

# D R A F T

## SUMMARY

Modifies culpable mental state for crime of unauthorized use of a vehicle when person takes, operates, exercises control over or otherwise uses vehicle, boat or aircraft without consent of owner. Removes riding in vehicle, boat or aircraft without consent of owner as manner of committing crime. Renames crime as unauthorized use of a vehicle in the first degree.

Creates crime of unauthorized use of a vehicle in the second degree applicable to persons riding in vehicle, boat or aircraft without consent of owner. Punishes by maximum of 364 days' imprisonment, \$6,250 fine, or both.

## A BILL FOR AN ACT

1  
2 Relating to unauthorized use of a vehicle; creating new provisions; and  
3 amending ORS 131.602, 137.717, 161.067, 164.135, 164.395 and 166.715.

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

5 **SECTION 1.** ORS 164.135 is amended to read:

6 164.135. (1) A person commits the crime of unauthorized use of a vehicle  
7 **in the first degree** when:

8 (a)(A) The person **knowingly** takes, operates, exercises control over[,  
9 *rides in*] or otherwise uses another's vehicle, boat or aircraft [*without consent*  
10 *of the owner*];

11 **(B) The person is aware of and consciously disregards a substantial**  
12 **and unjustifiable risk that the owner of the vehicle, boat or aircraft**  
13 **does not consent to the taking, operation or other use of, or the ex-**  
14 **ercise of control over, the vehicle, boat or aircraft; and**

15 **(C) The owner of the vehicle, boat or aircraft did not consent to the**  
16 **taking, operation or other use of, or the exercise of control over, the**  
17 **vehicle, boat or aircraft;**

1 (b) Having custody of a vehicle, boat or aircraft pursuant to an agreement  
2 between the person or another and the owner thereof whereby the person or  
3 another is to perform for compensation a specific service for the owner in-  
4 volving the maintenance, repair or use of such vehicle, boat or aircraft, the  
5 person intentionally uses or operates it, without consent of the owner, for  
6 the person's own purpose in a manner constituting a gross deviation from  
7 the agreed purpose; or

8 (c) Having custody of a vehicle, boat or aircraft pursuant to an agreement  
9 with the owner thereof whereby such vehicle, boat or aircraft is to be re-  
10 turned to the owner at a specified time, the person knowingly retains or  
11 withholds possession thereof without consent of the owner for so lengthy a  
12 period beyond the specified time as to render such retention or possession a  
13 gross deviation from the agreement.

14 (2) Unauthorized use of a vehicle[, *boat or aircraft*] **in the first degree**  
15 is a Class C felony.

16 (3) Subsection (1)(a) of this section does not apply to a person who [*rides*  
17 *in or otherwise*] uses a public transit vehicle, as defined in ORS 166.116, if  
18 the vehicle is being operated by an authorized operator within the scope of  
19 the operator's employment.

20 **SECTION 2. Section 3 of this 2019 Act is added to and made a part**  
21 **of ORS 164.015 to 164.135.**

22 **SECTION 3. (1) A person commits the crime of unauthorized use**  
23 **of a vehicle in the second degree when:**

24 **(a) The person knowingly rides in another's vehicle, boat or air-**  
25 **craft;**

26 **(b) The person knows that the owner of the vehicle, boat or aircraft**  
27 **does not consent to the person's riding in the vehicle, boat or aircraft;**  
28 **and**

29 **(c) The owner or an authorized user of the vehicle, boat or aircraft**  
30 **did not consent to the person's riding in the vehicle, boat or aircraft.**

31 **(2) Unauthorized use of a vehicle in the second degree is a Class A**

1 **misdemeanor.**

2 **(3) Subsection (1) of this section does not apply to a person who**  
3 **rides in a public transit vehicle, as defined in ORS 166.116, if the ve-**  
4 **hicle is being operated by an authorized operator within the scope of**  
5 **the operator's employment.**

6 **(4) Unauthorized use of a vehicle in the second degree is not a lesser**  
7 **included offense of unauthorized use of a vehicle in the first degree**  
8 **under ORS 164.135.**

9 **SECTION 4.** ORS 131.602 is amended to read:

10 131.602. The crimes to which ORS 131.550 (12)(b) applies are:

11 (1) Bribe giving, as defined in ORS 162.015.

