

**ILLEGAL POSSESSION OF A
VEHICLE IDENTIFICATION NUMBER
(E Felony)
PENAL LAW 170.70(3)(b)
(Committed on or after Nov. 1, 2002)**

The _____ count is Illegal Possession of a Vehicle Identification Number

Under our law, a person is guilty of Illegal Possession of a Vehicle Identification Number when he or she knowingly possesses a vehicle, or part of a vehicle to which by law or regulation must be attached a vehicle identification number on which is affixed, stamped or embossed a vehicle identification number which was not affixed, stamped or embossed by the manufacturer, or in accordance with law¹.

Under our law, with certain exceptions not applicable here, a vehicle identification number must be attached to a vehicle or (*specify part*) of a vehicle.²

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: “possess,” and “knowingly.”

POSSESS means to have physical possession or otherwise

¹ The charge substitutes the words “in accordance with law” for the statutory words “in accordance with 49 U.S.C. section 32101, et seq. and regulations promulgated thereunder or in accordance with the provisions of the vehicle and traffic law.” See Vehicle and Traffic Law article 17, sections 421, 422, 423-a, 431. If in issue, the appropriate provision of law should be charged.

² If there is an issue as to whether the law requires that a vehicle identification number be attached to the vehicle or vehicle part, omit this sentence and charge the applicable law.

to exercise dominion or control over tangible property.³

[Add if applicable:

A person is presumed to knowingly possess a vehicle or vehicle part when he possesses any combination of five such whole vehicles or individual vehicle parts, none of which are attached to or contained in the same vehicle.^{4]}

A person KNOWINGLY possesses (specify) when that person is aware that he or she is in possession of (specify).⁵

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

1. That on or about (date), in the county of (county), the defendant, (defendant's name), possessed a vehicle, or part of a vehicle to which by law or regulation must be attached a vehicle identification number on which was affixed, stamped or embossed a vehicle identification number which was not affixed, stamped or embossed by the manufacturer, or in accordance with law.
2. That the defendant did so knowingly.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Illegal Possession of a Vehicle

³See Penal Law § 10.00(8). Where constructive possession is alleged, insert the appropriate instruction from the "Additional Charges" section at the end of Penal Law article 265

⁴ Penal Law § 170.71(2).

⁵See Penal Law § 15.05(2). An "expanded" definition of "knowingly" is available in the General Charges section under Culpable Mental States.

Identification Number as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Illegal Possession of a Vehicle Identification Number as charged in the _____ count.