

**LEAVING THE SCENE OF AN ACCIDENT**  
**RESULTING IN DEATH**  
**(N.J.S.A. 2C:11-5.1)**

The indictment charges the defendant with the offense of leaving the scene of an accident resulting in the death of another as follows:

**(Read pertinent count of indictment)**

The defendant is accused of violating a section of our State statutes that reads as follows:

A motor vehicle operator who knows that he is involved in an accident and knowingly leaves the scene of that accident . . . shall be guilty of a crime. . . if the accident results in the death of another person.

In order for you to find the defendant guilty of this offense, you must find that the State has proved beyond a reasonable doubt each of the following elements:

1. That the defendant was operating a motor vehicle;
2. That the defendant was involved in an accident while operating that motor vehicle;
3. That the defendant knew that he/she was involved in an accident;
4. That the defendant knowingly left the scene of that accident under circumstances that violated the provisions of the New Jersey Motor Vehicle Code [N.J.S.A. 39:4-129]<sup>1</sup>; and
5. That the accident resulted in the death of another person.

The first element that the State must prove beyond a reasonable doubt is that the defendant was operating a motor vehicle. A motor vehicle includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles.<sup>2</sup>

The second element that the State must prove beyond a reasonable doubt is that the defendant was involved in an accident while operating that motor vehicle. An accident includes a sudden event (such as a crash) that is not planned or intended and that causes damage or

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<sup>1</sup> State v. Fisher, 395 N.J. Super. 533, 541 (App. Div. 2007).

<sup>2</sup> N.J.S.A. 39:1-1.

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injury.<sup>3</sup>

The third element that the State must prove beyond a reasonable doubt is that the defendant knew that he/she was involved in an accident.

A person acts knowingly when he/she is aware that it is practically certain that his/her conduct will cause bodily injury. A person acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if he/she is aware that his/her conduct is of that nature, or that such circumstances exist, or he/she is aware of the high probability of their existence.<sup>4</sup> A person acts knowingly as to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result. “Knowing,” “with knowledge,” or equivalent terms have the same meaning.

Knowledge is a condition of the mind. It cannot be seen. It can only be determined by inference from the defendant’s conduct, words or acts. A state of mind is rarely susceptible of direct proof but must ordinarily be inferred from the facts. Therefore, it is not necessary that the State produce witnesses to testify that an accused said that he/she had a certain state of mind when he/she did a particular thing. It is within your power to find that such proof has been furnished beyond a reasonable doubt by inference which may arise from the nature of his/her acts and conduct and from all he/she said and did at the particular time and place and from all surrounding circumstances established by the evidence.

In other words, a person knows that he/she was involved in an accident if he/she is aware that he/she was involved in an accident or is aware of a probability that he/she was involved in an accident. A person is involved in an accident when he/she is connected with the accident in a natural or logical manner.<sup>5</sup> What is required is that the person’s actions contributed to the accident, and the person knows of the causal relationship between his/her actions and the accident.<sup>6</sup>

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<sup>3</sup> State v. Sene, 443 N.J. Super. 134, 140 (App. Div. 2015), certif. denied, 224 N.J. 282 (2016).

<sup>4</sup> N.J.S.A. 2C:2-2b(2).

<sup>5</sup> Sene, 443 N.J. Super. at 143-44.

<sup>6</sup> If appropriate given the facts of the case, the jury should be charged as follows: “A person does not need to actually make contact with the victim or the victim’s vehicle in order to be involved in the accident.” Id. at 140-41.

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The fourth element that the State must prove beyond a reasonable doubt is that the defendant knowingly left the scene of the accident under circumstances that violated the provisions of the New Jersey Motor Vehicle Act [N.J.S.A. 39:4-129].

I have already defined “knowingly” for you. A motorist knowingly leaves the scene of an accident if he/she is aware that he/she is leaving the scene of an accident or is aware of a high probability that he/she is leaving the scene of an accident.

In order for the State to prove this element, it must prove beyond a reasonable doubt that the defendant did not fulfill any of the following obligations that New Jersey law places on a motorist who is involved in an accident:

- (1) immediately stop his/her vehicle at the scene of the accident; or
- (2) immediately stop his/her vehicle as close to the scene of the accident as possible and return to the scene of the accident; or
- (3) report all necessary information to the appropriate authorities in a timely manner.<sup>7</sup>

A motorist who fails to fulfill any of these obligations leaves the scene of an accident under circumstances that violated the provisions of the New Jersey Motor Vehicle Act [N.J.S.A. 39:4-129]. However, the State need not prove that the defendant knew of his/her legal obligation to stop at or near the scene of the accident and report all necessary information so long as he/she knew that he/she was involved in the accident.<sup>8</sup>

In this matter, the State alleges \_\_\_\_\_. [**Charge if appropriate:** The defendant, on the other hand, asserts \_\_\_\_\_].

The fifth element that the State must prove beyond a reasonable doubt is that the accident resulted in the death of another person.<sup>9</sup> The State need not prove that defendant knew that the accident had resulted in death or would result in death.

If you find that the State has proved each element of the offense beyond a reasonable doubt, then you must find the defendant guilty.

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<sup>7</sup> If the sufficiency of the defendant’s stay at the scene of the accident becomes an issue, please refer to N.J.S.A. 39:4-129 (c), which specifies how long a motorist must remain at the scene of an accident. See also Fisher, supra, 395 N.J. Super. at 545.

<sup>8</sup> N.J.S.A. 39:4-129(e).

<sup>9</sup> When appropriate, the jury should be instructed on causation. N.J.S.A. 2C:2-3.

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If you find that the State has failed to prove any element of the offense beyond a reasonable doubt, then you must find the defendant not guilty.