**23.7 Sale or Receipt of Stolen Vehicle, Vessel,**

**or Aircraft (18 U.S.C. § 2313)**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with [receiving] [possessing] [concealing] [storing] [bartering] [selling] [disposing of] a stolen [motor vehicle] [vessel] [aircraft] in violation of Section 2313 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 [motor vehicle] [vessel] [aircraft] was stolen;

Second, after being stolen, the [motor vehicle] [vessel] [aircraft] was transported in [interstate] [foreign] commerce, meaning between [one state and another] [a foreign nation and the United States];

Third, the defendant [received] [possessed] [concealed] [stored] [bartered] [sold] [disposed of] the [motor vehicle] [vessel] [aircraft] while it was in [interstate] [foreign] commerce; and

Fourth, the defendant knew that the [motor vehicle] [vessel] [aircraft] was stolen at the time [he] [she] acted.

The government need not prove the defendant knew the property was in [interstate] [foreign] commerce; it need only prove the defendant knew it was stolen.

Something enters [interstate] [foreign] commerce when its transportation begins in one [state] [country] and is intended to continue into another. Property does not continue to be in [interstate] [foreign] commerce indefinitely. It ordinarily ceases to be in [interstate] [foreign] commerce when delivered to its final destination, unless it is being held there for some improper purpose, such as disguising its nature as stolen property or preparing it for re-sale as legitimate property.

**Comment**

An instruction that roughly used the same elements of this instruction was approved in *United States v. Henderson*, 721 F.2d 662, 666 n.3 (9th Cir. 1983). The defendant’s knowledge that the stolen property was “in interstate commerce” is not an element of the offense. *Id.* The four-element format is derived from *United States v. Albuquerque*, 538 F.2d 277, 278 (9th Cir. 1976) (stating elements of transporting a stolen motor vehicle in interstate commerce).

Whether property is in interstate commerce is a fact for the jury to determine under all of the circumstances. *Henderson*, 721 F.2d at 666 n.3. The time a stolen object remains in the destination state may indicate it has left interstate commerce, but other factors may negate this

inference.

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