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271.50 FELONIOUS HIT AND RUN WITH SERIOUS BODILY INJURY OR DEATH  
(FAILURE TO STOP), INCLUDING LESSER OFFENSE. FELONY;  
MISDEMEANOR.

The defendant has been charged with felonious hit and run which resulted in [serious bodily injury<sup>1</sup>] [death].

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

First, that the defendant was driving a vehicle.<sup>2</sup>

Second, that the vehicle was involved in a crash.<sup>3</sup>

Third, that a person [suffered serious bodily injury in] [died as a result of] this crash.

Fourth, that the defendant knew or reasonably should have known that the defendant was involved in a crash and that a person<sup>4</sup> [suffered serious bodily injury in] [died as a result of] this crash. The defendant's knowledge can be actual or implied. It may be inferred where the circumstances proven are such as would lead the defendant to believe that the defendant had been in a crash which resulted in [serious bodily injury to] [the death of] a person.<sup>5</sup>

Fifth, that the defendant [did not stop the defendant's vehicle immediately at the scene of the crash] [after stopping did not remain at the scene of the crash until a law enforcement officer [completed the investigation] [authorized the defendant to leave]].<sup>6</sup>

And Sixth, that the defendant's failure to [stop the defendant's vehicle] [remain at the scene of the crash] was willful, that is, intentional (and without justification or excuse<sup>7</sup>).

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was driving a vehicle involved in a crash and that a person [suffered serious bodily injury in] [died as a result of] this crash, that the defendant knew or reasonably should have known that the defendant was involved in a crash which resulted in [serious bodily injury to] [the death of] a person, and that the defendant intentionally (and without justification or excuse) failed to [stop the defendant's vehicle] [remain at the scene of the crash until a law enforcement officer [completed the investigation] [authorized the defendant to leave]], it would be your duty to return a verdict of guilty of felonious hit and run with [serious bodily injury] [death]. If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of felonious hit and run with [serious bodily injury] [death] but would consider whether the defendant is guilty of misdemeanor hit and run. This offense differs from felonious hit and run with [serious bodily injury] [death] in that it is not necessary that the State prove beyond a reasonable doubt that the defendant knew or reasonably should have known that a person [suffered serious bodily injury in] [died as a result of] this crash (and that the defendant was not required to remain after stopping).<sup>8</sup>

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was driving a vehicle which was involved in a crash and that the defendant knew or should have known of the crash but did not know or have reason to know that a person [suffered serious bodily injury] [died as a result of] this crash, and that the defendant intentionally (and without justification or excuse) failed to stop, it would be your duty to return a verdict of guilty of misdemeanor hit and run. If you do not so find or

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have a reasonable doubt as to one or more of these things, it would be your  
duty to return a verdict of not guilty.

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1 Serious bodily injury is defined as “bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization. G.S. 14-32.4.

2 G.S. 20-4.01(49) defines the word “vehicle.”

3 G.S. 20-4.01(4b) defines “crash” as “Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The terms collision, accident, and crash and their cognates are synonymous.”

4 This charge is equally applicable where a pedestrian is involved.

5 See *State v. Fearing*, 304 N.C. 471 (1982) for a discussion of the knowledge required.

6 The statute provides that he may leave to call for a law enforcement officer or for medical assistance or treatment but must return to the accident scene within a reasonable time. If his reason for leaving involves this issue the instruction should be expanded appropriately.

7 If there is evidence of justification or excuse, the jury must be instructed accordingly. See *State v. Scaturro*, \_\_ N.C. App. \_\_, 802 S.E.2d 500 (2017) (holding that the trial court committed plain error by failing to instruct the jury with respect to willfulness where the defendant’s sole defense was that his departure was authorized and required to get assistance for the victim).

8 Note that G.S. 20-166(c)(2), while requiring a driver to stop, does not punish failure to remain at the scene, as does G.S. 20-166(a).

