

**POSSESSION OF DEVICES OR MATERIALS TO MAKE FALSE GOVERNMENT  
DOCUMENTS**  
**(N.J.S.A. 2C:21-2.1b )**

Count \_\_\_\_ of the indictment charges the defendant with possession of devices or materials to make false government documents.

**(Read the count from the indictment)**

The statute upon which this count of the indictment is based states in pertinent part:

A person who knowingly . . . possesses devices or materials to make a document or other writing which falsely purports to be a driver's license, birth certificate or other document issued by a governmental agency and which could be used as a means of verifying a person's identity or age or any other personal identifying information is guilty of a crime.

In this case, the State alleges that the defendant (describe).

In order for you to find the defendant guilty of this offense, the State must prove each of the following elements of the crime beyond a reasonable doubt:

1. That on **(cite date set forth in indictment)** defendant knowingly possessed **(CHOOSE APPROPRIATE: [devices] [materials])** to make a **(CHOOSE APPROPRIATE: [document] [other writing])**; and
2. The document or other writing falsely purported to be a **(CHOOSE APPROPRIATE: [driver's license] [birth certificate] [other document])** issued by a governmental agency that could be used as a means of verifying a person's identity or age or any other personal identifying information.

The first element that the State must prove beyond a reasonable doubt is that on **(cite date set forth in indictment)** the defendant knowingly possessed **(CHOOSE APPROPRIATE: [devices] [materials])** to make a **(CHOOSE APPROPRIATE: [document] [other writing])**.

A person acts knowingly with respect to the nature of his/her conduct or the 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 a high probability of their existence.

A person acts knowingly with respect to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result. "Knowing," "with knowledge" or equivalent terms have the same meaning.

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Knowledge is a condition of the mind. It cannot be seen. It can only be determined by inferences from the defendant's conduct, words or acts. A state of mind is rarely susceptible of direct proof but must ordinarily be inferred from the facts. Therefore, it is not necessary that the State produce witnesses to testify that an accused said that he/she had a certain state of mind when he/she did a particular thing. It is within your power to find that such proof has been furnished beyond a reasonable doubt by inferences which may arise from the nature of his/her acts and conduct and from all he/she said and did at the particular time and place and from all surrounding circumstances established by the evidence.

“Writing” includes printing or **[CHOOSE APPROPRIATE: any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, access devices, and other symbols of value, right, privilege, or identification, including retail sales receipts, universal product code (UPC) labels and checks.<sup>1</sup>]**

The State must also prove that the defendant knowingly possessed S\_\_\_\_ and that S\_\_\_\_ is a device or material which could be used to make or produce a false document purporting to be a **(CHOOSE APPROPRIATE: [driver's license] [birth certificate] [other document])** issued by a governmental agency.

**[CHARGE THOSE FOLLOWING PARAGRAPHS AS APPLY TO YOUR CASE]**

**ACTUAL POSSESSION**

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

**CONSTRUCTIVE POSSESSION**

Possession may be constructive instead of actual. As I just stated, a person who, with knowledge of its character, knowingly has direct physical control over an item at a given time is in actual possession of it.

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 exercise intentional control or dominion over it. So, someone who has knowledge of the character of an

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<sup>1</sup> N.J.S.A. 2C:21-1a.

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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.

**JOINT POSSESSION**

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.

The second element that the State must prove beyond a reasonable doubt is that the **(CHOOSE APPROPRIATE: [document] [other writing])** was falsely purported to be a **(CHOOSE APPROPRIATE: [driver's license] [birth certificate] [other document])** issued by a governmental agency. **(CHOOSE APPROPRIATE: [The State has offered evidence] [It has been stipulated])** that the **(insert name of governmental agency)** is a governmental agency. The second element also requires that the State prove beyond a reasonable doubt (or it has been stipulated) that the **(CHOOSE APPROPRIATE: [document] [printed form] [other writing])**, purported to be issued by a governmental agency, could be used as a means of verifying a person's identity or age or other personal identifying information.

"Personal identifying information" means any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual and includes, but is not limited to, the name, address, telephone number, date of birth, social security number, official State issued identification number, employer or taxpayer number, place of employment, employee identification number, demand deposit account number, savings account number, credit card number, mother's maiden name, unique biometric data, such as fingerprint, voice print, retina or iris image or other unique physical representation, or unique electronic identification number, address or routing code of the individual.<sup>2</sup>

If the State has proven each of the elements of this crime beyond a reasonable doubt, then you must find the defendant guilty of possession of devices or materials for making false government documents. However, if the State has failed to prove any element beyond a reasonable doubt, then you must find the defendant not guilty.

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<sup>2</sup> N.J.S.A. 2C:20-1v.