

14-1697. Receipt of property obtained by fraudulent use of credit card; essential elements.

For you to find the defendant guilty of receiving property obtained by fraudulent use of a credit card [as charged in Count _____],¹ the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant received _____ (*describe money, goods or services received*);
2. This property was obtained by another's fraudulent use of a credit card;²
3. The defendant knew or had reason to believe that:⁴
[the credit card was obtained in violation of law and then used]; or
[the credit card was invalid, expired or had been revoked, and was used with the intent to deceive or cheat]; or
[the credit card was used with the intent to deceive or cheat by a person misrepresenting that he was the cardholder, or was authorized by the cardholder to use the credit card]; or
[the credit card was used without the cardholder's consent by a person with the intent to deceive or cheat];
4. These goods or services had a [value]³ [value over \$300.00];
5. This happened in New Mexico on or about the _____ day of _____, _____.

USE NOTES

1. Insert the count number if more than one count is charged.
2. If the jury requests a definition of "credit card," the statutory definition set forth in Section 30-16-25 NMSA 1978 is to be given.
3. Use applicable alternative.
4. Use only the applicable bracketed phrase or phrases set forth in Element 3. If there is an issue as to the underlying elements of one of the crimes set forth in Element 3 of this instruction, then upon request, the court shall give the applicable essential elements instruction modified in the manner illustrated by UJI 14-140 NMRA. [As amended by Supreme Court Order No. 20-8300-004, effective for all cases pending or filed on or after December 31, 2020.]