**14.3 Firearms—Dealing, Importing, or Manufacturing Without**

**License (18 U.S.C. § 922(a)(1)(A) and (B))**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with [dealing] [importing] [manufacturing] firearms without a license, in violation of Section 922(a)(1) of Title 18 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 was willfully engaged in the business of [dealing in] [importing] [manufacturing] firearms within the dates specified in the indictment; and

Second, the defendant did not then have a license as a firearms [dealer] [importer] [manufacturer].

**Comment**

The government must prove beyond a reasonable doubt that the defendant “engaged in a greater degree of activity than the occasional sale of a hobbyist or collector, and that [the defendant] devoted time, attention, and labor to selling firearms as a trade or business with the intent of making profits through the repeated purchase and sale of firearms.” *See* *United States v. King*, 735 F.3d 1098, 1106 (9th Cir. 2013) (quoting 18 U.S.C. § 921(a)(21)(C)). For a person to engage in the business of dealing in firearms, it is not necessary to prove an actual sale of firearms. *Id.* at 1107 n.8.

Willfully, as used in this statute, requires proof that the defendant knew that his or her conduct was unlawful, but does not require proof that the defendant knew of the federal licensing requirement. *Bryan v. United States*, 524 U.S. 184, 198-99 (1998).

*Revised May 2020*