

§2K1.6

(3) If the defendant's possession of the weapon or material would have been lawful but for 49 U.S.C. § 46505 and he acted with mere negligence, decrease by **3** levels.

(c) Cross Reference

(1) If the defendant used or possessed the weapon or material in committing or attempting another offense, apply the guideline for such other offense, or §2X1.1 (Attempt, Solicitation, or Conspiracy), as appropriate, if the resulting offense level is greater than that determined above.

Commentary

Statutory Provision: 49 U.S.C. § 46505 (formerly 49 U.S.C. § 1472(l)).

Background: This guideline provides an enhancement where the defendant was a person prohibited by federal law from possession of the weapon or material. A decrease is provided in a case of mere negligence where the defendant was otherwise authorized to possess the weapon or material.

Historical Note

Effective November 1, 1987. Amended effective November 1, 1989 (amendments 182, 186, 187, and 303); November 1, 1991 (amendment 404); November 1, 1992 (amendment 443); November 1, 1995 (amendment 534); November 1, 1997 (amendment 560).

§2K1.6. Licensee Recordkeeping Violations Involving Explosive Materials

(a) Base Offense Level: **6**

(b) Cross Reference

(1) If a recordkeeping offense reflected an effort to conceal a substantive explosive materials offense, apply §2K1.3 (Unlawful Receipt, Possession, or Transportation of Explosives Materials; Prohibited Transactions Involving Explosive Materials).

Commentary

Statutory Provisions: 18 U.S.C. § 842(f), (g).

Background: The above-referenced provisions are recordkeeping offenses applicable only to "*licensees*," who are defined at 18 U.S.C. § 841(m).

Historical Note

Effective November 1, 1991 (amendment 373). A former §2K1.6 (Shipping, Transporting, or Receiving Explosives with Felonious Intent or Knowledge; Using or Carrying Explosives in Certain Crimes), effective November 1, 1987, and amended effective November 1, 1989 (amendment 303) and November 1, 1990 (amendment 331), was deleted by consolidation with §2K1.3 effective November 1, 1991 (amendment 373).