**14.9 Firearms—Unlawful Sale or Delivery**

**(18 U.S.C. § 922(b)(1)-(3))**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with unlawfully [selling] [delivering] a firearm in violation of Section 922(b)[(1)][(2)][(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 licensed as a firearms [dealer] [importer] [manufacturer] [collector];

Second, the defendant willfully [[sold] [delivered]] [*specify firearm*] to [*specify unauthorized purchaser*]; and

Third, the defendant knew or had reasonable cause to believe that [[*specify unauthorized purchaser*] was less than eighteen years of age] [purchase or possession of the firearm by [*specify unauthorized purchaser*] would be in violation of [*applicable state law or published ordinance*]] [*specify unauthorized purchaser*] did not reside in the same state in which the defendant’s place of business was located]].

**Comment**

*See* Comment to Instruction 14.1 (Firearms).

If ammunition is for or the firearm is a shotgun or rifle, it is unlawful to sell or deliver it to a person the licensee knows or has reason to believe is under eighteen years of age; the minimum age is twenty-one if the ammunition is for or the firearm is not a shotgun or rifle. 18 U.S.C. § 922(b)(1).

Section 922(b)(3) has been interpreted to mean that a dealer licensed in one state, who attends a gun show in another state, may display and possess guns, negotiate price, and receive money for guns as long as the transfer of the firearm is through a licensee of the state in which the gun show is located fills out the appropriate forms. *United States v. Ogles*, 406 F.3d 586, 590 (9th Cir. 2005), *adopted by* 440 F.3d 1095, 1099 (9th Cir. 2006) (en banc).

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