

OPERATING A MOTOR VEHICLE TO ELUDE ARREST RESULTING IN DEATH. G.S. 20-141.5(b1). FELONY.

NOTE WELL: For the misdemeanor of operating a motor vehicle to elude arrest use N.C.P.I.--Crim. 270.54. For the felony of operating a motor vehicle to elude arrest not resulting in death, use N.C.P.I.--Crim. 270.54A. For the felony of operating a motor vehicle to elude arrest accompanied by aggravating factors and resulting in death use N.C.P.I.--Crim. 270.54C.

The defendant has been charged with felonious operation of a motor vehicle to elude arrest resulting in death.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant was operating a motor vehicle on a [street] [highway] [public vehicular area].

Second, that the defendant was [fleeing] [attempting to elude] a law enforcement officer who was in the lawful performance of his duties.

A (*describe officer's status, e.g., highway patrolman*) is a law enforcement officer with authority to enforce the laws of this State. A person [flees] [attempts to elude] arrest or apprehension by a law enforcement officer when he knows or has reasonable grounds to know that an officer is a law enforcement officer, is aware that the officer is attempting to arrest or apprehend that person, and acts

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with the purpose of getting away in order to avoid arrest or apprehension by the officer.

And Third, that the defendant's [fleeing] [attempt to elude] the law enforcement officer was the proximate cause of the death of any person.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant operated a motor vehicle on a [street] [highway] [public vehicular area] while [fleeing] [attempting to elude] a law enforcement officer who was in the lawful performance of his duties and the defendant knew or had reasonable grounds to know that the officer was a law enforcement officer, and that the defendant's [fleeing] [attempting to elude] a law enforcement officer was the proximate cause of the death of any person, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.<sup>1</sup>

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<sup>1</sup> If there is evidence to support the submission of a lesser included offense, this last phrase would be amended as follows "If you do not so find or have a reasonable doubt as to one or more of these things, then you would not return a verdict of guilty of operating a motor vehicle to elude arrest resulting in death, but would consider whether the defendant is guilty of . . . ."