

**FAILURE TO SURRENDER A REVOKED OR SUSPENDED
LICENSE TO CARRY FIREARMS OR FIREARM IDENTIFICATION
CARD, OR A FIREARM, RIFLE, SHOTGUN OR MACHINE GUN**

G.L. c. 269, § 10(i)

The defendant is charged with failing to surrender their (license to carry firearms) (firearm identification card) (firearm(s)) (rifle(s)), (shotgun(s)) (machine gun(s)) after their (license to carry firearms) (firearm identification card) was (revoked) (suspended).¹ To prove the defendant guilty of this offense, the Commonwealth must prove five things beyond a reasonable doubt:

***First:* That the defendant had a (license to carry firearms) (firearm identification card);**

***Second:* That the defendant's (license to carry firearms) (firearm identification card) had been (revoked) (suspended);**

***Third:* That the defendant knew their (license to carry firearms) (firearm identification card) had been (revoked) (suspended);**

¹ The term "temporary license to carry firearms" or "firearm identification card receipt" may be substituted throughout the instruction when it is the item that was not surrendered. See G. L. c. 269, § 10(i).

Fourth: That the defendant had been directed to deliver or surrender the (license to carry firearms) (firearm identification card) (firearm(s)) (rifle(s)) (shotgun(s)) (machine gun(s));

Fifth: That the defendant failed or refused to deliver or surrender without delay to the police department where the defendant lived or worked their (license to carry firearms) (firearm identification card) (firearm(s)) (rifle(s)) (shotgun(s)) (machine gun(s)).

To prove the first element, the Commonwealth must prove beyond a reasonable doubt that a (license to carry firearms) (firearm identification card) had been issued to the defendant. A (license to carry firearms) (firearm identification card) is issued by a local or state police chief or licensing authority and authorizes the possession and use of certain firearms, rifles, shotguns, or machine guns.

To prove the second element, the Commonwealth must prove beyond a reasonable doubt that the defendant's (license or to carry firearms)

(firearm identification card) had been (revoked) (suspended) by the licensing authority.

To prove the third element, the Commonwealth is required to prove beyond a reasonable doubt that the defendant knew their (license to carry firearms) (firearm identification card) had been suspended or revoked either by having received a copy of the suspension or revocation notice or by having learned of it in some other way. You should consider all the evidence and any reasonable inferences you choose to draw from that evidence to determine the extent of the defendant's knowledge of the suspension or revocation at the time when it is alleged that the defendant's (license to carry firearms) (firearm identification card) was suspended or revoked.

To prove the fourth element, the Commonwealth must prove beyond a reasonable doubt that the defendant had been directed to deliver or surrender the (license to carry firearms) (firearm identification card) (firearm(s)) (rifle(s)) (shotgun(s)) (machine gun(s)). The Commonwealth

must prove that the defendant received notice of the directive to deliver or surrender either in writing or by having learned of it in some other way.

[If the offense is a failure to deliver or surrender a weapon, provide a definition of the weapon here.]

Firearm

A firearm is a stun gun or a pistol, revolver or other weapon of any description from which a shot or bullet can be discharged and of which the length of the barrel or barrels is less than 16 inches.

Rifle

A rifle is a weapon having a rifled bore with a barrel length equal to or greater than 16 inches and capable of discharging a shot or bullet for each pull of the trigger.

Shotgun

A shotgun is a weapon having a smooth bore with a barrel length equal to or greater than 18 inches with an overall length equal to or greater than 26 inches and capable of discharging a shot or bullet for each pull of the trigger.

Machine Gun

A machine gun is a weapon of any description, by whatever name known, from which a number of shots or bullets may be rapidly or automatically discharged by one continuous activation of the trigger, including a submachine gun or a weapon with a bump stock or trigger crank.

To prove the fifth element, the Commonwealth must prove beyond a reasonable doubt that the defendant failed or refused to deliver or surrender their (license to carry firearms) (firearm identification card) (firearm(s)) (rifle(s)) (shotgun(s)) (machine gun(s)) without delay to the police department (where the defendant lives or works) (at the location to which the defendant was directed to deliver or surrender (it) (them)).

If evidence of delayed surrender

The Commonwealth must prove beyond a reasonable doubt that the defendant unreasonably delayed in delivering or surrendering their (license to carry firearms) (firearm identification card) (firearm(s)) (rifle(s)) (shotgun(s)) (machine gun(s)).

You should consider any evidence of the surrounding circumstances

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to determine whether any alleged delay was reasonable or unreasonable.

G.L. c. 140, §129D (“the person whose application was so revoked, suspended or denied shall **without delay** deliver or surrender all firearms, rifles, shotguns and machine guns . . . which the person then possesses”). See also G.L. C. 140, §131(f).

If the Commonwealth has proven all five elements beyond a reasonable doubt, then you should find the defendant guilty. If the Commonwealth has failed to prove any one or more of those elements beyond a reasonable doubt, then you must find the defendant not guilty.

NOTES

1. **Appeals Exception.** If the affirmative defense of a pending appeal is raised and supported by the evidence, the Commonwealth would have the burden of disproving that fact beyond a reasonable doubt. See *Commonwealth v. Kang*, 91 Mass. App. Ct. 182, 184-185 (2017) (whether a defense has properly been raised is a legal question for the court and, if any view of the evidence would support for an affirmative defense, the defendant is entitled to a jury instruction). See *Commonwealth v. Adams*, 482 Mass. 514, 532-534 (2019) (discussing surrender of firearms and appeal process).