

**CRIMINAL SALE OF AN UNFINISHED FRAME OR RECEIVER
IN THE SECOND DEGREE
Penal Law § 265.63
(Committed on or after April 26, 2022)¹**

The (*specify*) count is Criminal Sale of an Unfinished Frame or Receiver in the Second Degree.

Under our law, a person is guilty of Criminal Sale of an Unfinished Frame or Receiver in the Second Degree when, knowing it is an unfinished frame or receiver, such person unlawfully sells, exchanges, gives or disposes of an unfinished frame or receiver.

The following term used in that definition has a special meaning:

UNFINISHED FRAME OR RECEIVER means any material that does not constitute the frame or receiver of a firearm, rifle, or shotgun but that has been shaped or formed in any way for the purpose of becoming the frame or receiver of a firearm, rifle, or shotgun, and which may readily be made into a functional frame or receiver through milling, drilling or other means. [The term shall not include material that has had its size or external shape altered to facilitate transportation or storage or has had its chemical composition altered²].

¹ While the effective date of this statute is the 180th day after it became law on October 28, 2021 [L. 2021, c. 520], the statute contains the following proviso:

“provided that for a period of six months after the effective date of this section, a person shall not be guilty of criminal sale of an unfinished frame or receiver in the second degree if such person: (a) voluntarily surrenders such unfinished frame or receiver to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision (a) of section 265.20 of this article; or (b) sells, exchanges, gives, or disposes of such unfinished frame or receiver to a gunsmith licensed pursuant to section 400.00 of this chapter.”

² Penal Law § 265.00(32). The definition of “unfinished frame or receiver” in this section and Penal Law § 265.07 were in L. 2021, c. 520 identical. By a chapter amendment in L. 2022, 149, the definition in Penal Law § 265.07 was amended to delete the last sentence and to insert in the opening sentence the word “unserialized” in the phrase: “‘unfinished frame or receiver’ means any unserialized material.”

A person UNLAWFULLY³ sells, exchanges, gives, or disposes of an unfinished frame or receiver when that person has no legal right to do so. Under our law, with certain exceptions not applicable here, a person who is not a licensed gunsmith or dealer in firearms, has no legal right to do so.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all 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 name⁴ unlawfully sold, exchanged, gave, or disposed of an unfinished frame or receiver; and
2. That the defendant did so knowing it was an unfinished frame or receiver.

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.

³ There is no statutory definition of “unlawfully” as relates to person who “sells, exchanges, gives or disposes of an unfinished frame or receiver.” See Penal Law § 400.00(16) [“No person shall except as otherwise authorized pursuant to law dispose of any firearm unless he is licensed as gunsmith or dealer in firearms”]. See also Penal Law § 265.20 esp. subd (10); Penal Law § 265.01(10); and Penal Law §§ 265.63(b) and 265.64(b).

⁴ When the defendant is charged in whole or in part as an accomplice, Court will add: “personally, or by acting in concert with another person.” See Accomplice charge.