12 (2) Bribe receiving, as defined in ORS 162.025.

13 (3) Public investment fraud, as defined in ORS 162.117.

14 (4) Bribing a witness, as defined in ORS 162.265.

15 (5) Bribe receiving by a witness, as defined in ORS 162.275.

16 (6) Simulating legal process, as defined in ORS 162.355.

17 (7) Official misconduct in the first degree, as defined in ORS 162.415.

18 (8) Assisting another person to commit suicide, as defined in ORS 163.193.

19 (9) Custodial interference in the second degree, as defined in ORS 163.245.

20 (10) Custodial interference in the first degree, as defined in ORS 163.257.

21 (11) Buying or selling a person under 18 years of age, as defined in ORS  
22 163.537.

23 (12) Using a child in a display of sexually explicit conduct, as defined in  
24 ORS 163.670.

25 (13) Encouraging child sexual abuse in the first degree, as defined in ORS  
26 163.684.

27 (14) Encouraging child sexual abuse in the second degree, as defined in  
28 ORS 163.686.

29 (15) Encouraging child sexual abuse in the third degree, as defined in ORS  
30 163.687.

31 (16) Possession of materials depicting sexually explicit conduct of a child

1 in the first degree, as defined in ORS 163.688.

2 (17) Possession of materials depicting sexually explicit conduct of a child  
3 in the second degree, as defined in ORS 163.689.

4 (18) Theft in the second degree, as defined in ORS 164.045.

5 (19) Theft in the first degree, as defined in ORS 164.055.

6 (20) Aggravated theft in the first degree, as defined in ORS 164.057.

7 (21) Extortion, as defined in ORS 164.075.

8 (22) Theft by deception, as defined in ORS 164.085, if it is a felony or a  
9 Class A misdemeanor.

10 (23) Theft by receiving, as defined in ORS 164.095, if it is a felony or a  
11 Class A misdemeanor.

12 (24) Theft of services, as defined in ORS 164.125, if it is a felony or a  
13 Class A misdemeanor.

14 (25)(a) Unauthorized use of a vehicle **in the first degree**, as defined in  
15 ORS 164.135.

16 **(b) Unauthorized use of a vehicle in the second degree, as defined**  
17 **in section 3 of this 2019 Act.**

18 (26) Mail theft or receipt of stolen mail, as defined in ORS 164.162.

19 (27) Laundering a monetary instrument, as defined in ORS 164.170.

20 (28) Engaging in a financial transaction in property derived from unlaw-  
21 ful activity, as defined in ORS 164.172.

22 (29) Burglary in the second degree, as defined in ORS 164.215.

23 (30) Burglary in the first degree, as defined in ORS 164.225.

24 (31) Possession of a burglary tool or theft device, as defined in ORS  
25 164.235.

26 (32) Unlawful entry into a motor vehicle, as defined in ORS 164.272.

27 (33) Arson in the second degree, as defined in ORS 164.315.

28 (34) Arson in the first degree, as defined in ORS 164.325.

29 (35) Computer crime, as defined in ORS 164.377.

30 (36) Robbery in the third degree, as defined in ORS 164.395.

31 (37) Robbery in the second degree, as defined in ORS 164.405.

