

**10.6(b) DRIVER OR OWNER OF A VEHICLE KNOWINGLY DIRECTING
ANOTHER TO DISCHARGE A FIREARM FROM THE VEHICLE**

§ 790.15(3), Fla. Stat.

To prove the crime of Driver or Owner of a Vehicle Knowingly Directing Another to Discharge a Firearm from the Vehicle, the State must prove the following two elements beyond a reasonable doubt:

- 1. (Defendant) was the driver or owner of a vehicle.**
- 2. (Defendant) knowingly directed [another] [(person alleged)] to discharge a firearm from that vehicle.**

Give if applicable.

It is not necessary for the State to prove that the owner of the vehicle occupied the vehicle at the time of discharge.

Definitions.

§ 790.001, Fla. Stat.

A “firearm” is legally defined as any weapon, including a starter gun, which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. [The term “firearm” does not include an antique firearm unless the antique firearm is used in the commission of another crime.] See § 790.001, Fla. Stat., for the definitions of antique firearm and destructive device.

Optional Definitions. Shaw v. State, 510 So. 2d 349 (Fla. 2d DCA 1987).

“Knowingly” means with actual knowledge and understanding of the facts or the truth.

“Knowingly” means an act done voluntarily and intentionally and not because of mistake or accident or other innocent reason.

Lesser Included Offense

**DRIVER OR OWNER OF A VEHICLE KNOWINGLY DIRECTING ANOTHER TO
DISCHARGE A FIREARM FROM THE VEHICLE—790.15(3)**

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comments

As of February 2018, it was undecided whether the courts would use the definitions of “driver” and “vehicle” in § 316.003, Florida Statutes, for this crime.

This instruction was adopted in 2018.