

23.5 Theft from Interstate or Foreign Shipment (18 U.S.C. § 659)

The defendant is charged in [Count _____ of] the indictment with theft from [an interstate] [a foreign] shipment in violation of Section 659 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 stole the property described in the indictment from a shipment in [interstate] [foreign] commerce; [and]

Second, the defendant did so with the intent to convert the property to [his] [her] own use[.] [; and]

[Third, the property had a value of \$1,000 or more.]

Property is moving as or is [a part of] a shipment in [interstate] [foreign] commerce if the point of origin is in one [state] [country] and the destination is another [state] [country]. Property is moving as [an interstate] [a foreign] shipment at all points between the point of origin and the final destination, regardless of any temporary stop while awaiting transshipment or otherwise.

Comment

This instruction deals with theft from a shipment in interstate or foreign commerce subject to the first paragraph of 18 U.S.C. § 659. If the charge under the first paragraph of § 659 is based on conduct other than theft, modify the instruction accordingly.

Use the third element only if the charge alleges that the value of the property was \$1,000 or more.