

**CRIMINAL POSSESSION OF A WEAPON  
IN THE FOURTH DEGREE  
(Possession of Per Se Knives)  
Penal Law § 265.01 (1)  
(Committed on or after:**

**September 1, 1967 [L 1965, ch 1030] for:  
“Gravity knife” and “Switchblade knife.”**

**November 1, 1986 [L 1986, ch 328] for:  
“Pilum ballistic knife.”**

**November 1, 1995 [L 1995, ch 219] for:  
“Metal knuckle knife”; except that the words "plastic knuckles or" in  
the definition of this knife was added by the Laws of 2008, chapter 257,  
§ 6, effective November 1, 2008.)**

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

Under our law, a person is guilty of Criminal Possession of  
a Weapon in the Fourth Degree when that person knowingly<sup>1</sup>  
possesses any

Select appropriate alternative:

gravity knife.

switchblade knife.

pilum ballistic knife.

metal knuckle knife.

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

Select appropriate knife to define:

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<sup>2</sup> The word "knowingly" has been added to this definition to comport  
with statutory law (see Penal Law § 15.05 [2]) and with case law. See  
*People v Parrilla*, 27 NY3d 400, 404 (2016); *People v Ford*, 66 NY2d 428,  
440 (1985); *People v Marino*, 212 AD2d 735, 736 (2d Dept 1995); *People v  
Cohen*, 57 AD2d 790 (1st Dept 1977).

A GRAVITY KNIFE means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force which, when released, is locked in place by means of a button, spring, lever or other device.<sup>2</sup>

A SWITCHBLADE KNIFE means any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.<sup>3</sup>

A PILUM BALLISTIC KNIFE means any knife which has a blade which can be projected from the handle by hand pressure applied to a button, lever, spring or other device in the handle of the knife.<sup>4</sup>

A METAL KNUCKLE KNIFE means a weapon that, when closed, cannot function as a set of plastic knuckles or metal knuckles, nor as a knife and when open, can function as both a set of metal knuckles as well as a knife.<sup>5</sup> [Metal knuckles means a metal object with multiple holes, through which an individual places his or her fingers so that a metal bar rests atop the individual's knuckles.<sup>6</sup>]

POSSESS means to have physical possession or otherwise

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<sup>3</sup> Penal Law § 265.00 (5).

<sup>4</sup> Penal Law § 265.00 (4).

<sup>5</sup> Penal Law § 265.00 (5-a).

<sup>6</sup> Penal Law § 265.00 (5-b). The words “plastic knuckles or” was added by the Laws of 2008, chapter 257, § 6, effective November 1, 2008.

<sup>7</sup> See *People v Aragon*, 28 NY3d 125, 128 (2016).

to exercise dominion or control over tangible property.<sup>7</sup>

A person KNOWINGLY possesses a (specify name of applicable knife) when that person is aware that he or she is in possession of a knife. That person need not know, (that is, need not be aware), that the knife he or she possesses is a (specify name of applicable knife).<sup>8</sup>

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, the following three elements:

1. That on or about (date), in the County of (County), the defendant, (defendant's name), possessed a knife;
2. That the defendant knowingly possessed a knife; and
3. That the knife was a (specify name of applicable knife).

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.

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<sup>8</sup> 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.

<sup>9</sup> See Penal Law § 15.05 (2); *People v Parrilla*, 27 NY3d 400 (2016).