**CRIMINAL POSSESSION OF A WEAPON**

**IN THE FOURTH DEGREE**

**(Unserialized or Unfinished frame or receiver)**

**Penal Law 265.01(10)**

**(Committed on or after** **April 26, 2022)[[1]](#footnote-1)**

(Revised June 2024)

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

A person is guilty of Criminal Possession of a Weapon in the Fourth Degree when such person is not licensed as a gunsmith or dealer in firearms[[2]](#footnote-2) and, knowing it is an

*Select appropriate alternative(s):*

unserialized frame or receiver [or]

unfinished frame or receiver,

such person possesses an

*Select appropriate alternative(s):*

unserialized frame or receiver [or]

unfinished frame or receiver.

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

 UNFINISHED FRAME OR RECEIVER means any unserialized material that does not constitute the frame or receiver of a firearm, rifle, or shotgun but that has been shaped or formed in any way for the purpose of becoming the frame or receiver of a firearm, rifle, or shotgun, and which may readily be made into a functional frame or receiver through milling, drilling or other means.[[3]](#footnote-3)

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.[[4]](#footnote-4)

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*[[5]](#footnote-5) possessed an

*Select appropriate alternative(s):*

unserialized frame or receiver [or]

unfinished frame or receiver; and

1. That the defendant did so knowing it was

*Select appropriate alternative(s):*

unserialized frame or receiver [or]

unfinished frame or receiver; and

1. That the defendant was not licensed as a gunsmith or dealer in firearms.

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.

1. While the effective date of this statute is the 180th day after it became law on October 28, 2021 [L. 2021, c. 520], the statute contains the following proviso:

 provided that for a period of six months after the effective date of this subdivision, a person shall not be guilty under this subdivision when such person: (a) voluntarily surrenders such unserialized frame or receiver or unfinished frame or receiver to any law enforcement official designated pursuant to [Penal Law § 265.20(a)(1)(f)]; or (b) possesses such unserialized frame or receiver or unfinished frame or receiver prior to serialization of such unserialized frame or receiver or unfinished frame or receiver in accordance with the requirements imposed on licensed importers and licensed manufacturers pursuant to subsection (i) of Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto, except for antique firearms as defined in [Penal Law § 265.00(14)], or any firearm, rifle or shotgun manufactured prior to nineteen hundred sixty-eight.

 Further, the 2021 legislation was followed by amendments in 2022 (c. 94 and c. 149) with the same effective date. [↑](#footnote-ref-1)
2. The statute continues: “pursuant to section 400.00 of this chapter.” [↑](#footnote-ref-2)
3. Penal Law § 265.00(32). [↑](#footnote-ref-3)
4. Penal Law § 10.00(8). When constructive possession is in issue, insert the instruction in the section: General Applicability, Possession, Physical and Constructive. [↑](#footnote-ref-4)
5. When the defendant is charged in whole or in part as an accomplice, Court will add: personally, or by acting in concert with another person. *See* Accomplice charge. [↑](#footnote-ref-5)