

FELONIOUS HIT AND RUN WITH INJURY¹ (FAILURE TO STOP), INCLUDING LESSER OFFENSE. G.S. § 20-166(A1), 166(C)(2). FELONY; MISDEMEANOR.

The defendant has been charged with felonious hit and run with injury, which is failing to stop immediately at the scene when the defendant was the driver of a vehicle involved in a crash² which the defendant knew or should have known resulted in injury to any person.

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.³

Second, that the vehicle was involved in a crash.

Third, that a person suffered injury in this crash.

Fourth, that the defendant knew or reasonably should have known that the defendant was involved in a crash and that a person⁴ suffered injury in this crash. The defendant's knowledge can be actual or implied--that is 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 caused injury to a person.⁵

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

1. Injury is not defined under the statute, but it is contemplated as injury that is less than serious bodily injury which is defined in G.S. 14-32.4.

2. 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."

3. G.S. 20-4.01(49) defines the word "vehicle."

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.

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defendant to leave.]]⁶

And Sixth, that the defendant's failure to [stop] [remain] was willful, that is, intentional (and without justification or excuse.⁷)

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 a person suffered injury in this crash, and that the defendant knew or reasonably should have known that the defendant was involved in a crash in which a person had suffered injury and that the defendant intentionally (and without justification or excuse) failed to [stop] [remain 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 injury. If you do not so find or have a reasonable doubt as to one or more of these things, you would not return a verdict of guilty of felonious hit and run with injury, but you must determine whether the defendant is guilty of misdemeanor hit and run. This offense differs from felonious hit and run with injury 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 injury in this crash (and that the defendant was not required to remain after stopping).⁸

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 injury in this crash, and that the defendant intentionally (and

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 should be instructed accordingly.

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).

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

