 564 (Colo. 1986)

**42:10 INFERENCES WHICH MAY BE DRAWN FROM EVIDENCE
OF
BLOOD ALCOHOL LEVEL**

In any prosecution in which the defendant is charged with driving under the influence of alcohol or driving while ability impaired by alcohol, the amount of alcohol in the defendant's blood at the time of the commission of the alleged offense, or with a reasonable time thereafter, as shown by chemical analysis of the defendant's blood or breath, gives rise to the following inferences:

(a) If there was at such time 0.05 or less grams of alcohol per [one hundred milliliters of blood as shown by chemical analysis of such person's blood] [two hundred ten liters of breath as shown by chemical analysis of such person's breath], it shall be presumed that the defendant was not under the influence of alcohol and that his ability to operate a vehicle was not impaired by the consumption of alcohol.

(b) If there was at such time in excess of 0.05 but less than 0.08 grams of alcohol per [one hundred milliliters of blood as shown by chemical analysis of such person's blood] [two hundred ten liters of breath as shown by chemical analysis of such person's breath], it may be inferred that the defendant's ability to operate a vehicle was impaired by the consumption of alcohol.

(c) If there was at such time 0.08 or more grams of alcohol per [one hundred milliliters of blood as shown by chemical analysis of such person's blood] [two hundred ten liters of breath as shown by chemical analysis of such person's breath], it may be inferred that the defendant was under the influence of alcohol.

You must bear in mind that the prosecution always has the burden of proving each element of the offense beyond a reasonable doubt, and that an inference does not shift that burden to the defendant. [The defendant is not required to testify or present evidence.]

NOTES ON USE

Depending on the evidence presented, there may be a situation in which (b), (c) or both should be eliminated from this instruction.

This instruction should be used when it is alleged that the defendant was under the influence of or his ability was impaired by alcohol, and evidence of results of a chemical test of the defendant's blood or breath has been introduced.

The general instruction on inferences should be given with this instruction.

SOURCE & AUTHORITY

§42-4-1301, C.R.S.

Barnes v. People, 735 P.2d 869 (Colo. 1987)

People v. Bowers, 716 P.2d 471, (Colo. 1986)

Garcia v. District Court, 589 P.2d 924 (Colo. 1979)

People v Hedrick, 557 P.2d 378 (Colo. 1976)

COLJI-Crim. No. 37:09 (1983)

42:11 SPEEDING

The elements of the crime of driving in excess of the speed limit are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. was driving a vehicle,
4. on a highway,
5. at a speed of _____ miles per hour, and
6. [that speed was greater than was reasonable and prudent under the conditions then existing] [and the maximum lawful speed was _____ miles per hour].
7. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of driving in excess of the speed limit.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of driving in excess of the speed limit.

NOTES ON USE

Delete inapplicable bracketed material.

Speeding is a crime of strict liability and instruction on strict liability should be used for the culpable mental state. *People v. Caddy*, 189 Colo. 353, 540 P.2d 1089 (1975).

SOURCE & AUTHORITY

§42-4-1101, C.R.S.

CLASSIFICATION OF OFFENSE

See §42-4-1101(12), C.R.S. for applicable penalties.

42:12 SPEED CONTEST

The elements of the crime of engaging in a motor vehicle speed contest are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. intentionally,
4. [engaged in a motor vehicle [speed or acceleration contest] [exhibition of speed or acceleration],]

-or-

[aided or abetted a motor vehicle [speed or acceleration contest] [exhibition of speed or acceleration],]

5. on a highway.
6. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of engaging in a motor vehicle speed contest.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of engaging in a motor vehicle speed contest.

NOTES ON USE

Delete inapplicable bracketed material.

The word "intentionally" is used in element number 3 because of its use in *People v. Heckard*, 164 Colo. 19, 431 P.2d 1014 (1967).

SOURCE & AUTHORITY

§42-4-1005, C.R.S.

COLJI-Crim. No. 37:05 (1983).

People v. Heckard, 164 Colo. 19, 431 P.2d 1014 (1967).

CLASSIFICATION OF OFFENSE

Class 2 traffic offense.

42:13 FACILITATING A SPEED CONTEST

The elements of the crime of facilitating a motor vehicle speed contest are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. [obstructed a highway] [placed, assisted or participated in placing a barricade or obstruction upon a highway],
4. for the purpose of facilitating or aiding, or as incident to, a motor vehicle speed or acceleration contest upon a highway.
5. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a

reasonable doubt, you should find the defendant guilty of facilitating a motor vehicle speed contest.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of facilitating a speed contest.

