

**UNLAWFUL POSSESSION OF PERSONAL IDENTIFICATION
INFORMATION SECOND DEGREE
(E felony)
PENAL LAW 190.82
(Committed on or after Nov. 1, 2002)**

The _____ count is Possession of Personal Identification Information in the Second Degree.

Under our law, a person is guilty of Unlawful Possession of Personal Identification Information in the Second Degree when he or she knowingly possesses two hundred fifty or more items of personal identification information of the following nature:

Select appropriate alternative(s):

a person's

- personal financial services account number or code,
- a savings account number or code,
- checking account number or code,
- brokerage account number or code,
- credit card account number or code,
- debit card number or code,
- automated teller machine number or code,
- personal identification number,
- mother's maiden name,
- computer system password;
- electronic signature;

unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person

knowing such information is intended to be used in furtherance of the commission of (*specify Penal Law crime*¹).

Some of the terms used in this definition have their own

¹ The definition specifies that the crime must be "a crime defined in this chapter," meaning the Penal Law.

special meaning in our law. I will now give you the meaning of the following terms: “possess,” “knowingly,” and “(specify name of Penal Law crime)” [and] [“electronic signature”] [and] [“personal identification number”].

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.²

A person KNOWINGLY possesses two hundred and fifty or more items of personal identification information when that person is aware that he or she is in possession of such information.³

(Specify and define the Penal Law crime.)

[PERSONAL IDENTIFICATION NUMBER means any number or code which may be used alone or in conjunction with any other information to assume the identity of another person or access financial information or credit of another person⁴].

[ELECTRONIC SIGNATURE means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record⁵].

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, both of the following elements:

²See, Penal Law §10.00(8).

³See, Penal Law §15.05(2).

⁴See, Penal Law §190.77(2)(b).

⁵See, State Technology Law §102(3); Penal Law §190.77(2)(a).

1. That on or about (*date*), in the County of (*county*), the defendant (*defendant's name*), knowingly possessed two hundred fifty or more items of personal identification information of the following nature: (*specify*); and

2. That the defendant knew that such information was intended to be used in furtherance of the commission of (*specify crime*).

[NOTE: If an affirmative defense does not apply, then conclude with the following two paragraphs. If the affirmative defense does apply, then omit the following two paragraphs, and insert here the affirmative defense charge in the Additional Charges section to this article.]

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Unlawful Possession of Personal Identification Information in the Second Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either or both of those elements, you must find the defendant not guilty of the crime of Unlawful Possession of Personal Identification in the Second Degree as charged in the _____ count.]