IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

 Defendant.

DEFENDANT’S INSTRUCTION NO. \_\_\_\_

 Count \_\_ of the indictment charges the defendant with Injury to a Passenger by a Person in Charge of a Public Conveyance or Boat. You may return one of two verdicts under this Count of the indictment:

(1) guilty of Injury to a Passenger by a Person in Charge of a Public Conveyance or Boat; or

 (2) not guilty.

 Injury to a Passenger by a Person in Charge of a Public Conveyance or Boat occurs when the driver, conductor, motorman, captain, or other person in charge of a vehicle or boat, driven by steam, electricity, gasoline, or other motive power, and used for public conveyance, while in the management of such vehicle or boat, willfully or negligently inflicts bodily injury on another person.

 The burden is on the State to prove the defendant’s guilt beyond a reasonable doubt and the defendant is not required to prove [himself] [herself] innocent. [He] [She] is presumed by the law to be innocent of this charge and this presumption remains with [him] [her] throughout the entire trial.

 Before the defendant can be convicted of Injury to a Passenger by a Person in Charge of a Public Conveyance or Boat, the State must overcome the presumption that the defendant is innocent and prove beyond a reasonable doubt that:

1. the defendant,

2. in [insert county] County, West Virginia,

3. on or about the \_\_ day of [insert month], [insert year],

4. was a (driver) (conductor) (motorman) (captain) (person in charge of a vehicle or boat), which was

5. driven by (steam) (electricity) (gasoline) (other motive power),

6. and which was used for public conveyance,

7. [willfully] [negligently] inflicted bodily injury on another person.

 If, after impartially considering, weighing and comparing all the evidence (that of both the State and the defendant), you are convinced beyond a reasonable doubt of the truth of the charge as to each of these elements, you may find the defendant guilty as charged. If you have a reasonable doubt of the truth of the charge as to any one or more of these elements, you shall find the defendant not guilty.

GIVEN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REFUSED:\_\_\_\_\_\_\_\_\_\_\_\_\_

MODIFIED:\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 JUDGE