- 1 (38) Robbery in the first degree, as defined in ORS 164.415.
- 2 (39) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 3 (40) Unlawful recording of a live performance, as defined in ORS 164.869.
- 4 (41) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 5 (42) A violation of ORS 164.886.
- 6 (43)(a) Endangering aircraft in the first degree, as defined in ORS 164.885.
- 7 (b) Endangering aircraft in the second degree, as defined in ORS 164.885.
- 8 (44) Interference with agricultural operations, as defined in ORS 164.887.
- 9 (45) Forgery in the second degree, as defined in ORS 165.007.
- 10 (46) Forgery in the first degree, as defined in ORS 165.013.
- 11 (47) Criminal possession of a forged instrument in the second degree, as  
12 defined in ORS 165.017.
- 13 (48) Criminal possession of a forged instrument in the first degree, as  
14 defined in ORS 165.022.
- 15 (49) Criminal possession of a forgery device, as defined in ORS 165.032.
- 16 (50) Criminal simulation, as defined in ORS 165.037.
- 17 (51) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 18 (52) Fraudulent use of a credit card, as defined in ORS 165.055.
- 19 (53) Negotiating a bad check, as defined in ORS 165.065.
- 20 (54) Possessing a fraudulent communications device, as defined in ORS  
21 165.070.
- 22 (55) Unlawful factoring of a payment card transaction, as defined in ORS  
23 165.074.
- 24 (56) Falsifying business records, as defined in ORS 165.080.
- 25 (57) Sports bribery, as defined in ORS 165.085.
- 26 (58) Sports bribe receiving, as defined in ORS 165.090.
- 27 (59) Misapplication of entrusted property, as defined in ORS 165.095.
- 28 (60) Issuing a false financial statement, as defined in ORS 165.100.
- 29 (61) Obtaining execution of documents by deception, as defined in ORS  
30 165.102.
- 31 (62) A violation of ORS 165.543.

- 1 (63) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 2 (64) Cellular counterfeiting in the second degree, as defined in ORS
- 3 165.579.
- 4 (65) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 5 (66) Identity theft, as defined in ORS 165.800.
- 6 (67) A violation of ORS 166.190.
- 7 (68) Unlawful use of a weapon, as defined in ORS 166.220.
- 8 (69) A violation of ORS 166.240.
- 9 (70) Unlawful possession of a firearm, as defined in ORS 166.250.
- 10 (71) A violation of ORS 166.270.
- 11 (72) Unlawful possession of a machine gun, short-barreled rifle, short-
- 12 barreled shotgun or firearms silencer, as defined in ORS 166.272.
- 13 (73) A violation of ORS 166.275.
- 14 (74) Unlawful possession of armor piercing ammunition, as defined in ORS
- 15 166.350.
- 16 (75) A violation of ORS 166.370.
- 17 (76) Unlawful possession of a destructive device, as defined in ORS
- 18 166.382.
- 19 (77) Unlawful manufacture of a destructive device, as defined in ORS
- 20 166.384.
- 21 (78) Possession of a hoax destructive device, as defined in ORS 166.385.
- 22 (79) A violation of ORS 166.410.
- 23 (80) Providing false information in connection with a transfer of a
- 24 firearm, as defined in ORS 166.416.
- 25 (81) Improperly transferring a firearm, as defined in ORS 166.418.
- 26 (82) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 27 (83) A violation of ORS 166.429.
- 28 (84) A violation of ORS 166.470.
- 29 (85) A violation of ORS 166.480.
- 30 (86) A violation of ORS 166.635.
- 31 (87) A violation of ORS 166.638.

- 1 (88) Unlawful paramilitary activity, as defined in ORS 166.660.
- 2 (89) A violation of ORS 166.720.
- 3 (90) Prostitution, as defined in ORS 167.007.
- 4 (91) Commercial sexual solicitation, as defined in ORS 167.008.
- 5 (92) Promoting prostitution, as defined in ORS 167.012.
- 6 (93) Compelling prostitution, as defined in ORS 167.017.
- 7 (94) Exhibiting an obscene performance to a minor, as defined in ORS
- 8 167.075.
- 9 (95) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 10 (96) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 11 (97) Possession of gambling records in the second degree, as defined in
- 12 ORS 167.132.
- 13 (98) Possession of gambling records in the first degree, as defined in ORS
- 14 167.137.
- 15 (99) Possession of a gambling device, as defined in ORS 167.147.
- 16 (100) Possession of a gray machine, as defined in ORS 167.164.
- 17 (101) Cheating, as defined in ORS 167.167.
- 18 (102) Tampering with drug records, as defined in ORS 167.212.
- 19 (103) A violation of ORS 167.262.
- 20 (104) Research and animal interference, as defined in ORS 167.312.
- 21 (105) Animal abuse in the first degree, as defined in ORS 167.320.
- 22 (106) Aggravated animal abuse in the first degree, as defined in ORS
- 23 167.322.
- 24 (107) Animal neglect in the first degree, as defined in ORS 167.330.
- 25 (108) Interfering with an assistance, a search and rescue or a therapy
- 26 animal, as defined in ORS 167.352.
- 27 (109) Involvement in animal fighting, as defined in ORS 167.355.
- 28 (110) Dogfighting, as defined in ORS 167.365.
- 29 (111) Participation in dogfighting, as defined in ORS 167.370.
- 30 (112) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- 31 (113) Interference with livestock production, as defined in ORS 167.388.

