

**PRESUMPTION OF POSSESSION
FROM PRESENCE OF WEAPON
IN AUTOMOBILE
PENAL LAW 265.15(3)**

Under our law, the presence in an automobile [other than a stolen one or a public omnibus¹], of:

Select appropriate alternative:

any firearm
defaced firearm
defaced rifle or shotgun
firearm silencer
explosive or incendiary bomb
bombshell
gravity knife
switchblade knife
pilum ballistic knife
metal knuckle knife
dagger
dirk
stiletto
billy
blackjack
metal knuckles
chuka stick
sandbag
sandclub
slungshot

is presumptive evidence of its possession by all persons occupying such automobile at the time such weapon [*or instrument*] [*or appliance*] is found

¹ Read the bracketed material only if an issue exists as to whether the automobile is stolen or is a public omnibus.

[NOTE: Add any exception(s) in issue:

except if such weapon [or instrument] [or appliance] is found upon the person of one of the occupants therein²

and/or except if such weapon [or instrument] [or appliance] is found in an automobile which is being operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his trade, then such presumption shall not apply to the driver³

and/or except if the weapon so found is a pistol or revolver and one of the occupants, not present under duress, has in his or her possession a valid license to have and carry concealed the same.^{4]}

What this means is that, if the People have proven beyond a reasonable doubt that the (specify weapon) was present in an automobile [other than a stolen one or a public omnibus] and that the defendant was occupying such automobile at the time such (specify) was found

[NOTE: Add any exception(s) in issue:

and that the (specify) was not found upon the person of one of the occupants therein

and/or and that the (specify) was not found in an automobile which was being operated for hire by the defendant, as a duly licensed driver in the due, lawful and proper pursuit of his trade

²See Penal Law § 265.15(3)(a).

³See Penal Law § 265.15(3)(b).

⁴See Penal Law § 265.15(3)(c).

and/or and that none of the occupants, except for any occupant present under duress, had in his or her possession a valid license to have and carry concealed the (specify)],

then you may, but you are not required to, infer from those facts that the defendant possessed the (specify).