

CR1010: Refusing a Chemical Test

(DEFENDANT'S NAME) is charged [in Count ____] with committing Refusing a Chemical Test [on or about (DATE)]. You cannot convict [him] [her] of this offense unless, based on the evidence, you find beyond a reasonable doubt each of the following elements:

1. [DEFENDANT];
2. Was issued the [DUI Refusal Admonition](#); ~~as defined in Instruction [#];~~
3. A court issued a warrant to draw and test [his] [her] blood; and
4. [After the Refusal Admonition was issued and the court issued the warrant](#), [DEFENDANT] ~~nonetheless~~ refused to submit to a test of [his] [her] blood.

After you carefully consider all the evidence in this case, if you are convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant GUILTY. On the other hand, if you are not convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant NOT GUILTY.

References:

- Utah Code Ann. § 41-6a-520.1
- Utah Code Ann. § 41-6a-520(2)(a)
- [Utah Code Ann. § 76-2-101\(2\)](#)
- [Gukeisen v. Dep't of Pub. Safety, Driver License Div., 2020 UT App 32, ¶ 12, 461 P.3d 1146, 1150](#)

Committee Notes:

This instruction is intended to be used in prosecuting the crime of Refusing a Chemical Test. Whether that offense constitutes a Class B Misdemeanor, a Class A Misdemeanor, or a Third-Degree Felony depends on various factors. See Utah Code Ann. § 41-6a-520.1(2)(a)–(c). Practitioners should adjust this instruction accordingly. ~~Similar to the offense of Driving Under the Influence, Refusing a Chemical Test is a strict liability offense. See Utah Code Ann. § 76-2-101(2) (no mental state generally required for traffic offenses).~~ An element of this crime is that the defendant was issued “the warning required in Subsection 41-6a-520(2)(a).” See Utah Code Ann. § 41-6a-520.1(1)(a). The committee has chosen to use the phrase “[DUI Refusal Admonition](#)” as shorthand to refer to this warning. The committee believes that including the entirety of the [DUI Refusal Admonition](#) in the elements of the crime would render this instruction unwieldy. As such, ~~the committee suggests also giving CR 1010A ____~~, which defines

| the content of the [DU+Refusal Admonition](#), should be given alongside this instruction.