

**POSSESSION OF ALTERED MOTOR VEHICLE**  
**(N.J.S.A. 2C:17-6b)**

Count \_\_\_\_\_ of the indictment charges the defendant with possessing an altered motor vehicle or motor vehicle part in violation of a statute which provides as follows:

A person who for an unlawful purpose knowingly possesses any motor vehicle, or any of the parts thereof, from or on which any [trademark] [distinguishing or identification number] [serial number or mark] has been [removed] [covered] [altered] [changed] [defaced] [destroyed] [obliterated] is guilty of an offense.

In order for the defendant to be found guilty of possession of an altered motor vehicle, the State must prove the following elements beyond a reasonable doubt:

- (1) that the defendant possessed any motor vehicle, or any of the parts thereof, from or on which any [trademark] [distinguishing or identification number] [serial number or mark] has been [removed] [covered] [altered] [changed] [defaced] [destroyed] [obliterated];
- (2) that the defendant knew that the [trademark] [distinguishing or identification number] [serial number or mark] had been [removed] [covered] [altered] [changed] [defaced] [destroyed] [obliterated] from the motor vehicle or any of the parts thereof; and
- (3) that the defendant did so for an unlawful purpose.

The first element the State must prove beyond a reasonable doubt is that the defendant possessed any motor vehicle, or any of the parts thereof, from or on which any [trademark] [distinguishing or identification number] [serial number or mark] has been [removed] [covered] [altered] [changed] [defaced] [destroyed] [obliterated].

To "possess" an item under the law, one must have a knowing, intentional control of that item accompanied by a knowledge of its character. So, a person who possesses an item such as \_\_\_\_\_ must know or be aware that he/she possesses it, and he/she must know what it is that he/she possesses or controls. [Possession cannot merely be a passing control, fleeting or uncertain in its nature.] To "possess" an item, one must knowingly procure or receive an item or be aware of his/her control thereof for a sufficient period of time to have been able to relinquish his/her control if he/she chose to do so.

The State must prove beyond a reasonable doubt that a possessor acted knowingly in possessing the item. A person acts knowingly with respect to the nature of his/her conduct or the

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attendant circumstances if he/she is aware that his/her conduct is of that nature, or that such circumstances exist, or he/she is aware of the high probability of their existence. A person acts knowingly as to a result of his/her conduct if he/she is aware that it is practically certain that the conduct will cause such a result. "Knowing," "with knowledge" or equivalent terms have the same meaning.

Knowledge is a condition of the mind. It cannot be seen. It can only be determined by inferences from conduct, words or acts. Therefore, it is not necessary for the State to produce witnesses to testify that a particular defendant stated, for example, that he/she acted with knowledge when he/she had control over a particular thing. It is within your power to find that proof of knowledge has been furnished beyond a reasonable doubt by inference which may arise from the nature of the acts and the surrounding circumstances.

A person may possess an item even though it was not physically on his/her person at the time of the arrest, if he/she had in fact, at some time prior to his/her arrest, had control over it.

[Possession means a conscious, knowing possession, either actual or constructive.]

[A person is in actual possession of an item when he/she: first, knows what it is, that is, has knowledge of its character; and second, knowingly has it on his/her person at a given time.]

[Possession may be constructive instead of actual.]

[Constructive possession means possession in which the possessor does not physically have the item on his or her person but is aware that the item is present and is able to and has the intention to exercise control over it. So, someone who has knowledge of the character of an item and knowingly has both the power and the intention at a given time to exercise control over it, either directly or through another person or persons, is then in constructive possession of that item.]

[Possession may be sole or joint. If one person alone has actual or constructive possession of an item, possession is sole. If two or more persons share actual or constructive knowing possession of an item, possession is joint.]

A "motor vehicle" includes motor bicycles, motorcycles, automobiles, trucks, tractors or other vehicles designed to be self-propelled by mechanical power, and otherwise than by muscular power, except motor vehicles running upon or guided by rails or tracks.<sup>1</sup>

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<sup>1</sup> N.J.S.A. 2C:17-6c.

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The second element the State must prove beyond a reasonable doubt is the defendant knew that the [trademark] [distinguishing or identification number] [serial number or mark] had been [removed] [covered] [altered] [changed] [defaced] [destroyed] [obliterated] from the motor vehicle or any of the parts thereof. I have already defined "knowingly" for you.

The third element the State must prove beyond reasonable doubt is that the defendant did so for an unlawful purpose. Here the State alleges the unlawful purpose to be \_\_\_\_\_. [Defendant, on the other hand, claims that his/her purpose in possessing the motor vehicle or its part(s) was \_\_\_\_\_.]

**[CHARGE THE NEXT PARAGRAPH IF THE EVIDENCE  
DOES NOT PRESENT A DEFENSE]**

[If the State has failed to prove any of the elements beyond a reasonable doubt, you must find the defendant not guilty of the crime of possession of an altered motor vehicle or part(s). If the State has proven every element beyond a reasonable doubt, you must find the defendant guilty of the crime of possession of an altered motor vehicle or part(s).]

**[CHARGE IF APPROPRIATE]**

The defendant is not guilty of this offense if:

within 10 days after the motor vehicle or any part thereof shall have come into his possession, he files with the [Motor Vehicle Commission] in the Department of Law and Public Safety a verified statement showing: the source of his title, the proper trademark, identification or distinguishing number, or serial number or mark, if known, and if known, the manner of and reason for the mutilation, change, alteration, concealment or defacement, the length of time the motor vehicle or part has been held and the price paid therefor.

Defendant contends that he/she is not guilty of the offense because he/she filed such a verified<sup>2</sup> statement in the manner described by this statute. The State has the burden to prove, beyond a reasonable doubt, every element of the crime charged. The State also has the burden to disprove, beyond a reasonable doubt, the defense set forth in this statute. To disprove this

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<sup>2</sup> A "verification" may be defined as a formal declaration made in the presence of an authorized officer, such as a notary public or an attorney at law of the State of New Jersey, by which one swears or affirms to the truth of the statements in the document. See Black's Law Dictionary (7<sup>th</sup> ed.).

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defense, the State must disprove, beyond a reasonable doubt, that defendant:

1. Filed a verified statement with the Motor Vehicle Commission;
2. That this verified statement showed the source of defendant's title, the proper trademark, identification or distinguishing number, or serial number or mark, if known;
3. That this verified statement set forth the manner of and reason for the mutilation, change, alteration, concealment or defacement, if known, and the length of time the motor vehicle or part has been held and the price paid therefor; and
4. That this verified statement was filed with the Motor Vehicle Commission within 10 days after the [motor vehicle] [part] came into defendant's possession.

If you find that the State has proven beyond a reasonable doubt every element of the offense charged and that the State has disproved beyond a reasonable doubt every element of the defense I have described, you must find the defendant guilty. If, however, you find that the State has failed to prove beyond a reasonable doubt one or more of the elements of this offense, or has failed to disprove the defense, you must find the defendant not guilty.

**[GRADING]**

If you find that the State has proven defendant guilty beyond a reasonable doubt of this crime, then you must determine whether or not the State has proven beyond a reasonable doubt that the value of the [motor vehicle] [motor vehicle parts] [exceeded five hundred dollars] [does not exceed five hundred dollars but is at least two hundred dollars] [is less than two hundred dollars]. "Value" is the fair market value of the [motor vehicle] [motor vehicle part] at the time of the possession.<sup>3</sup>

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<sup>3</sup> N.J.S.A. 2C:1-14m.