

House Bill 2344

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon Criminal Defense Lawyers Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies property offenses by increasing value threshold of property. Eliminates lower value thresholds for theft by receiving.

A BILL FOR AN ACT

1
2 Relating to property offenses; amending ORS 164.043, 164.045, 164.055, 164.057, 164.125, 164.354,
3 164.365, 165.013 and 165.055.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 164.043 is amended to read:

6 164.043. (1) A person commits the crime of theft in the third degree if, by means other than
7 extortion, the person:

8 (a) Commits theft as defined in ORS 164.015; and

9 (b) The total value of the property in a single or an aggregate transaction is [*under \$50*] **less**
10 **than \$100.**

11 (2) Theft in the third degree is a Class C misdemeanor.

12 **SECTION 2.** ORS 164.045 is amended to read:

13 164.045. (1) A person commits the crime of theft in the second degree if, by other than extortion,
14 the person:

15 (a) Commits theft as defined in ORS 164.015; and

16 (b) The total value of the property in a single or aggregate transaction is [*\$50*] **\$100** or more
17 but is [*under \$200 in a case of theft by receiving and under \$750 in any other case*] **less than**
18 **\$1,000.**

19 (2) Theft in the second degree is a Class A misdemeanor.

20 **SECTION 3.** ORS 164.055 is amended to read:

21 164.055. (1) A person commits the crime of theft in the first degree if, by other than extortion,
22 the person commits theft as defined in ORS 164.015 and:

23 (a) The total value of the property in a single or aggregate transaction is [*\$200 or more in a case*
24 *of theft by receiving, and \$750 or more in any other case*] **\$1,000 or more;**

25 (b) The theft is committed during a riot, fire, explosion, catastrophe or other emergency in an
26 area affected by the riot, fire, explosion, catastrophe or other emergency;

27 (c) The theft is theft by receiving committed by buying, selling, borrowing or lending on the
28 security of the property;

29 (d) The subject of the theft is a firearm or explosive;

30 (e) The subject of the theft is a livestock animal, a companion animal or a wild animal removed
31 from habitat or born of a wild animal removed from habitat, pursuant to ORS 497.308 (2)(c); or

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (f) The subject of the theft is a precursor substance.

2 (2) As used in this section:

3 (a) "Companion animal" means a dog or cat possessed by a person, business or other entity for
4 purposes of companionship, security, hunting, herding or providing assistance in relation to a phys-
5 ical disability.

6 (b) "Explosive" means a chemical compound, mixture or device that is commonly used or in-
7 tended for the purpose of producing a chemical reaction resulting in a substantially instantaneous
8 release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin,
9 blasting caps and nitrojelly, but excluding fireworks as defined in ORS 480.110 (1), black powder,
10 smokeless powder, small arms ammunition and small arms ammunition primers.

11 (c) "Firearm" means a weapon, by whatever name known, which is designed to expel a projectile
12 by the action of black powder or smokeless powder and which is readily capable of use as a weapon.

13 (d) "Livestock animal" means a ratite, psittacine, horse, gelding, mare, stallion, **filly**, colt, mule,
14 ass, jenny, bull, steer, cow, calf, goat, sheep, lamb, llama, pig or hog.

15 (e) "Precursor substance" has the meaning given that term in ORS 475.940.

16 (3) Theft in the first degree is a Class C felony.

17 **SECTION 4.** ORS 164.125 is amended to read:

18 164.125. (1) A person commits the crime of theft of services if:

19 (a) With intent to avoid payment therefor, the person obtains services that are available only
20 for compensation, by force, threat, deception or other means to avoid payment for the services; or

21 (b) Having control over the disposition of labor or of business, commercial or industrial equip-
22 ment or facilities of another, the person uses or diverts to the use of the person or a third person
23 such labor, equipment or facilities with intent to derive for the person or the third person a com-
24 mercial benefit to which the person or the third person is not entitled.

