

**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
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). Whether or not to draw that inference is for you to decide and will depend entirely on your evaluation of the evidence.¹³

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 L1974, 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).

13. In 2019, the last sentence was added to conform to the instruction for presumptions in other sections.