NOTES ON USE

Delete inapplicable bracketed material.

SOURCE & AUTHORITY

§ 42-4-1105, C.R.S.

COLJI-Crim. No. 37:06 (1983).

People v. Heckard, 164 Colo. 19, 431 P.2d 1014 (1967).

CLASSIFICATION OF OFFENSE

Class 2 misdemeanor traffic offense.

42:14 DRIVING UNDER THE INFLUENCE OF DRUGS

The elements of the crime of driving under the influence of drugs are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. drove a vehicle,
4. knowingly [being a habitual user of any controlled substance] [while under the influence of any controlled substance] [while under the influence of any drug to a degree which renders one incapable of safely operating a vehicle].

5. [without the affirmative defense in instruction number_____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of driving under the influence of drugs.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of driving under the influence of drugs.

NOTES ON USE

Delete inapplicable bracketed material.

The applicable definitions of "drug", "under the influence", "driving vehicle ability impaired", "knowingly" and "motor vehicle" should be given.

Lawful use of a drug is no defense, §42-4-1301 (1)(e)

SOURCE & AUTHORITY

§42-4-1301, C.R.S.

COLJI-Crim. No. 37:10 (1993).

CLASSIFICATION OF OFFENSE

See § 42-4-1301, C.R.S. for penalties.

42:15 FAILURE TO GIVE NOTICE, INFORMATION, AND AID

The elements of the crime of failure to give notice, information, and aid are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,

3. being the driver of a vehicle,

4. knowingly and directly involved in an accident resulting in [injury to] [serious bodily injury to] [the death of] any person,

5. failed to immediately stop his vehicle at the scene of the accident or as close thereto as possible, and to forthwith return to the scene, and

6. give his name, address, and the registration number of the vehicle he was driving and exhibit his driver's license upon request to the person struck, the driver of, an occupant of, or the person attending any vehicle collided with, and

7. render reasonable assistance, where practicable, to a person injured in such accident including carrying or arranging for the carrying of a person injured in such accident to a physician, surgeon or hospital for medical or surgical treatment if it was apparent that such treatment was necessary or if the carrying was requested by the injured person.

8. [without the affirmative defense in instruction number_____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of failure to give notice, information and aid.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of failure to give notice, information and aid.

NOTES ON USE

Delete inapplicable bracketed material.

When this instruction is used, the applicable definitions of "knowingly," "injury," "serious bodily injury" and "reasonable assistance" must be given.

In the event that none of the persons specified are in a condition to receive the information required in element 6, the jury must be instructed § 42-4-1601(2), C.R.S.

People v. Manzo, 144 P.3d 551 (Colo. 2006)(offense is strict liability, thus defendant need not know he was in an accident nor does he have to know the extent of injuries or damages).

SOURCE & AUTHORITY

§§42-4-1601 and 42-4-1603, C.R.S.

COLJI-Crim. No. 37:13 (1983).

CLASSIFICATION OF OFFENSE

Class 1 traffic offense (Injury)

M5 (Serious bodily injury)

F4 (Death)

42:16 FAILURE TO GIVE NOTICE, INFORMATION, AND AID (PROPERTY DAMAGE ONLY)

The elements of the crime of failure to give notice, information and aid are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. being the driver of a vehicle,
4. knowingly and directly involved in an accident resulting in damage to a vehicle driven or attended by any person,
5. failed to immediately stop his vehicle at the scene of the accident or as close thereto as possible, and to forthwith return to the scene, and

6. give his name, address, and the registration number of the vehicle he was driving and exhibit his driver's license upon request to the driver of, an occupant of, or the person attending any vehicle collided with.

7. [without the affirmative defense in instruction number_____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of failure to give notice, information and aid.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of failure to give notice, information and aid.

NOTES ON USE

Delete inapplicable bracketed material.

The definitions of "knowingly" and "vehicle" should be given with this instruction.

People v. Manzo, 144 P.3d 551 (Colo. 2006)(offense is strict liability, thus defendant need not know he was in an accident nor does he have to know the extent of injuries or damages).

SOURCE & AUTHORITY

§§42-4-1602 and 42-4-1603, C.R.S.

COLJI-Crim. No. 37:14 (1983).

