

Submitted: 3/17/00

Reviewed by committee: 3/17/00, 5/19/00, 7/21/00

Approved by committee:

**DRAFT**

**RULES OF THE ROAD**

**RSA 265:82-a: Aggravated Driving while Under The Influence – Serious Bodily Injury**

The defendant is charged with the crime of aggravated driving while under the influence of alcohol. The definition of this offense has four parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant drove a vehicle; and
2. This driving was on a way; and
3. The defendant was under the influence of intoxicating liquor; and
4. The defendant caused a collision resulting in serious bodily injury.

These are the elements of the crime of aggravated driving while under the influence of intoxicating liquor. Certain words in the definition need to be defined.

“Drive” means to operate or be in actual physical control of a motor vehicle or OHRV.

“Vehicle” means every mechanical device, in, on, upon or by which any person or property is or may be transported or drawn upon a way, except devices used exclusively upon stationary rails or tracks.

“Way” means any public highway, street, road, alley, park, parking lot or parkway or any private way laid out under authority of statute and way provided and maintained by public institution to which state funds are appropriated for public use or any privately owned and maintained way open for public use.

“Under the influence” means a person has taken into his/her system a sufficient quantity of [intoxicating liquor] [or any controlled drug][or any combination of intoxicating liquor and controlled drug] so that his/her ability to operate a vehicle is impaired to any degree.

“Serious bodily injury” means any harm to the body which causes severe, permanent or protracted loss of or impairment to the health or function of any part of the body.

**RSA 265:82-a, I & II: Aggravated Driving While Intoxicated [Catchall]**

**DRAFT**

The defendant is charged with the offense of aggravated driving while intoxicated. The definition of this has four parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant [drove] [attempted to drive] a vehicle; and
2. The defendant was on a way; and
3. [The defendant was under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drug] [the defendant had an alcohol concentration of 0.08 or more].<sup>9</sup>
4. [The defendant drove at a speed more than 30 miles per hour in excess of the prima facie limit] [the defendant caused a motor vehicle collision resulting in serious bodily injury] [the defendant attempted to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps while still in motion, or abandoning a vehicle while being pursued].

These are the elements of aggravated driving while intoxicated. Certain words in the definition need to be further defined.

“Drive” means to operate or be in actual physical control of a motor vehicle or OHRV.

“Vehicle” means every mechanical device, in, on, upon or by which any person or property is or may be transported or drawn upon a way, except devices used exclusively upon stationary rails or tracks.

“Way” means any public highway, street, road, alley, park, parking lot or parkway or any private way laid out under authority of statute and way provided and maintained by public institution to which state funds are appropriated for public use or any privately owned and maintained way open for public use.

[“Under the influence” means a person has taken into [his][her] system a sufficient quantity of [intoxicating liquor][a controlled drug][any combination of intoxicating liquor and a controlled drug] so that [his][her] ability to operate a vehicle is impaired to any degree.]

[“Serious bodily injury” means any harm to the body which causes severe, permanent or protracted loss of or impairment to the health or function of any part of the body.]

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<sup>9</sup> RSA 259:3-b.

*Reviewed by Committee 6/19/98 & 5/16/03  
Approved 5/16/03*

**RSA 265:82-a, III: Aggravated Driving While Intoxicated [0.16 BAC]**

**DRAFT**

The defendant is charged with the offense of aggravated driving while intoxicated. The definition of this crime has three parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

The defendant [drove] [attempted to drive] a vehicle; and

The defendant was on a way; and

The defendant had an alcohol concentration of 0.16 or more.<sup>10</sup>

These are the elements of aggravated driving while intoxicated. Certain words in the definition need to be further defined.

“Drive” means to operate or be in actual physical control of a motor vehicle or OHRV.

“Vehicle” means every mechanical device, in, on, upon or by which any person or property is or may be transported or drawn upon a way, except devices used exclusively upon stationary rails or tracks.

“Way” means any public highway, street, road, alley, park, parking lot or parkway or any private way laid out under authority of statute and way provided and maintained by public institution to which state funds are appropriated for public use or any privately owned and maintained way open for public use.

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<sup>10</sup> RSA 259:3-b.

Reviewed by the committee 1/18/02

Approved by the committee 1/18/02

**RSA 265:82, I(a) Driving Under Influence of Intoxicating Liquor**

**DRAFT**

The defendant is charged with the crime of driving [or attempting to drive] a vehicle upon a way while under the influence of [intoxicating liquor] [or any controlled drug] [or any combination of intoxicating liquor and controlled drug]. The definition of this offense has three parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant was driving a vehicle and;
2. The defendant was driving on a way; and
3. The defendant, while so driving, was under the influence of [intoxicating liquor] [or any controlled drug][or any combination of intoxicating liquor and controlled drug].

These are the elements of the crime of driving under the influence of intoxicating liquor. Certain words in the definition need to be defined.<sup>1</sup>

“Drive” means to operate or be in actual physical control of a motor vehicle or OHRV.

“Vehicle” means every mechanical device, in, on, upon or by which any person or property is or may be transported or drawn upon a way, except devices used exclusively upon stationary rails or tracks.

“Way” means any public highway, street, road, alley, park, parking lot or parkway or any private way laid out under authority of statute and way provided and maintained by public institution to which state funds are appropriated for public use or any privately owned and maintained way open for public use.

