**14.25 Firearms—Possession of Unregistered Firearm**

**(26 U.S.C. § 5861(d))**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with [possession] [receipt] of an unregistered firearm in violation of Section 5861(d) of Title 26 of the United States Code. For the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly [[possessed] [received]] [*specify firearm*]; and

Second, the defendant was aware that the [*specify firearm*] was [*specify statutory features or characteristics of the firearm that bring it within the statute*];

Third, the defendant had not registered the [*specify firearm*] with the National Firearms Registration and Transfer Record.

The government need not prove that the defendant knew that possessing the firearm was illegal.

**Comment**

For a definition of “firearm,” *see* 26 U.S.C. § 5845(a).

The government must prove that the defendant knew of those features of the firearm which brought it within the scope of the statute. *See Staples v. United States*, 511 U.S. 600, 619 (1994) (“[T]o obtain a conviction, the Government should have been required to prove that petitioner knew of the features of his AR-15 that brought it within the scope of the Act.”); *see also United States v. Montoya-Gaxiola*, 796 F.3d 1118, 1122 (9th Cir. 2015) (“The law then is clear that, in order to convict under § 5861(d) . . . the Government must prove that the defendant knew the specific characteristics that made it a firearm within the Act . . .”). The government need not prove that the defendant knew that possessing the firearm was illegal. *See United States v. Summers*, 268 F.3d 683, 688 (9th Cir. 2001).

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