

Enrolled
House Bill 2323

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)

CHAPTER

AN ACT

Relating to property offenses; creating new provisions; and amending ORS 164.043, 164.045, 164.055, 164.125, 164.354, 164.365 and 165.055.

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

SECTION 1. ORS 164.043 is amended to read:

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

(a) **By means other than extortion, the person** commits theft as defined in ORS 164.015; and

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

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

SECTION 2. ORS 164.045 is amended to read:

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

(a) **By means other than extortion, the person** commits theft as defined in ORS 164.015; and

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

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

SECTION 3. ORS 164.055 is amended to read:

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

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

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

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

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

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

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

(2) As used in this section:

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

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

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

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

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

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

SECTION 4. ORS 164.125 is amended to read:

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

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

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

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

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

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

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

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

(5) Theft of services is:

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

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

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

(d) A Class B felony if the aggregate total value of services that are the subject of the theft is \$10,000 or more.

SECTION 5. ORS 164.354 is amended to read:

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

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

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

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

SECTION 6. ORS 164.365 is amended to read:

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

(a) Damages or destroys property of another:

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

(B) By means of an explosive;

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 7. ORS 165.055 is amended to read:

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

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

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

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

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

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

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

- (b) Against the same victim within a 180-day period.
- (4) Fraudulent use of a credit card is:
 - (a) A Class A misdemeanor if the aggregate total amount of property or services the person obtains or attempts to obtain is **less than \$1,000** [under \$750].
 - (b) A Class C felony if the aggregate total amount of property or services the person obtains or attempts to obtain is [\$750] **\$1,000** or more.

SECTION 8. The amendments to ORS 164.043, 164.045, 164.055, 164.125, 164.354, 164.365 and 165.005 by sections 1 to 7 of this 2009 Act apply to conduct occurring on or after the effective date of this 2009 Act.

Passed by House February 4, 2009

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 Chief Clerk of House

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 Speaker of House

Received by Governor:

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Approved:

.....M,....., 2009

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 Governor

Passed by Senate February 25, 2009

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 President of Senate

Filed in Office of Secretary of State:

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 Secretary of State