CLASSIFICATION OF OFFENSE

Class 2 misdemeanor traffic offense.

42:17 FAILURE TO DISCHARGE DUTY UPON STRIKING AN UNATTENDED VEHICLE OR OTHER PROPERTY

The elements of the crime of failure to discharge duty upon striking an unattended vehicle or other property are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. being the driver of a vehicle,
4. knowingly collided with or was involved in an accident with any [vehicle] [property] which was unattended, resulting in any damage to such [vehicle] [property], and
5. failed to immediately stop and [locate and notify the operator or owner of the unattended [vehicle] [property] of the collision or accident and leave the defendant's name and address, and the registration number of the vehicle he was driving] [leave securely attached in a conspicuous place in or on the unattended [vehicle] [property] involved in the collision or accident a written notice giving the defendant's name and address, and the registration number of the vehicle he was driving].
6. [without the affirmative defense in instruction number-_____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of failure to discharge duty upon striking an unattended vehicle or other property.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of failure to discharge duty upon striking an unattended vehicle or other property.

NOTES ON USE

Delete inapplicable bracketed material.

People v. Manzo, 144 P.3d 551 (Colo. 2006)(offense is strict liability, thus defendant need not know he was in an accident nor does he have to know the extent of injuries or damages).

SOURCE & AUTHORITY

§42-4-1604, C.R.S.

COLJI-Crim. No. 37:15 (1983).

CLASSIFICATION OF OFFENSE

Class 2 misdemeanor traffic offense.

42:18 FAILURE TO DISCHARGE DUTY UPON STRIKING HIGHWAY FIXTURES OR TRAFFIC CONTROL DEVICES

The elements of the crime of failing to discharge duty upon striking highway fixtures or traffic control devices are:

1. That the defendant ,
2. in the State of Colorado, at or about the date and place charged,
3. being the driver of a vehicle,
4. knowingly involved in an accident resulting in damage to fixtures or traffic control devices [upon] [adjacent to] a highway, and
5. failed to notify the road authority in charge of such property of the accident and of his name and address, and of the registration number of the vehicle he was driving.
6. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of

failing to discharge duty upon striking highway fixtures or traffic control devices.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of failing to discharge duty upon striking highway fixtures or traffic control devices.

NOTES ON USE

Delete inapplicable bracketed material.

The definitions of "knowingly" and "vehicle" should be given with this instruction.

People v. Manzo, 144 P.3d 551 (Colo. 2006)(offense is strict liability, thus defendant need not know he was in an accident nor does he have to know the extent of injuries or damages).

SOURCE & AUTHORITY

§42-4-1605, C.R.S.

COLJI-Crim. No. 37:16 (1983).

CLASSIFICATION OF OFFENSE

Class 2 misdemeanor traffic offense.

42:19 DUTY TO REPORT ACCIDENTS

The elements of the crime of failure to report an accident are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. being the driver of a vehicle,

4. knowingly involved in an accident resulting in [injury to] [serious bodily injury to] [the death of any person] [any property damage],

5. failed to [give immediate notice of the location of the accident and of his name, address, and the registration number of the vehicle he was driving to the nearest office of the duly constituted police authority] [forthwith and without delay return to the scene of the accident, if so directed by the police authority, and remain there until said police have arrived at the scene and completed their investigation thereof].

6. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of failure to report an accident.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of failure to report an accident.

NOTES ON USE

Delete inapplicable bracketed material.

When this instruction is used, the applicable definitions of "knowingly", "injury" and "serious bodily injury" must be given.

People v. Manzo, 144 P.3d 551 (Colo. 2006)(offense is strict liability, thus defendant need not know he was in an accident nor does he have to know the extent of injuries or damages).

SOURCE & AUTHORITY

§2-4-1606, C.R.S.

COLJI-Crim. No. (1983).

CLASSIFICATION OF OFFENSE

Class 2 misdemeanor traffic offense.

42:20 [ELUDING] [ATTEMPTING TO ELUDE] A POLICE OFFICER

The elements of the crime of [eluding] [attempting to elude] a police officer are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. was the operator of a motor vehicle, and
4. received a visual or audible signal,
5. from a police officer driving a marked vehicle showing the vehicle to be an official [police] [sheriff] [Colorado State Patrol] car,
6. which signal directed the defendant to bring his vehicle to a stop, and
7. the defendant then willfully [increased his speed or extinguished his lights in an attempt to elude the police officer] [attempted in any manner to elude the police officer] [eluded the police officer].
8. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of [eluding] [attempting to elude] a police officer.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of [eluding] [attempting to elude] a police officer.

