**14.6 Firearms—Unlawful Transportation of Destructive Device,**

**Machine Gun, Short-Barreled Shotgun, or Short-Barreled Rifle**

**(18 U.S.C. § 922(a)(4))**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with the unlawful transportation of a [destructive device] [machine gun] [short-barreled shotgun] [short-barreled rifle] in violation of Section 922(a)(4) 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];

Second, the defendant knowingly transported a [*specify destructive device or firearm*] [[from one state to another] [between a foreign nation and the United States]]; and

Third, that the defendant did so without specific authorization by the Attorney General of the United States.

**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, or Collector).

The term “destructive device” is defined in 18 U.S.C. § 921(a)(4)(A)-(C) as:

(A) any explosive, incendiary, or poison gas--(i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile having an explosive or incendiary charge of more than one-quarter ounce, (v) mine, or (vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The definition of "machine gun" is provided in 26 U.S.C. § 5845(b). *United States v. Kuzma*, 967 F.3d 959, 967 (9th Cir. 2020). “[A] weapon is ‘designed to shoot’ automatically if it has a specific configuration of objective structural features that, in the absence of any minor defect, would give the weapon the capacity to shoot automatically.” *Id.* at 969-70.

*See United States v. Schaefer*, 13 F.4th 875, 893-95 (9th Cir. 2021) (explaining “destructive device” as that term is used

in both 18 U.S.C. § 921(a)(4) and 26 U.S.C. § 5845(f)).

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