

CARRYING CERTAIN DANGEROUS WEAPONS

The defendant is charged with unlawfully carrying a _____ (on his [her] person) (on his [her] person or under his [her] control in a vehicle).

Section 10(b) of chapter 269 of our General Laws provides as follows:

“Whoever, except as provided by law,

(carries on his person) (carries on his person or under his control in a vehicle)

(any stiletto)

(any . . . dagger)

(any . . . device or case which enables a knife with a locking blade to be drawn at a locked position)

(any ballistic knife)

(any knife with a detachable blade capable of being propelled by any mechanism)

(any . . . dirk knife)

(any knife having a double-edged blade)

(a switch knife)

(any knife having an automatic spring release device by which the blade is released from the handle, having a blade of over one and one-half inches)

(a slung shot)

(a . . . blowgun)

(a . . . blackjack)

(metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles)

(nunchaku, zoobow, also known as klackers or kung fu sticks, or any similar weapon consisting of two sticks of wood, plastic or metal connected at one end by a length of rope, chain, wire or leather)

(a shuriken or any similar pointed starlike object intended to injure a person when thrown)

(any armband, made with leather which has metallic spikes, points or studs or any similar device made from any other substance)

(a cestus or similar material weighted with metal or other substance and worn on the hand)

(a manrikigusari or similar length of chain having weighted ends)

. . . shall be punished”

To prove that the defendant is guilty of this offense, the

Commonwealth must prove three things beyond a reasonable doubt:

***First:* That the item involved is a _____ ;**

***Second:* That the defendant carried the item (on his [her] person)**

(under his [her] control in a vehicle); and

***Third:* That the defendant knew that he (she) was carrying the item
(on his [her] person) (under his [her] control in a vehicle).**

This model instruction covers the offense set out in the first clause of G.L. c. 269, § 10(b). See Instruction 7.700 (Carrying a Dangerous Weapon When Arrested) for the offense set out in the second clause of § 10(b).

See *Commonwealth v. Miller*, 22 Mass. App. Ct. 694, 494 N.E.2d 29 (1986) (definition of dirk knife).

NOTE:

Advance notice of defense based on exemption. A defendant may not rely on a defense based on a license, exemption, or claim of authority or ownership unless he or she has filed an advance notice of such defense with the court and the prosecutor. For cause shown, the judge may allow late filing or a continuance, or may make other appropriate orders. Mass. R. Crim. P. 14(b)(3).