1 (114) A violation of ORS 167.390.

2 (115) Participation in cockfighting, as defined in ORS 167.431.

3 (116) A violation of ORS 471.410.

4 (117) Failure to report missing precursor substances, as defined in ORS  
5 475.955.

6 (118) Illegally selling drug equipment, as defined in ORS 475.960.

7 (119) Providing false information on a precursor substances report, as  
8 defined in ORS 475.965.

9 (120) Unlawful delivery of an imitation controlled substance, as defined  
10 in ORS 475.912.

11 (121) A violation of ORS 475.752, if it is a felony or a Class A  
12 misdemeanor.

13 (122) A violation of ORS 475.914, if it is a felony or a Class A  
14 misdemeanor.

15 (123) A violation of ORS 475.916.

16 (124) A violation of ORS 475.906, if it is a felony or a Class A  
17 misdemeanor.

18 (125) A violation of ORS 475.904.

19 (126) A violation of ORS 475B.337, if it is a felony or a Class A  
20 misdemeanor.

21 (127) A violation of ORS 475B.341, if it is a felony or a Class A  
22 misdemeanor.

23 (128) A violation of ORS 475B.346, if it is a felony or a Class A  
24 misdemeanor.

25 (129) A violation of ORS 475B.349, if it is a felony or a Class A  
26 misdemeanor.

27 (130) A violation of ORS 475B.227.

28 (131) Misuse of an identification card, as defined in ORS 807.430.

29 (132) Unlawful production of identification cards, licenses, permits, forms  
30 or camera cards, as defined in ORS 807.500.

31 (133) Transfer of documents for the purposes of misrepresentation, as de-



1 fined in ORS 807.510.

2 (134) Using an invalid license, as defined in ORS 807.580.

3 (135) Permitting misuse of a license, as defined in ORS 807.590.

4 (136) Using another's license, as defined in ORS 807.600.

5 (137) Criminal driving while suspended or revoked, as defined in ORS  
6 811.182.

7 (138) Aggravated driving while suspended or revoked, as defined in ORS  
8 163.196.

9 (139) Driving while under the influence of intoxicants, as defined in ORS  
10 813.010, when it is a felony.

11 (140) Unlawful distribution of cigarettes, as defined in ORS 323.482.

12 (141) Unlawful distribution of tobacco products, as defined in ORS  
13 323.632.

14 (142) A violation of ORS 180.440 (2) or 180.486 (2).

15 (143) A violation described in ORS 475.806 to 475.894, if it is a felony.

16 (144) Subjecting another person to involuntary servitude in the first de-  
17 gree, as defined in ORS 163.264.

18 (145) Subjecting another person to involuntary servitude in the second  
19 degree, as defined in ORS 163.263.

20 (146) Trafficking in persons, as defined in ORS 163.266.

21 (147) Luring a minor, as defined in ORS 167.057.

22 (148) Online sexual corruption of a child in the second degree, as defined  
23 in ORS 163.432.

24 (149) Online sexual corruption of a child in the first degree, as defined in  
25 ORS 163.433.

26 (150) An attempt, conspiracy or solicitation to commit a crime in sub-  
27 sections (1) to (149) of this section if the attempt, conspiracy or solicitation  
28 is a felony or a Class A misdemeanor.

