**15.19 Illegally Modified Telecommunications Equipment**

**—Possession or Production (18 U.S.C. § 1029(a)(9))**

 The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with [use of] [production of] [having possession, custody, or control of] [trafficking in] hardware or software configured to [insert] [modify] telecommunication identifying information [contained within] [associated with] a telecommunications instrument, so that such instrument could be used to obtain telecommunications services without authorization, in violation of Section 1029(a)(9) 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 knowingly [used] [produced] [trafficked in] [had custody or control of] [possessed] hardware or software configured to [insert] [modify] telecommunication identifying information, so that a telecommunications instrument could be used to obtain telecommunications services without authorization;

 Second, the defendant acted with the intent to defraud; and

 Third, the defendant’s conduct in some way affected commerce between one state and [an]other state[s], or between a state of the United States and a foreign country.

 “Telecommunication identifying information” means an electronic serial number or any other number or signal that identifies a specific telecommunications instrument or account, or a specific communication transmitted from a telecommunications instrument.

 [To “produce” a telecommunications instrument means to design, alter, authenticate, duplicate, or assemble it.]

 [To “traffic” in a telecommunications instrument means to transfer or otherwise dispose of it to another, or to obtain control of it with intent to transfer or dispose of it.]

**Comment**

 *See* Comment to Instruction 15.17 (Telecommunications Instrument—Illegal Modification). For discussion of the definition of "telecommunications instrument"*See also* Comment to Instruction 15.10 (Counterfeit Access Devices—Producing, Using, or Trafficking) and Comment to Instruction 15.11 (Unauthorized Access Devices—Using or Trafficking) for discussion of intent to defraud, and affecting interstate commerce.

 18 U.S.C. § 10 defines interstate and foreign commerce.