

LABOR TRAFFICKING
(D Felony)
PENAL LAW 135.35 (2)¹
(Committed on or after Nov. 1, 2007)

The _____ count is Labor Trafficking.

Under our law, a person is guilty of Labor Trafficking if he or she

Select appropriate alternative(s):

compels or induces another person to engage in labor [or]

recruits, entices, harbors or transports another person *to engage in labor*²

by means of intentionally withholding, destroying, or confiscating any actual or purported

Select appropriate alternative(s):

passport,

immigration document, [or]

¹ Prior to January 19, 2016, the instant crime was subdivision three of Penal Law 135.35. Effective January 19, 2016, the Labor Trafficking statute was amended by repealing subdivision one and reenacting it as the separate crime of Aggravated Labor Trafficking under Penal Law § 135.37, and this subdivision, then subdivision three, was renumbered subdivision two and the remaining subdivisions of the Labor Trafficking statute were also renumbered accordingly. L 2015, ch 368.

² The italicized words are not in the statutory definition. They are in the statutory definition of an accomplice (see Penal Law § 135.36 ["In a prosecution for labor trafficking, a person who has been compelled or induced or recruited, enticed, harbored or transported to *engage in labor...*"] [emphasis added]). Thus, in accord with legislative intent, and for the sake of clarity, they are here included in the definition of the crime.

any [other] actual or purported government identification document

of another person with intent to impair said person's freedom of movement.

Add if placed in issue:

[provided however, that this subdivision shall not apply to an attempt to correct a social security administration record [or immigration agency record] in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat.]

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "intent" and "intentionally."

INTENT means conscious objective or purpose. Thus, a person INTENTIONALLY withholds, destroys, or confiscates any actual or purported passport, immigration document, or any other actual or purported government identification document of another person when it is his or her conscious objective to do so. And, a person withholds, destroys, or confiscates any such document with intent to impair another's freedom of movement when that person's conscious objective or purpose is to do so.³

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, [both/each] of the following [two/three] elements:

1. That on or about (date), in the county of (County), the defendant, (defendant's name),

³ See Penal Law § 15.05 (1). An expanded definition of "intent" is available in the General Charges section under Culpable Mental States.

Select appropriate alternative(s):

compelled or induced (*specify*) to engage in labor; [or]

recruited, enticed, harbored or transported (*specify*) to engage in labor; and

2. That the defendant did so by intentionally withholding, destroying, or confiscating any actual or purported

Select appropriate alternative(s):

passport,

immigration document, [or]

any [other] actual or purported government identification document

of (*specify*) with intent to impair his/her freedom of movement;

Add if placed in issue:

[and, 3. That the defendant did not do so in an attempt to correct a social security administration record [or immigration agency record] in accordance with any local, state, or federal agency requirement, and such attempt was not made for the purpose of any express or implied threat.]

Therefore, if you find that the People have proven beyond a reasonable doubt [both/each] of those elements, you must find the defendant guilty of the crime of Labor Trafficking as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt [either one or both/any one or

more] of those elements, you must find the defendant not guilty of the crime of Labor Trafficking as charged in the _____ count.