29 **SECTION 5.** ORS 137.717 is amended to read:

30 137.717. (1) When a court sentences a person convicted of:

31 (a) Aggravated theft in the first degree under ORS 164.057, burglary in

1 the first degree under ORS 164.225 or aggravated identity theft under ORS  
2 165.803, the presumptive sentence is 24 months of incarceration, unless the  
3 rules of the Oregon Criminal Justice Commission prescribe a longer  
4 presumptive sentence, if the person has:

5 (A) A previous conviction for aggravated theft in the first degree under  
6 ORS 164.057, burglary in the first degree under ORS 164.225, robbery in the  
7 third degree under ORS 164.395, robbery in the second degree under ORS  
8 164.405, robbery in the first degree under ORS 164.415 or aggravated identity  
9 theft under ORS 165.803;

10 (B) Two or more previous convictions for any combination of the crimes  
11 listed in subsection (2) of this section; or

12 (C) A previous conviction for a crime listed in subsection (2) of this sec-  
13 tion, if the current crime of conviction was committed while the defendant  
14 was on supervision for the previous conviction or less than three years after  
15 the date the defendant completed the period of supervision for the previous  
16 conviction.

17 (b) Unauthorized use of a vehicle **in the first degree** under ORS 164.135,  
18 mail theft or receipt of stolen mail under ORS 164.162, burglary in the second  
19 degree under ORS 164.215, criminal mischief in the first degree under ORS  
20 164.365, computer crime under ORS 164.377, robbery in the third degree under  
21 ORS 164.395, forgery in the first degree under ORS 165.013, criminal pos-  
22 session of a forged instrument in the first degree under ORS 165.022,  
23 fraudulent use of a credit card under ORS 165.055 (4)(b), possession of a  
24 stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS  
25 819.310, the presumptive sentence is 18 months of incarceration, unless the  
26 rules of the Oregon Criminal Justice Commission prescribe a longer  
27 presumptive sentence, if the person has:

28 (A) A previous conviction for aggravated theft in the first degree under  
29 ORS 164.057, unauthorized use of a vehicle **in the first degree** under ORS  
30 164.135, burglary in the first degree under ORS 164.225, robbery in the third  
31 degree under ORS 164.395, robbery in the second degree under ORS 164.405,

1 robbery in the first degree under ORS 164.415, possession of a stolen vehicle  
2 under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or ag-  
3 gravated identity theft under ORS 165.803;

4 (B) Two or more previous convictions for any combination of the crimes  
5 listed in subsection (2) of this section; or

6 (C) A previous conviction for a crime listed in subsection (2) of this sec-  
7 tion, if the current crime of conviction was committed while the defendant  
8 was on supervision for the previous conviction or less than three years after  
9 the date the defendant completed the period of supervision for the previous  
10 conviction.

11 (c) Theft in the first degree under ORS 164.055 or identity theft under  
12 ORS 165.800, the presumptive sentence is 13 months of incarceration, unless  
13 the rules of the Oregon Criminal Justice Commission prescribe a longer  
14 presumptive sentence, if the person has:

15 (A) A previous conviction for aggravated theft in the first degree under  
16 ORS 164.057, unauthorized use of a vehicle **in the first degree** under ORS  
17 164.135, burglary in the first degree under ORS 164.225, robbery in the second  
18 degree under ORS 164.405, robbery in the first degree under ORS 164.415,  
19 possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehi-  
20 cles under ORS 819.310 or aggravated identity theft under ORS 165.803; or

21 (B) Four or more previous convictions for any combination of crimes  
22 listed in subsection (2) of this section.

23 (2) The crimes to which subsection (1) of this section applies are:

24 (a) Theft in the second degree under ORS 164.045;

25 (b) Theft in the first degree under ORS 164.055;

26 (c) Aggravated theft in the first degree under ORS 164.057;

27 (d) Unauthorized use of a vehicle **in the first degree** under ORS 164.135;

28 (e) Mail theft or receipt of stolen mail under ORS 164.162;

29 (f) Burglary in the second degree under ORS 164.215;

30 (g) Burglary in the first degree under ORS 164.225;

31 (h) Criminal mischief in the second degree under ORS 164.354;