25 (2) As used in this section, "services" includes, but is not limited to, labor, professional services,
26 toll facilities, transportation, communications service, entertainment, the supplying of food, lodging
27 or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use,
28 and the supplying of commodities of a public utility nature such as gas, electricity, steam and water.
29 "Communication service" includes, but is not limited to, use of telephone, computer and cable tele-
30 vision systems.

31 (3) Absconding without payment or offer to pay for hotel, restaurant or other services for which
32 compensation is customarily paid immediately upon the receiving of them is prima facie evidence
33 that the services were obtained with intent to avoid payment therefor. Obtaining the use of any
34 communication system the use of which is available only for compensation, including but not limited
35 to telephone, computer and cable television systems, or obtaining the use of any services of a public
36 utility nature, without payment or offer to pay for such use is prima facie evidence that the ob-
37 taining of the use of such system or the use of such services was gained with intent to avoid pay-
38 ment therefor.

39 (4) The value of single theft transactions may be added together if the thefts were committed:

40 (a) Against multiple victims by a similar means within a 30-day period; or

41 (b) Against the same victim, or two or more persons who are joint owners, within a 180-day
42 period.

43 (5) Theft of services is:

44 (a) A Class C misdemeanor if the aggregate total value of services that are the subject of the
45 theft is [*under \$50*] **less than \$100**;

1 (b) A Class A misdemeanor if the aggregate total value of services that are the subject of the
 2 theft is [~~\$50~~] **\$100** or more but is [~~under \$750~~] **less than \$1,000**;

3 (c) A Class C felony if the aggregate total value of services that are the subject of the theft is
 4 [~~\$750~~] **\$1,000** or more; and

5 (d) A Class B felony if the aggregate total value of services that are the subject of the theft is
 6 [~~\$10,000~~] **\$15,000** or more.

7 **SECTION 5.** ORS 164.057 is amended to read:

8 164.057. (1) A person commits the crime of aggravated theft in the first degree, if:

9 (a) The person violates ORS 164.055 with respect to property, other than a motor vehicle used
 10 primarily for personal rather than commercial transportation; and

11 (b) The value of the property in a single or aggregate transaction is [~~\$10,000~~] **\$15,000** or more.

12 (2) Aggravated theft in the first degree is a Class B felony.

13 **SECTION 6.** ORS 164.354 is amended to read:

14 164.354. (1) A person commits the crime of criminal mischief in the second degree if:

15 (a) The person violates ORS 164.345, and as a result thereof, damages property in an amount
 16 exceeding [~~\$100~~] **\$500**; or

17 (b) Having no right to do so nor reasonable ground to believe that the person has such right,
 18 the person intentionally damages property of another, or, the person recklessly damages property
 19 of another in an amount exceeding [~~\$100~~] **\$500**.

20 (2) Criminal mischief in the second degree is a Class A misdemeanor.

21 **SECTION 7.** ORS 164.365 is amended to read:

22 164.365. (1) A person commits the crime of criminal mischief in the first degree who, with intent
 23 to damage property, and having no right to do so nor reasonable ground to believe that the person
 24 has such right:

25 (a) Damages or destroys property of another:

26 (A) In an amount exceeding [~~\$750~~] **\$1,000**;

27 (B) By means of an explosive;

28 (C) By starting a fire in an institution while the person is committed to and confined in the in-
 29 stitution;

30 (D) Which is a livestock animal as defined in ORS 164.055;

31 (E) Which is the property of a public utility, telecommunications carrier, railroad, public trans-
 32 portation facility or medical facility used in direct service to the public; or

33 (F) By intentionally interfering with, obstructing or adulterating in any manner the service of
 34 a public utility, telecommunications carrier, railroad, public transportation facility or medical facil-
 35 ity; or

36 (b) Intentionally uses, manipulates, arranges or rearranges the property of a public utility,
 37 telecommunications carrier, railroad, public transportation facility or medical facility used in direct
 38 service to the public so as to interfere with its efficiency.

