**14-1693. Fraudulent acts by merchants or their employees; fraudulently furnishing something of value; essential elements.**

 For you to find the defendant guilty of fraudulently furnishing something of value [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. In his capacity as [a merchant]2 [an employee of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]3,the defendant [furnished] [allowed to be furnished]3 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*describe money, goods or services furnished*);

 2. These goods or services had a market value4 [over \_\_\_\_\_\_\_\_\_\_\_\_\_];5

 3. The defendant accepted for payment a credit card2 that he knew was being used to deceive or cheat;

 4. The defendant intended to deceive or cheat;

 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 "merchant" or "credit card" the statutory definition set forth in Section 30-16-25 NMSA 1978 is to be given.

 3. Use applicable bracketed phrase.

 4. *See* UJI 14-1602 NMRA for definition of "market value."

 5. Use this bracketed provision for goods and services if the value is over $250. State whether the value of the merchandise at issue is "over $250," "over $500," "over $2,500," or "over $20,000." If the charge is a petty misdemeanor ($250 or less), do not use this bracketed provision.

[As amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010.]