

**ILLEGAL POSSESSION OF A
VEHICLE IDENTIFICATION NUMBER
PENAL LAW 170.70(2)
(Committed on or after Nov. 1, 2002)**

The (*specify*) 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 vehicle part to which is attached a vehicle identification number label, sticker or plate or on which is stamped or embossed a vehicle identification number which has been destroyed, covered, defaced, altered or otherwise changed, or a vehicle or vehicle part from which a vehicle identification number label, sticker or plate has been removed, which label, sticker or plate was affixed in accordance with federal law¹ [, except when he or she has complied with the provisions of the vehicle and traffic law and regulations promulgated thereunder²].

Under our law, with certain exceptions not applicable here, a label, sticker or plate is affixed to a vehicle or vehicle part in accordance with law.

The following terms used in that definition have a special meaning:

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.³

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

² If in issue charge and explain.

³ See Penal Law § 10.00(8). If necessary, an expanded definition of "possession" is available in the section on Instructions of General Applicability under Possession.

[Add if applicable:

A person is presumed to knowingly possess a vehicle or vehicle part when that person 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/three elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), (specify conduct) possessed a vehicle or vehicle part to which was attached a vehicle identification number label, sticker or plate or on which was stamped or embossed a vehicle identification number which has been destroyed, covered, defaced, altered or otherwise changed, or a vehicle or vehicle part from which a vehicle identification number label, sticker or plate has been removed, which label, sticker or plate was affixed in accordance with federal law; [and]
2. That the defendant did so knowingly [and]
- [3. That in doing so, the defendant did not comply with the provisions of the vehicle and traffic law and regulations promulgated thereunder.]

⁴ Penal Law § 170.71(1).

⁵See Penal Law § 15.05(2). If necessary, an expanded definition of “knowingly” is available in the section on Instructions of General Applicability under Culpable Mental States.

If you find the People have proven beyond a reasonable doubt (each / both) of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt (either one / any one) or more of those elements, you must find the defendant not guilty of this crime.