

**LEAVING SCENE OF AN INCIDENT WITHOUT REPORTING**  
**(D Felony)<sup>1</sup>**  
**(Death)**  
**Vehicle & Traffic Law 600 (2) (a) and (c)**  
**(Committed on or after May 24, 2005)**

The (*specify*) count is Leaving the Scene of an Incident Without Reporting [Personal Injury].

Under our law, any person operating a motor vehicle who knowing or having cause to know that personal injury has been caused to another person, due to an incident involving the motor vehicle operated by such person shall, before leaving the place where the said personal injury occurred, stop, exhibit his or her license and insurance identification card for such vehicle<sup>2</sup> and give his or her name [and] residence<sup>3</sup> to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then, he or she shall report said incident as soon as physically able to the

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<sup>1</sup> As of May 24, 2005, a violation of the leaving the scene statute “other than for the mere failure of an operator to exhibit his or her license and insurance identification card for such vehicle or exchange the information required” is a class E felony if the personal injury involved resulted in serious physical injury and a class D felony if the personal injury involved resulted in death (see L 2005, ch 49). Prior to May 24, 2005, it was a class E felony if the personal injury involved resulted in serious physical injury or death.

<sup>2</sup> At this point, the statute continues, and the charge omits for reasons set forth in footnote four: “when such card is required pursuant to articles six and eight of this chapter.”

<sup>3</sup> At this point, the statute continues, and the charge omits for reasons set forth in footnote four: “including street and street number, insurance carrier and insurance identification information including but not limited to the number and effective dates of said individual's insurance policy and license number.”

nearest police station or judicial officer.<sup>4</sup>

A violation of that law, other than for the mere failure of an operator to exhibit his or her license and insurance identification card for such vehicle or exchange the information required, is a crime where the personal injury involved results in death.

The following terms used in that definition have a special meaning.

MOTOR VEHICLE means every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power.<sup>5</sup>

DEATH means the irreversible cessation of heartbeat and respiration, [or when these functions are maintained solely by extraordinary mechanical means, an irreversible cessation of all functions of the entire brain, including the brain stem].<sup>6</sup>

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the

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<sup>4</sup> The charge omits portions of the quoted material in order to better track the dictates of the remaining portion of the statute which is included in this charge and states: "Any violation of the provisions of paragraph a of this subdivision, *other than* for the mere failure of an operator to exhibit his or her license and insurance identification card for such vehicle or exchange the information required in such paragraph, where the personal injury involved (i) results in serious physical injury...shall constitute a class E felony..., or (ii) results in death shall constitute a class D felony...." (Emphasis added).

<sup>5</sup> The term "motor vehicle" is defined in Vehicle and Traffic Law § 125. That definition contains exceptions which are not set forth in the text of this charge. The term "public highway" appearing in the definition of "motor vehicle" is itself separately defined in Vehicle and Traffic Law § 134 and the terms within that definition are also separately defined in article one of the Vehicle and Traffic Law. If an exception or definition is in issue, then the charge should be amplified accordingly.

<sup>6</sup> *People v Eulo*, 63 NY2d 341, 357-58 (1984).

case, beyond a reasonable doubt, each of the following four elements:

1. That on or about (date), in the county of (County), the defendant, (defendant's name), operated a motor vehicle;
2. That at that time and place, the defendant knew or had cause to know that personal injury had been caused to another person, due to an incident involving the motor vehicle operated by the defendant;
3. That the defendant did not, before leaving the place where the personal injury occurred, stop, and, in the event that no police officer was in the vicinity of the place of the injury, report the incident as soon as physically able to the nearest police station or judicial officer; and
4. That the personal injury involved resulted in death.

If you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.