39 (2) As used in subsection (1) of this section:

40 (a) "Institution" includes state and local correctional facilities, mental health facilities, juvenile
 41 detention facilities and state training schools.

42 (b) "Medical facility" means a health care facility as defined in ORS 442.015, a licensed physi-
 43 cian's office or anywhere a licensed medical practitioner provides health care services.

44 (c) "Public utility" has the meaning provided for that term in ORS 757.005 and includes any
 45 cooperative, people's utility district or other municipal corporation providing an electric, gas, water

1 or other utility service.

2 (d) "Railroad" has the meaning provided for that term in ORS 824.020.

3 (e) "Public transportation facility" means any property, structure or equipment used for or in
4 connection with the transportation of persons for hire by rail, air or bus, including any railroad
5 cars, buses or airplanes used to carry out such transportation.

6 (f) "Telecommunications carrier" has the meaning given that term in ORS 133.721.

7 (3) Criminal mischief in the first degree is a Class C felony.

8 **SECTION 8.** ORS 165.013 is amended to read:

9 165.013. (1) A person commits the crime of forgery in the first degree if the person violates ORS
10 165.007:

11 (a) And the written instrument is or purports to be any of the following:

12 (A) Part of an issue of money, securities, postage or revenue stamps, or other valuable instru-
13 ments issued by a government or governmental agency;

14 (B) Part of an issue of stock, bonds or other instruments representing interests in or claims
15 against any property or person;

16 (C) A deed, will, codicil, contract or assignment;

17 (D) A check for [~~\$1,000~~] **\$3,500** or more, a credit card purchase slip for [~~\$1,000~~] **\$3,500** or more,
18 or a combination of checks and credit card purchase slips that, in the aggregate, total [~~\$1,000~~] **\$3,500**
19 or more, or any other commercial instrument or other document that does or may evidence, create,
20 transfer, alter, terminate or otherwise affect a legal right, interest, obligation or status; or

21 (E) A public record; or

22 (b) By falsely making, completing or altering, or by uttering, at least 15 retail sales receipts,
23 Universal Product Code labels, EAN-8 labels or EAN-13 labels or a combination of at least 15 retail
24 sales receipts, Universal Product Code labels, EAN-8 labels or EAN-13 labels.

25 (2) The value of single check or credit card transactions may be added together under sub-
26 section (1)(a)(D) of this section if the transactions were committed:

27 (a) Against multiple victims within a 30-day period; or

28 (b) Against the same victim within a 180-day period.

29 (3) Forgery in the first degree is a Class C felony.

30 **SECTION 9.** ORS 165.055 is amended to read:

31 165.055. (1) A person commits the crime of fraudulent use of a credit card if, with intent to in-
32 jure or defraud, the person uses a credit card for the purpose of obtaining property or services with
33 knowledge that:

34 (a) The card is stolen or forged; [~~or~~]

35 (b) The card has been revoked or canceled; or

36 (c) For any other reason the use of the card is unauthorized by either the issuer or the person
37 to whom the credit card is issued.

38 (2) "Credit card" means a card, booklet, credit card number or other identifying symbol or in-
39 strument evidencing an undertaking to pay for property or services delivered or rendered to or upon
40 the order of a designated person or bearer.

41 (3) The value of single credit card transactions may be added together if the transactions were
42 committed:

43 (a) Against multiple victims within a 30-day period; or

44 (b) Against the same victim within a 180-day period.

45 (4) Fraudulent use of a credit card is:

1 (a) A Class A misdemeanor if the aggregate total amount of property or services the person
2 obtains or attempts to obtain is [*under \$750*] **less than \$1,000**.

3 (b) A Class C felony if the aggregate total amount of property or services the person obtains
4 or attempts to obtain is [*\$750*] **\$1,000** or more.

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