

**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
large capacity ammunition feeding device²
defaced firearm
defaced rifle or shotgun³
defaced large capacity ammunition feeding device⁴
firearm silencer
explosive or incendiary⁵ bomb
bombshell
gravity knife
switchblade knife
pilum ballistic knife⁶
metal knuckle knife⁷
dagger
dirk
stiletto
billy
blackjack
plastic knuckles⁸
metal knuckles
chuka stick⁹
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

[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 therein¹⁰

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 driver¹¹

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.^{12]}

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

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).

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

² Added by the L 2000, ch 189, § 14, effective November 1, 2000, and thus as to crimes involving “large capacity ammunition feeding device,” committed on or after Nov. 1, 2000.

³ Added by the L 1987, ch 695, § 3.

⁴ Added by the L 2000, ch 189, § 14, effective November 1, 2000, and thus as to crimes involving “defaced large capacity ammunition feeding device,” committed on or after November 1, 2000.

⁵ “Explosive or incendiary” was added as predicate to “bomb” by the L 1970, ch 1012, § 2.

⁶ Added by the L 1986, ch 328, § 5.

⁷ Added by the L 1995, ch 219, § 5.

⁸ Added by the L 2008, ch 257, § 6, effective November 1, 2008, and thus as to crimes involving “plastic knuckles,” committed on or after November 1, 2008.

⁹ Added by the L 1974, ch 179, § 4.

¹⁰ See Penal Law § 265.15 (3) (a).

¹¹ See Penal Law § 265.15 (3) (b).

¹² See Penal Law § 265.15 (3) (c).