

**STAGING A MOTOR VEHICLE ACCIDENT  
IN THE FIRST DEGREE  
Penal Law § 176.80  
(Committed on or after November 1, 2019)**

The (specify) count is Staging a Motor Vehicle Accident in the First Degree.

Under our law, a person is guilty of Staging a Motor Vehicle Accident in the First Degree when<sup>1</sup>, with intent to commit and in furtherance of a fraudulent insurance act, he or she operates a motor vehicle and intentionally causes a collision involving a motor vehicle and thereby causes serious physical injury or death to another person, other than a participant in such offense.

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

INTENT means conscious objective or purpose. Thus, a person acts with intent to commit a fraudulent insurance act when that person's conscious objective or purpose is to do so.<sup>2</sup> And a person intentionally causes a collision when that person's conscious objective or purpose is to do so.

A FRAUDULENT INSURANCE ACT is committed by any person who, knowingly and with intent to defraud, presents, causes to be presented, or prepares with knowledge or belief that it will be presented, to or by:

Select appropriate alternative(s):  
an insurer,

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<sup>1</sup> Here, the statute reads: "he or she commits the offense of staging a motor vehicle accident in the second degree." This instruction substitutes the definition of the second-degree crime for that language.

<sup>2</sup> See Penal Law § 15.05(1).

self insurer, [or]  
purported insurer, [or]  
purported self insurer, [or]  
any agent thereof,

Select if commercial/personal insurance policy is alleged:  
any written statement as part of, or in support of,

Select appropriate alternative(s):

an application for the issuance of, or the rating of, a  
commercial insurance policy, [or]

a certificate or evidence of self insurance for commercial  
insurance or commercial self insurance, [or]

a claim for payment or other benefit pursuant to an  
insurance policy or self insurance program for commercial  
or personal insurance<sup>3</sup>

Select if health insurance policy is alleged:

any written statement or other physical evidence as part of, or in  
support of,

Select appropriate alternative(s):

an application for the issuance of a health insurance  
policy,<sup>4</sup> [or]

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<sup>3</sup> Penal Law § 176.05 (1).

<sup>4</sup> If appropriate and/or necessary, add the following language from Penal Law § 176.05:

An “application for the issuance of a health insurance policy” shall not include (i) any application for a health insurance policy or contract approved by the superintendent of financial services pursuant to the provisions of

a policy or contract or other authorization that provides or allows coverage for, membership or enrollment in, or other services of a public or private health plan,<sup>5</sup> [or]

a claim for payment, services or other benefit pursuant to such policy, contract or plan<sup>6</sup>

that he or she knows to: (a) contain materially false information concerning any fact material thereto; or (b) conceal, for the purpose of misleading, information concerning any fact material thereto.

SERIOUS PHYSICAL INJURY means impairment of a person's physical condition which creates a substantial risk of death or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.<sup>7</sup>

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following four elements:

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sections three thousand two hundred sixteen, four thousand three hundred four, four thousand three hundred twenty-one or four thousand three hundred twenty-two of the insurance law or any other application for a health insurance policy or contract approved by the superintendent of financial services in the individual or direct payment market; or (ii) any application for a certificate evidencing coverage under a self-insured plan or under a group contract approved by the superintendent of financial services.

<sup>5</sup> If appropriate and/or necessary, add the following language from Penal Law § 176.05:

Such policy or contract or plan or authorization shall include, but not be limited to, those issued or operating pursuant to any public or governmentally-sponsored or supported plan for health care coverage or services or those otherwise issued or operated by entities authorized pursuant to the public health law.

<sup>6</sup> Penal Law § 176.05 (2).

<sup>7</sup> See Penal Law § 10.00(10).

- (1) That on or about (date), in the County of (County), the defendant, (defendant's name)<sup>8</sup> operated a motor vehicle;
- (2) That the defendant did so with intent to commit, and in furtherance of, a fraudulent insurance act;
- (3) That the defendant intentionally caused a collision involving a motor vehicle; and
- (4) That the defendant thereby caused serious physical injury [or death] to another person, other than a participant in such offense

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

If you find 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.

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<sup>8</sup> When the defendant is charged in whole or in part as an accomplice, Court will add: "personally, or by acting in concert with another person." See Accomplice charge.