

**CRIMINAL PURCHASE OF A SEMIAUTOMATIC RIFLE**  
**Penal Law § 265.65**  
**(Committed on or after October 4, 2022)**

The (specify) count is Criminal Purchase of a Semiautomatic Rifle.

Under our law, a person is guilty of Criminal Purchase of a Semiautomatic Rifle when that person knowingly<sup>1</sup> purchases or takes possession of a semiautomatic rifle and does not possess a license to purchase or take possession of a semiautomatic rifle.<sup>2</sup>

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

SEMIAUTOMATIC means any repeating rifle . . . regardless of barrel or overall length, which utilizes a portion of the energy of a firing cartridge or shell to extract the fired cartridge case or spent shell and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge or shell." <sup>3</sup>

A person KNOWINGLY purchases or takes possession of a semiautomatic rifle when that person is aware that he or she purchases or takes possession of an object that is a semiautomatic rifle. That person need not know (that is, be

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<sup>1</sup> "Knowingly has been added to the definition to accord with the dictates of Penal Law § 15.15(2). *People v Persce*, 204 NY 397, 402 (1912) ("the possession [of a slungshot] which is meant is a knowing and voluntary one"); *People v Saunders*, 85 NY2d 339, 341-42 (1995) ("Possession,' as part of the forbidden act, includes the Penal Law definitional component of '[v]oluntary act,' which incorporates the attribute of awareness of the possession or control . . . . Thus, the corpus delicti of weapons possession . . . is the voluntary, aware act of the possession of a weapon"); *People v Ford*, 66 NY2d 428, 440 (1985) (the offense of possession of a loaded firearm requires that the possession be knowing).

<sup>2</sup> At this point, the statute continues: "as provided in" Penal Law § 400.00(2).

<sup>3</sup> Penal Law § 265.00(21). The omitted words between "rifle" and "regardless" are: "shotgun or pistol."

aware of) the object's name or that it meets the legal definition of a semiautomatic rifle.<sup>4</sup>

Under this count, the semiautomatic rifle need not be loaded but it must be operable. To be operable, a firearm must be capable of discharging ammunition. The person who possesses the semiautomatic rifle is not required to know that it is operable.<sup>5</sup>

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.<sup>6</sup>

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the

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<sup>4</sup> Penal Law § 15.05(2). See *People v Parrilla*, 27 N.Y.3d 400, 405 (2016) (when possession of a gravity knife was a crime, defendants were required to know that “they possessed a knife” but the People were not required “to prove that defendants knew that the knife in their possession met the statutory definition of a gravity knife”); *People v Hernandez*, 180 AD3d 1234, 1237 (3d Dept 2020) (“Contrary to defendant's contention, the court was not required to instruct the jury that the People were required to show that defendant was aware of the legal definition of a blackjack. The characteristics of the blackjack at issue—a lead core, surrounded by leather, which is flexible and used as a weapon—make ‘the inherently dangerous nature of the prohibited object be readily apparent, so as to put [defendant] on clear notice that the object is potentially subject to government regulation or prohibition’ . . . . Accordingly, the People did not have to prove that defendant was aware of the statutory definition of a blackjack”); *People v Steinmetz*, 177 AD3d 1292, 1293 (4th Dept 2019) (“The People were not required to establish that defendant knew the rifles met the statutory criteria of an assault weapon but, rather, only that he knowingly possessed the rifles”); *People v Abdullah*, 206 AD3d 1340, 1344 (3d Dept 2022) (knowing possession of a slungshot is required but a defendant need not know the dictionary definition of slungshot).

<sup>5</sup> Case law has added “operability” of a firearm as an element of the crime (see *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 (see *People v Parrilla*, 27 N.Y.3d 400 (2016) (“Defendants need only knowingly possess a firearm, they need not know that the firearm was loaded or operable”); *People v Saunders*, 85 NY2d 339, 341-342 (1995); *People v Ansare*, 96 AD2d 96, 97 (4th Dept 1983).

<sup>6</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.

case, beyond a reasonable doubt, each of the following four elements:

1. That on or about (date), in the County of (County), the defendant, (defendant's name)<sup>7</sup> purchased or took possession of a semiautomatic rifle;
2. That the defendant did so knowingly;
3. That the semiautomatic rifle was operable; and
4. That the defendant did not possess a license to purchase or take possession of that semiautomatic rifle.

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

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

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<sup>7</sup> 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.