

14.1 Firearms

Comment

Definitions of many of the terms used in the firearms statutes are found in 18 U.S.C. § 921 and 26 U.S.C. § 5845. The Committee recommends that definitional instructions be used sparingly. Many of the terms defined are of common significance and really require no definition. Some examples are “pistol,” “rifle,” “importer,” and “manufacturer.” While jurors will readily recognize that one who is engaged in the business of buying and selling firearms is a dealer, they probably do not know that one engaged in the business of repairing firearms is also a dealer, 18 U.S.C. § 921(a)(11)(B), and in that case a definition would be necessary.

The most effective way to avoid definitions relating to firearms is to use the most specific designation available. For example, assume that a defendant is being tried for transporting a rocket having a propellant charge of more than four ounces in violation of 18 U.S.C. § 922(a)(4). Examples of the ways the judge might instruct the jury on one of the elements are as follows:

(1) “The defendant transported a firearm.” It will then be necessary to have an additional instruction that a rocket having a propellant charge of more than four ounces is a firearm. *See* 18 U.S.C. § 921(a)(3)(D) (defining “firearm” as including “destructive device”) and 18 U.S.C. § 921(a)(4)(A)(iii) (defining “destructive device” as including a “rocket having a propellant charge of more than four ounces”); or

(2) “The defendant transported a destructive device.” Even here, it will then be necessary to instruct that a “rocket having a propellant charge of more than four ounces” is a destructive device. *Id.*; or

(3) “The defendant transported a rocket having a propellant charge of more than four ounces.” Using the third alternative, no additional instruction is necessary.