“Under the influence” means a person has taken into his/her system a sufficient quantity of [intoxicating liquor] [or any controlled drug][or any combination of intoxicating liquor and controlled drug] so that his/her ability to operate a vehicle is impaired to any degree.

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<sup>1</sup> Use these definitions if appropriate in the case before the court.

Submitted by Robert Temple  
Reviewed by the committee 1/18/02  
Approved by the committee 1/18/02

**RSA 265:82, I(b) Driving with excess alcohol concentration**

# DRAFT

The defendant is charged with driving (or attempting to drive) a vehicle upon a way while having an alcohol concentration of .08 or more. The definition of this crime has two parts or elements. The state must prove each element beyond a reasonable doubt. In this case, the state must prove that:

1. The defendant was driving (or attempting to drive) a vehicle on a way and
2. The defendant while so driving had an alcohol concentration of .08 or more.<sup>1</sup>

These are the elements of the crime of driving with excess alcohol concentration . Certain words in the definition need to be defined.<sup>1</sup>

“Drive” means to operate or be in actual physical control of a vehicle.

“Vehicle” means every mechanical device, in, on , upon or by which any person or property is or may be transported or drawn upon a way, except devices used exclusively upon stationary rails or tracks.

“Way” is any public highway, street, road, alley, park, parking lot or parkway or any private way laid out under authority of statute and way provided and maintained by public institution to which state funds are appropriated for public use or any privately owned and maintained way open for public use.

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<sup>1</sup> The excess concentration in the case of a person under the age of 21 is .02 or more.

*Reviewed by committee 6/20/2003*  
*Approved by committee 6/20/2003*

**RSA 265:93-b I Driving a Motor Vehicle Not Equipped with an Alcohol Ignition Interlock Device**

**DRAFT**

The defendant is charged with the offence of driving a motor vehicle not equipped with an alcohol ignition interlock device. The definition of this crime has three parts or elements. The State must prove each part or element beyond a reasonable doubt. Thus, the State must prove:

1. The defendant was required by a court to drive only a motor vehicle equipped with an alcohol ignition interlock device; and
2. The defendant drove a motor vehicle not equipped with an alcohol ignition interlock device; and
3. The defendant acted knowingly.

These are the elements of the crime of driving a motor vehicle not equipped with an alcohol ignition interlock device. Certain words in the definition need to be further defined:

“Drive” means to operate or be in actual physical control of a motor vehicle or OHRV.

“Motor vehicle” means any self propelled vehicle not operated exclusively on stationary tracks.

“Knowingly” means [see definition of knowingly].

*Reviewed by Committee 6/20/03*  
*Approved by Committee 6/20/2003*

**RSA 265:93-b II – Tampering with the Operation of an Ignition Interlock Device**

**DRAFT**

The defendant is charged with the offense of tampering with (or attempting in any way to circumvent) the operation of an ignition interlock device installed in a motor vehicle. The definition of this crime has two parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant tampered with (or in any way attempted to circumvent) the operation of an ignition interlock device installed in a motor vehicle; and
2. The defendant acted knowingly.

These are the elements of tampering with the operation of an ignition interlock device. Certain words in the definition need to be further defined.

“Motor vehicle” means any self propelled vehicle not operated exclusively on stationary tracks.

“Knowingly” means [see definition of knowingly].

*Reviewed by committee 6/20/03*  
*Approved by committee 6/20/2003*

**RSA 265:93-b III Starting a Motor Vehicle Equipped with an Ignition Interlock Device to Provide a Vehicle for a Person who is Restricted to Drive on a Vehicle so Equipped**

**DRAFT**

The defendant is charge with the offense of starting (or attempting to start) a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to a person who is restricted by law to drive only a motor vehicle so equipped. The definition of this crime has two parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove:

1. The defendant started (or attempted to start) a motor vehicle equipped with an ignition interlock device; and
2. The defendant's purpose was to provide an operable motor vehicle to a person restricted by law to drive only a motor vehicle so equipped.

These are the elements of the crime of starting (or attempting to start) a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to a person who is restricted by law to drive only a motor vehicle so equipped. Certain words in the definition need to be further defined:

Motor vehicle" means any self propelled vehicle not operated exclusively on stationary tracks.

"Purposely" means [see definition of purposely]. The defendant does not act purposely if the defendant acted only with the purpose of providing safety or mechanical repair to the device or the vehicle and the person subject to the court order did not drive the vehicle.

*Reviewed by Committee 6/20/03*  
*Approved by Committee 6/20/2003*

**RSA 265:93-b IV Providing a Motor Vehicle not Equipped with a Functional Ignition Device to Another Person Sentenced to Drive Only Such a Vehicle**

**DRAFT**

The defendant is charged with the offense of providing a motor vehicle not equipped with a functional ignition device to another person who was sentenced to drive only such a motor vehicle. The definition of this crime has three parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that ;

1. The defendant provided a motor vehicle not equipped with a functional ignition device to another person; and
2. The other person had been sentenced to drive only a vehicle equipped with a functional ignition device; and
3. The defendant acted knowingly.

These are the elements of the crime of providing a motor vehicle not equipped with a functional ignition device to another person who was sentenced to drive only such a motor vehicle. Certain words in the definition need to be further defined:

Motor vehicle” means any self propelled vehicle not operated exclusively on stationary tracks.

“Knowingly” means [see definition of knowingly].