- 1 (i) Criminal mischief in the first degree under ORS 164.365;
- 2 (j) Computer crime under ORS 164.377;
- 3 (k) Forgery in the second degree under ORS 165.007;
- 4 (L) Forgery in the first degree under ORS 165.013;
- 5 (m) Criminal possession of a forged instrument in the second degree under
- 6 ORS 165.017;
- 7 (n) Criminal possession of a forged instrument in the first degree under
- 8 ORS 165.022;
- 9 (o) Fraudulent use of a credit card under ORS 165.055;
- 10 (p) Identity theft under ORS 165.800;
- 11 (q) Possession of a stolen vehicle under ORS 819.300;
- 12 (r) Trafficking in stolen vehicles under ORS 819.310; and
- 13 (s) Any attempt to commit a crime listed in this subsection.

14 (3)(a) A presumptive sentence described in subsection (1)(a) or (b) of this  
15 section shall be increased by two months for each previous conviction the  
16 person has that:

17 (A) Was for any of the crimes listed in subsection (1) or (2) of this section;  
18 and

19 (B) Was not used as a predicate for the presumptive sentence described  
20 in subsection (1)(a) or (b) of this section.

21 (b) Previous convictions may not increase a presumptive sentence de-  
22 scribed in subsection (1)(a) or (b) of this section by more than 12 months  
23 under this subsection.

24 (4) The court may impose a sentence other than the sentence provided by  
25 subsection (1) or (3) of this section if the court imposes:

26 (a) A longer term of incarceration that is otherwise required or author-  
27 ized by law; or

28 (b) A departure sentence authorized by the rules of the Oregon Criminal  
29 Justice Commission based upon findings of substantial and compelling rea-  
30 sons. Unless the law or the rules of the Oregon Criminal Justice Commission  
31 allow for imposition of a longer sentence, the maximum departure allowed

1 for a person sentenced under this subsection is double the presumptive sen-  
2 tence provided in subsection (1) or (3) of this section.

3 (5) Notwithstanding subsection (4)(b) of this section, the court may not  
4 sentence a person under subsection (4) of this section to a term of incarcer-  
5 ation that exceeds the period of time described in ORS 161.605.

6 (6) The court shall sentence a person under this section to at least the  
7 presumptive sentence described in subsection (1)(a) or (b) or (3) of this sec-  
8 tion, unless the parties stipulate otherwise or the court finds that:

9 (a) The person was not on probation, parole or post-prison supervision for  
10 a crime listed in subsection (1) of this section at the time of the commission  
11 of the current crime of conviction;

12 (b) The person has not previously received a downward departure from a  
13 presumptive sentence for a crime listed in subsection (1) of this section;

14 (c) The harm or loss caused by the crime is not greater than usual for  
15 that type of crime; and

16 (d) In consideration of the nature of the offense and the harm to the  
17 victim, a downward departure will:

18 (A) Increase public safety;

19 (B) Enhance the likelihood that the person will be rehabilitated; and

20 (C) Not unduly reduce the appropriate punishment.

21 (7) When the court imposes a sentence of probation for a conviction for  
22 theft in the first degree or identity theft or under subsection (6) of this sec-  
23 tion, the supervisory authority as defined in ORS 144.087 may require the  
24 person to receive a high level of supervision for at least 12 months, and may  
25 extend the period of high-level supervision for all or part of the remaining  
26 probationary term.

27 (8)(a) For a crime committed on or after November 1, 1989, a conviction  
28 is considered to have occurred upon the pronouncement of sentence in open  
29 court. However, when sentences are imposed for two or more convictions  
30 arising out of the same conduct or criminal episode, none of the convictions  
31 is considered to have occurred prior to any of the other convictions arising

1 out of the same conduct or criminal episode.

2 (b) For a crime committed prior to November 1, 1989, a conviction is  
3 considered to have occurred upon the pronouncement in open court of a  
4 sentence or upon the pronouncement in open court of the suspended imposi-  
5 tion of a sentence.

6 (9) For purposes of this section, previous convictions must be proven  
7 pursuant to ORS 137.079.

