

**CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE
SEVENTH DEGREE
(A Misdemeanor)
PENAL LAW 220.03
(Committed on or after Sept. 1, 1979)**

The _____ count is Criminal Possession of a Controlled Substance in the Seventh Degree.

Under our law, a person is guilty of Criminal Possession of a Controlled Substance in the Seventh Degree when that person knowingly and unlawfully possesses a controlled substance.

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: “controlled substance,” “possess,” “knowingly,” and “unlawfully.”

The term CONTROLLED SUBSTANCE includes (specify).¹

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

A person KNOWINGLY possesses (specify) when that person is aware that he or she is in possession of (specify).³

A person UNLAWFULLY possesses (specify) when that person has no legal right to possess that substance.⁴ Under our

¹See Penal Law § 220.00(5).

² See Penal Law § 10.00(8). Where constructive possession is alleged, or where the People rely on a statutory presumption of possession, insert the appropriate instruction as found in the “Additional Charges” section at the end of this article.

³See Penal Law § 15.05(2). An expanded definition of “knowingly” is available in the General Charges section under Culpable Mental States.

⁴See Penal Law § 220.00(2) and Public Health Law § 3396(1).

law, with certain exceptions not applicable here, a person has no legal right to possess (specify).

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 two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), possessed (specify); and
2. That the defendant did so knowingly and unlawfully.

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 Criminal Possession of a Controlled Substance in the Seventh Degree 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 Criminal Possession of a Controlled Substance in the Seventh Degree as charged in the ____ count.