NOTES ON USE

Delete inapplicable bracketed material.

The definition of "motor vehicle" should be given with this instruction.

The "probable cause" issue in this statute is a question for the court on a motion for judgment of acquittal. It is not a jury question.

SOURCE & AUTHORITY

§42-4-1413, C.R.S.

COLJI-Crim. No. 37:18 (1983).

CLASSIFICATION OF OFFENSE

Class 2 misdemeanor traffic offense.

42:21 FAILURE TO YIELD TO A DISABLED PERSON

The elements of the crime of failure to yield to a disabled person are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. was a [pedestrian] [driver of a vehicle] and,
4. approached a person who had an obvious apparent disability of [blindness] [deafness] [mobility impairment], and
5. failed to come immediately to a full stop and take such precautions as were necessary to avoid an accident or injury to said person.
6. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of failure to yield to a disabled person.

After considering all the evidence, if you decide the prosecution has failed to prove each of the elements beyond a reasonable doubt, you should find the defendant not guilty of failure to yield to a disabled person.

NOTES ON USE

Delete inapplicable bracketed material. When this instruction is used, the applicable definition of "obvious apparent disability" must be given. An "obvious apparent disability" is present, by way of example, when the person is using a cane or crutches, is being assisted by an assistance dog, is being assisted by another person, is in a wheelchair or is walking with an obvious physical impairment.

SOURCE & AUTHORITY

§42-4-808, C.R.S.

COLJI-Crim. No. 37:19 (1983).

CLASSIFICATION OF OFFENSE

Class A traffic offense (no points to pedestrian defendants)

42:22 DRIVING WITHOUT A VALID DRIVERS LICENSE

The elements of the crime of driving without a valid drivers license are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. drove a motor vehicle upon a highway,

4. [without a valid license prepared and issued by the Department of Motor Vehicles of Colorado]

-or-

[with a Colorado driver's license that has been expired for one year or less].

5. [without the affirmative defense in instruction number _____.]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of driving without a valid drivers license.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of driving without a valid drivers license.

NOTES ON USE

Delete inapplicable bracketed material.

See §42-2-102, C.R.S. for list of persons exempt from needing a Colorado driver's license.

See §42-2-101(1)(b), (2), (3) and (3.5), C.R.S. for related crimes and punishments concerning driver's licenses.

SOURCE & AUTHORITY

§42-2-101, C.R.S.

COLJI-Crim. No. 37:21 (1993).

CLASSIFICATION OF OFFENSE

M2 traffic offense

42:23 DRIVING WITHOUT INSURANCE

The elements of driving without insurance are:

1. That the defendant,
2. in the State of Colorado,
3. at or about the date and place charged,
4. [owned and permitted to be driven a motor vehicle]
[drove a motor vehicle]
5. on a public highway of this state
6. at a time when there was not in effect a complying policy or certificate of self insurance in full force and effect.

Evidence of the failure of any [owner] [operator] of a motor vehicle to present immediate evidence of a complying policy or certificate of self insurance in full force and effect when requested to do so by a peace officer, may give rise to the inference that such [owner] [operator] did not have a complying policy or certificate of self insurance in full force and effect.

You may consider this evidence, together with all the other evidence in this case, in determining whether or not the defendant had a complying policy or certificate of self insurance in full force and effect.

You must bear in mind that you may, but are not required to accept this inference, that the prosecution always has the burden of proving each essential element of the offense charged beyond a reasonable doubt, that this inference does not shift that burden to the defendant, and that the defendant is not required to testify or present any evidence.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of driving without insurance.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the

elements beyond a reasonable doubt, you should find the defendant not guilty of driving without insurance.

NOTES ON USE

Compulsory and required insurance are contained in §10-4-619 or §10-4-624, C.R.S.

This instruction only addresses case in which Defendant is a driver. It is also a violation of §42-4-1409, C.R.S. for the owner of a vehicle to drive it or permit it to be driven without insurance or a certificate of self insurance.

People v. Martinez, 179 P.3d 23 (Colo. App.2007)
(distinction between driving without insurance and no proof of insurance)

Under certain circumstances, an element of the offense is that the vehicle be required to be registered in this State.

