**21.5 Receiving, Concealing, Buying, or Selling**

**Smuggled Merchandise (18 U.S.C. § 545)**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with [[receiving] [concealing] [buying] [selling] [facilitating [the transportation] [concealment] [sale] of]] smuggled merchandise in violation of Section 545 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, merchandise had been brought into the United States contrary to [*specify law*]; and

Second, the defendant [[received] [concealed] [bought] [sold] [facilitated the [transportation] [concealment] [sale] of] the merchandise knowing that it had been brought into the United States contrary to law.

**Comment**

This instruction relates to the second clause of the second paragraph of 18 U.S.C. § 545. If the charge is a violation of the first clause of the second paragraph, use Instruction 21.4 (Importing Merchandise Illegally). Instructions 21.1 (Smuggling or Attempting to Smuggle Goods) and 21.3 (Passing or Attempting to Pass False Papers Through Customhouse) deal with violations of the first paragraph of § 545.

The term “law” in § 545 includes a regulation as well as a statute, but only when there is a statute that specifies that a violation of the regulation is a crime. *United States v. Alghazouli*, 517 F.3d 1179, 1183 (9th Cir. 2008).

*See United States v. Garcia-Paz*, 282 F.3d 1212, 1214-15 (9th Cir. 2002) (court properly instructed jury that marijuana constitutes “merchandise” for purposes of 18 U.S.C. § 545).