**14.5 Firearms—Transporting or Receiving in State**

**of Residence (18 U.S.C. § 922(a)(3))**

 The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with [transporting] [receiving] a firearm [into] [in] the state of [his] [her] residence in violation of Section 922(a)(3) 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 not licensed as a firearms [dealer] [importer] [manufacturer] [collector]; and

 Second, the defendant willfully [transported into] [received in] the state in which the defendant resided a [*specify firearm*] that the defendant purchased or otherwise obtained outside that state.

 A person acts “willfully” if [he][she] acts knowingly and purposely and with the intent to do something that the law forbids. Willfulness can be proved by direct evidence or by circumstantial evidence.

**Comment**

 *See* Comment to Instruction 14.1 (Firearms); Comment to Instruction 14.4 (Firearms—Shipment or Transportation to a Person Not Licensed as a Dealer, Importer, Manufacturer, of Collector); Instruction 4.6 (Willfully). *But see* 18 U.S.C. § 922(a)(3) (listing exceptions).

 The government is not required to prove that a defendant knew that transporting or receiving firearms into his or her state of residence violated a specific legal duty or particular law, but the government is required to prove that the defendant acted willfully in committing the charged conduct. *United States v. Hernandez*, 859 F.3d 817, 822-23 (9th Cir. 2017) (per curiam).

*Revised May 2020*