SOURCE & AUTHORITY

§42-4-1409, C.R.S.

COLJI-Crim. No. 37:21.1 (1993).

CLASSIFICATION OF OFFENSE

Class 1 Misdemeanor

42:24 FAILURE TO PROVIDE PROOF OF INSURANCE

The elements of failure to provide proof of insurance are:

1. That the defendant,
2. in the State of Colorado,
3. at or about the date and place charged,

4. failed to provide immediate evidence of a complying policy or certificate of self-insurance in full force and effect.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of failing to provide proof of insurance.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of failing to provide proof of insurance.

NOTES ON USE

Refer to statute for prima facie effect of failure to provide proof of insurance. §42-4-1409, C.R.S.

SOURCE & AUTHORITY

§42-4-1409, C.R.S.

COLJI-Crim. No. 37:21.2 (1993).

CLASSIFICATION OF OFFENSE

Class 1 misdemeanor traffic offense

DEFINITIONS

42(1)BICYCLE

"BICYCLE" means every vehicle propelled solely by human power applied to pedals upon which any person may ride having two tandem wheels or two parallel wheels and one forward wheel, all of which are more than fourteen inches in diameter.

NOTES ON USE

Source §42-1-102, C.R.S.

42(2)DRIVING UNDER THE INFLUENCE

"DRIVING UNDER THE INFLUENCE" means driving a vehicle when a person has consumed alcohol or one or more drugs, or a combination of alcohol and one or more drugs, which alcohol alone, or one or more drugs alone, or alcohol combined with one or more drugs affects the person to a degree that the person is substantially incapable, either mentally or physically, or both mentally and physically, to exercise clear judgment, sufficient physical control, or due care in the safe operation of a vehicle.

NOTES ON USE

Use with reference to §42-4-1301, C.R.S.

42(3)DRIVING WHILE ABILITY IMPAIRED

"DRIVING WHILE ABILITY IMPAIRED" means driving a vehicle when a person has consumed alcohol or one or more drugs, or a combination of both alcohol and one or more drugs, which alcohol alone, or one or more drugs alone, or alcohol combined with one or more drugs, affects the person to the slightest degree so that the person is less able than the person ordinarily would have been, either mentally or physically, or both mentally and physically, to exercise clear judgment, sufficient physical control, or due care in the safe operation of a vehicle.

NOTES ON USE

Use with reference to §42-4-1301, C.R.S.

42(4)MOTOR VEHICLE

"MOTOR VEHICLE" means any self-propelled vehicle which is designed primarily for travel on the public highways and which is generally and commonly used to transport persons

and property over the public highways, but the term does not include motorized bicycles as defined in paragraph (b) of subsection (59) of this section, wheelchairs as defined by subsection (113) of this section, or vehicles moved solely by human power. "Motor vehicle" includes a neighborhood electric vehicle operated pursuant to section 42-4-111(1)(aa). For the purposes of the offenses described in sections 42-2-128, 42-4-1301, and 42-4-1401 for farm tractors and off-highway vehicles, as defined in section 33-14.5-101(3), C.R.S., operated on streets and highways, "motor vehicle" includes a farm tractor or an off-highway vehicle which is not otherwise classified as a motor vehicle.

NOTES ON USE

Source §42-1-102, C.R.S.

42(5) OWNER

"OWNER" means a person who holds the legal title of a vehicle; or, if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of articles 1 to 4 of this title. The term also includes parties otherwise having lawful use or control or the right to use or control a vehicle for a period of thirty days or more.

NOTES ON USE

Source § 42-1-102, C.R.S.

42(6) REASONABLE ASSISTANCE

"REASONABLE ASSISTANCE" means that the driver of any vehicle involved in an accident resulting in injury to or serious bodily injury to a person, shall render to such person injured in such accident "reasonable assistance,"

including the carrying or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if the carrying is requested by the injured person.

NOTES ON USE

Use with reference to §42-4-1603(1), C.R.S.

42(7)VEHICLE

"VEHICLE" means any device which is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks. "Vehicle" includes any bicycle, but such term does not include any wheelchair as defined by subsection (113) of this section, or any off-highway vehicle, snowmobile, any farm tractor, or any implement of husbandry designed primarily or exclusively for use and used in agricultural operations or any device moved by muscular power or moved exclusively over stationary rails or tracks or designed to move primarily through the air. [§42-1-102(111), C.R.S.]