

**CAUSING SERIOUS BODILY INJURY WHILE OPERATING ON
THE REVOKED/SUSPENDED LIST
(N.J.S.A. 2C:40-22b)**

In Count ____ of this indictment, the defendant is charged with the crime of causing serious bodily injury to another while operating a motor vehicle with a revoked or suspended driver's license. The indictment alleges:

(READ APPROPRIATE COUNT OF INDICTMENT)

The defendant is accused of violating a section of our statutes that makes it a crime for a person who is operating a motor vehicle with a revoked or suspended driver's license to be involved in an accident that results in serious bodily injury to another.

In order for you to find the defendant guilty, the State must prove each of the following elements beyond a reasonable doubt:

1. That the defendant's license was suspended or revoked;¹
2. That the defendant knew that his/her license was suspended or revoked;
3. That the defendant knowingly operated a motor vehicle; and
4. That the defendant's operation resulted in serious bodily injury to another.

The first element that the State must prove beyond a reasonable doubt is that the defendant's license was suspended or revoked. A motorist's license is suspended or revoked from the time that the Division of Motor Vehicles or a court suspends or revokes that license until the time that the Division restores it.²

The second element that the State must prove beyond a reasonable doubt is that the defendant knew that his/her license was suspended or revoked.³

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 if he/she is aware of a high probability of their existence.

Knowledge is a condition of the mind that cannot be seen and that can often be determined only from inferences from conduct, words, or acts. A state of mind is rarely

¹ See N.J.S.A. 39:3-40. When the State alleges that the defendant was refused a license, that (his/her) reciprocity privileges were suspended or that (he/she) had been prohibited from obtaining a license, the charge should be modified accordingly.

² State v. Zalta, 217 N.J. Super. 209, 212-213 (App. Div. 1987). See also, State v. Sandoro, 272 N.J. Super. 206 (App. Div. 1994).

³ N.J.S.A. 2C:2-2c(3). But see, State v. Wenof, 102 N.J. Super. 370, 375 (Cty. Ct. 1968), which holds that a motorist need not have actual knowledge that (his/her) license has been revoked or suspended as long as the Division of Motor Vehicles attempted to notify the motorist of the suspension by means reasonably calculated to reach (him/her).

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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 engaged in a particular act. 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 the defendant's acts and conduct, from all that he/she said and did at the particular time and place, and from all surrounding circumstances.

The third element that the State must prove beyond a reasonable doubt is that the defendant knowingly operated a motor vehicle.

The fourth element that the State must prove beyond a reasonable doubt is that the defendant's operation resulted in serious bodily injury to another. In other words, the State must prove beyond a reasonable doubt that the defendant's operation caused serious bodily injury to (insert victim's name).

Serious bodily injury is bodily injury that creates a substantial risk of death or that causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.⁴

For you to determine that the defendant's operation resulted in serious bodily injury to (insert victim's name), the State must prove the following beyond a reasonable doubt:

First, the State must prove that the serious bodily injury suffered by (insert victim's name) would not have occurred but for the defendant's operation. In other words, the State must prove beyond a reasonable doubt that this serious bodily injury would not have occurred if the defendant had not operated a motor vehicle.

Second, the State must prove both:

- (1) that the serious bodily injury was not too remote in its occurrence as to have a just bearing on the defendant's liability; and
- (2) that the serious bodily injury was not too dependent upon the conduct of another person that was unrelated to the defendant's operation as to have a just bearing on his/her liability.

In other words, the State must prove beyond a reasonable doubt that the serious bodily injury suffered by (insert victim's name) was not so unexpected or unusual that it would be unjust to find the defendant guilty of this offense.

⁴ N.J.S.A. 2C:11-1b.

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In considering any conduct of a person other than the defendant, be aware that it is not a defense that (insert victim's name) contributed to (his/her) own injuries by reckless or negligent conduct, or reckless or negligent operation.

If you find that the State has proven each of these elements beyond a reasonable doubt, then you must find the defendant guilty.

If, however, the State has failed to prove any element beyond a reasonable doubt, then you must find the defendant not guilty.⁵

⁵ If the trial court plans to consider any Title 39 charge as a lesser included offense, the jury should be advised accordingly. State v. Muniz, 118 N.J. 333-334 (1990).