

**CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE
IN THE FOURTH DEGREE
(Pure Weight Counts)**

**Penal Law § 220.09(4)
(One [1] Gram or More of a Stimulant)
(Committed on or after June 10, 1995)**

**Penal Law § 220.09(5)
(One [1] Milligram or More of
Lysergic Acid Diethylamide)
(Committed on or after June 10, 1995)**

**Penal Law § 220.09(6)
(Twenty-Five [25] Milligrams or More
of a Hallucinogen)
(Committed on or after June 10, 1995)**

**Penal Law § 220.09(7)
(One [1] Gram or More
of a Hallucinogenic Substance)
(Committed on or after June 10, 1995)**

**Penal Law § 220.09(8)
(Ten [10] Ounces or More
of a Dangerous Depressant)
(Committed on or after June 10, 1995)**

**Penal Law § 220.09(9)
(Two [2] Pounds or More of a Depressant)
(Committed on or after June 10, 1995)**

**Penal Law § 220.09(11)
(Two Hundred Fifty [250] Milligrams or More of
Phencyclidine)
(Committed on or after June 10, 1995)**

Penal Law § 220.09(12)
(Three Hundred Sixty [360] Milligrams or More of
Methadone)
(Committed on or after June 10, 1995)

PENAL LAW 220.09(14)
(Four thousand [4000] Milligrams or More of Ketamine)
(Committed on or after January 22, 1998)

(Revised April 4, 2003)¹

The (*specify*) count is Criminal Possession of a Controlled Substance in the Fourth Degree.

Under our law, a person is guilty of Criminal Possession of a Controlled Substance in the Fourth Degree when that person knowingly and unlawfully possesses:

Select the appropriate alternative:

a stimulant and said stimulant weighs one [1] gram or more.

lysergic acid diethylamide and said lysergic acid diethylamide weighs one [1] milligram or more.

a hallucinogen and said hallucinogen weighs twenty-five [25] milligrams or more.

a hallucinogenic substance and said hallucinogenic substance weighs one [1] gram or more.

a dangerous depressant and such dangerous depressant weighs ten [10] ounces or more.

a depressant and such depressant weighs two [2] pounds

¹ The revision was for the purpose of adding the drug ketamine. Penal Law § 220.09(14).

or more.

phencyclidine and said phencyclidine weighs two hundred fifty [250] milligrams or more.

methadone and said methadone weighs three hundred sixty [360] milligrams or more.

ketamine and said ketamine weighs four thousand [4000] milligrams or more.

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

[The term STIMULANT (or HALLUCINOGEN) (or HALLUCINOGENIC SUBSTANCE (or DANGEROUS DEPRESSANT) (or DEPRESSANT) includes (specify).²]

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

A person KNOWINGLY possesses (specify) when that person is aware that he or she is in possession of (specify).⁴

A person UNLAWFULLY possesses (specify) when that person has no legal right to possess it.⁵ Under our law, with certain exceptions not applicable here, a person has no legal right to possess (specify).

² See Penal Law §§ 220.00(11) (stimulant); 220.00(9) (hallucinogen); 220.00(10) (hallucinogenic substance); 220.00(12) (dangerous depressant); 220.00(13) (depressant).

³ 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 from the "Additional Charges" section at the end of this article.

⁴ See Penal Law § 15.05(2). An expanded definition of "knowingly" is available in the General Charges section under Culpable Mental States.

⁵ See Penal Law § 220.00(2) and Public Health Law § 3396(1).

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, each of the following three elements:

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

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

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