\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the defendant in this case, has raised the affirmative defense that the peace officer, when requesting or signaling the defendant to stop, was not operating a [vehicle] [motor vehicle] [aircraft] [watercraft] that was reasonably identifiable as a law enforcement vehicle. To establish this affirmative defense, the defendant must prove that each of the following statements is more likely true than not true:

1. The peace officer was operating a [vehicle] [motor vehicle] [aircraft] [watercraft] that did not meet the lighting and audible signaling requirements of law for law enforcement vehicles; and
2. The peace officer was operating a [vehicle] [motor vehicle] [aircraft] [watercraft] that was not marked appropriately so that a reasonable person would recognize it as a law enforcement vehicle.

The burden is on the defendant to prove that the peace officer, when requesting or signaling the defendant to stop, was not operating a [vehicle] [motor vehicle] [aircraft] [watercraft] that was reasonably identifiable as a law enforcement vehicle. The defendant does not have to prove this beyond a reasonable doubt. Rather, the burden is on the defendant to prove this defense by a preponderance of the evidence, which is a lower standard than beyond a reasonable doubt. It means “more likely true than not true.”

**USE NOTE**

“peace officer” – 11.81.900(b)(44)

“driver” – 28.90.990(a)

“vehicle” – 28.90.990(a)(29)

“motor vehicle” – 28.90.990(a)(16)

“knowingly” – 11.81.900(a)(2)

“signal” – 28.35.182(d)(2)