

CRIMINAL PURCHASE OR DISPOSAL OF A WEAPON
Penal Law § 265.17 (3)
(Committed on or after March 16, 2013)¹

The (*specify*) count is Criminal Purchase or Disposal of a Weapon.

Under our law, a person is guilty of Criminal Purchase or Disposal of a Weapon when, knowing that another person is prohibited by law from possessing a firearm, [rifle or shotgun] because of a prior conviction or because of some other disability which would render him or her ineligible to lawfully possess a firearm, [rifle or shotgun] in this state, a person disposes of a firearm, [rifle or shotgun] to such other person.

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

“FIREARM” means any pistol or revolver.²

[“RIFLE” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade, to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.³]

[“SHOTGUN” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder

¹ L 2013, ch 1 §§ 43, 58 (a). See footnote 6, which relates to differing effective dates of statutory amendments to CPL 400.00.

² Penal Law § 265.00 (3). If the “firearm” involved is other than a pistol or revolver, insert the appropriate definition from the “Additional Charges” section at the end of this article (“Definition of Firearm as Other than a Pistol or Revolver”).

³ See Penal Law § 265.00 (11).

and designed or redesigned and made or remade, to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.^{4]}

Under this count, the firearm, [rifle, or shotgun] need not be loaded but it must be operable. To be operable, the firearm, [rifle, or shotgun] must be capable of discharging ammunition.⁵

“POSSESS” means to have physical possession or otherwise to exercise dominion or control over tangible property.⁶

“DISPOSE OF” means to dispose of, give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer and otherwise dispose of.

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 of the following two elements:

1. That on or about (date), in the county of (County) the defendant disposed of a firearm, [rifle or shotgun] to [specify]; and
2. That the defendant did so, knowing that [specify] was prohibited by law from possessing a firearm, [rifle or

⁴ See Penal Law § 265.00 (12).

⁵ Case law has added "operability" of the firearm as an element of the crime (*People v Longshore*, 86 NY2d 851, 852 [1995]), but has further held that there is no requirement that the possessor know the firearm was operable. *People v Ansare*, 96 AD2d 96 (4th Dept 1983). *Cf. People v Saunders*, 85 NY2d 339, 341-42 (1995).

⁶ Penal Law § 10.00(8). If necessary, an expanded charge on the definition of “possess” may be found in the Instructions of General Applicability under “Possession.”

shotgun] because of a prior conviction [or because of some (other) disability which would render him or her ineligible to lawfully possess a (specify) in this state].

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

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