**T.P.I. – CRIM. 6.05**

**AGGRAVATED VEHICULAR ASSAULT**

Members of the Jury, you have found the defendant guilty beyond reasonable doubt of vehicular assault as charged in Count \_\_\_\_\_ of the indictment.

It will now be your duty to determine whether the defendant is guilty of aggravated vehicular assault as charged in Count \_\_\_\_\_\_ of the indictment. The law provides for increased punishment for aggravated vehicular assault.

Any person who commits the offense of aggravated vehicular assault is guilty of a crime.

For you to find the defendant guilty of aggravated vehicular assault, the state must have proven beyond a reasonable doubt the existence of the following essential elements:

[Part A:

(1) that the defendant has two (2) or more prior convictions for *[driving under the influence of an intoxicant]**[***Only for offenses committed on or after 7/1/21:** *boating under the influence of an intoxicant] [***Only for offenses committed prior to 7/1/19:** *a violation of the habitual motor vehicle offender law] [or any combination of such offenses]*.]

or

[Part B:

(1) that the defendant has one (1) or more prior convictions for the offense of *[vehicular assault] [vehicular homicide by intoxication] [aggravated vehicular homicide]*.]

or

[Part C:

(1) that there was at the time of the offense an alcohol concentration in the defendant’s blood or breath of twenty-hundredths of one percent (.20%) or more;

and

(2) that the defendant has one (1) prior conviction for *[driving under the influence of an intoxicant] [***Only for offenses committed on or after 7/1/21:** *boating under the influence of an intoxicant] [***Only for offenses committed on or after 7/1/19:** *a violation of the habitual motor vehicle offender law]*.]

Any record of prior conviction[s] of the defendant is evidence which you may consider. A judgment of conviction of any person under the same name as that of the defendant may create an inference that the identity of such person is the same as the defendant. However, the jury is not required to make this inference. It is the exclusive province of the jury to determine whether the facts and circumstances shown by all the evidence in the case warrant the inference which the law permits the jury to draw.

“Prior conviction” means an offense for which the defendant was convicted prior to the commission of the instant vehicular assault charge, and includes prior convictions from this state or any other state, district or territory of the United States within the last twenty (20) years.