

**CRIMINAL POSSESSION OF AN ANTI-SECURITY ITEM**  
**(B Misdemeanor)**  
**PENAL LAW 170.47**  
**(Committed on or after Sept. 1, 1983)**

The \_\_\_\_\_ count is Criminal Possession of an Anti-security Item.

Under our law, a person is guilty of Criminal Possession of an Anti-security Item when with intent to steal property at a retail mercantile establishment,<sup>1</sup> he or she knowingly possesses in such an establishment an item designed for the purpose of overcoming detection of security markings or attachments placed on property offered for sale at such an establishment.

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: “retail mercantile establishment,” “intent,” “POSSESS,” and “knowingly.”

A RETAIL MERCANTILE ESTABLISHMENT is a place where goods, wares or merchandise are offered to the public for sale.<sup>2</sup>

INTENT means conscious objective or purpose. Thus a person acts with intent to steal property at a retail mercantile establishment when that person's conscious objective or purpose is to do so.<sup>3</sup>

POSSESS means to have physical possession or otherwise

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<sup>1</sup> At this point, the charge omits the statutory language “as defined in article twelve-B of the general business law.”

<sup>2</sup> Gen. Bus. Law § 217.

<sup>3</sup> See Penal Law § 15.05(1). If necessary, an expanded definition of “intent” is available in the section on Instructions of General Applicability under Culpable Mental States.

to exercise dominion or control over tangible property.<sup>4</sup>

A person KNOWINGLY possesses an item designed for the purpose of overcoming detection of security markings or attachments when that person is aware that he or she is in possession of such an item.<sup>5</sup>

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, each of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), knowingly possessed in a retail mercantile establishment an item designed for the purpose of overcoming detection of security markings or attachments placed on property offered for sale at such an establishment; and
2. That the defendant did so with intent to steal property at such retail mercantile establishment.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Criminal Possession of an Anti-security Item 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 of those elements, you must find the defendant not guilty of the crime of Criminal Possession of an Anti-security Item as charged in the \_\_\_\_\_ count.

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<sup>4</sup> Penal Law § 10.00(8). If necessary, an expanded definition of “possession” is available in the section on Instructions of General Applicability under Possession.

<sup>5</sup> See Penal Law § 15.05(2). If necessary, an expanded definition of “knowingly” is available in the section on Instructions of General Applicability under Culpable Mental States.