8 (10) As used in this section:

9 (a) "Downward departure" means a downward dispositional departure or  
10 a downward durational departure under the rules of the Oregon Criminal  
11 Justice Commission.

12 (b) "Previous conviction" includes:

13 (A) Convictions occurring before, on or after July 1, 2003; and

14 (B) Convictions entered in any other state or federal court for comparable  
15 offenses.

16 **SECTION 6.** ORS 137.717, as amended by section 7, chapter 649, Oregon  
17 Laws 2013, and section 6, chapter 673, Oregon Laws 2017, is amended to read:

18 137.717. (1) When a court sentences a person convicted of:

19 (a) Aggravated theft in the first degree under ORS 164.057, burglary in  
20 the first degree under ORS 164.225, robbery in the third degree under ORS  
21 164.395 or aggravated identity theft under ORS 165.803, the presumptive  
22 sentence is 24 months of incarceration, unless the rules of the Oregon  
23 Criminal Justice Commission prescribe a longer presumptive sentence, if the  
24 person has:

25 (A) A previous conviction for aggravated theft in the first degree under  
26 ORS 164.057, burglary in the first degree under ORS 164.225, robbery in the  
27 third degree under ORS 164.395, robbery in the second degree under ORS  
28 164.405, robbery in the first degree under ORS 164.415 or aggravated identity  
29 theft under ORS 165.803;

30 (B) Two or more previous convictions for any combination of the crimes  
31 listed in subsection (2) of this section; or

1 (C) A previous conviction for a crime listed in subsection (2) of this sec-  
2 tion, if the current crime of conviction was committed while the defendant  
3 was on supervision for the previous conviction or less than three years after  
4 the date the defendant completed the period of supervision for the previous  
5 conviction.

6 (b) Unauthorized use of a vehicle **in the first degree** under ORS 164.135,  
7 mail theft or receipt of stolen mail under ORS 164.162, burglary in the second  
8 degree under ORS 164.215, criminal mischief in the first degree under ORS  
9 164.365, computer crime under ORS 164.377, forgery in the first degree under  
10 ORS 165.013, criminal possession of a forged instrument in the first degree  
11 under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b),  
12 possession of a stolen vehicle under ORS 819.300 or trafficking in stolen ve-  
13 hicles under ORS 819.310, the presumptive sentence is 18 months of incar-  
14 ceration, unless the rules of the Oregon Criminal Justice Commission  
15 prescribe a longer presumptive sentence, if the person has:

16 (A) A previous conviction for aggravated theft in the first degree under  
17 ORS 164.057, unauthorized use of a vehicle **in the first degree** under ORS  
18 164.135, burglary in the first degree under ORS 164.225, robbery in the third  
19 degree under ORS 164.395, robbery in the second degree under ORS 164.405,  
20 robbery in the first degree under ORS 164.415, possession of a stolen vehicle  
21 under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or ag-  
22 gravated identity theft under ORS 165.803;

23 (B) Two or more previous convictions for any combination of the crimes  
24 listed in subsection (2) of this section; or

25 (C) A previous conviction for a crime listed in subsection (2) of this sec-  
26 tion, if the current crime of conviction was committed while the defendant  
27 was on supervision for the previous conviction or less than three years after  
28 the date the defendant completed the period of supervision for the previous  
29 conviction.

30 (c) Theft in the first degree under ORS 164.055 or identity theft under  
31 ORS 165.800, the presumptive sentence is 13 months of incarceration, unless

1 the rules of the Oregon Criminal Justice Commission prescribe a longer  
2 presumptive sentence, if the person has:

3 (A) A previous conviction for aggravated theft in the first degree under  
4 ORS 164.057, unauthorized use of a vehicle **in the first degree** under ORS  
5 164.135, burglary in the first degree under ORS 164.225, robbery in the second  
6 degree under ORS 164.405, robbery in the first degree under ORS 164.415,  
7 possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehi-  
8 cles under ORS 819.310 or aggravated identity theft under ORS 165.803; or

9 (B) Four or more previous convictions for any combination of crimes  
10 listed in subsection (2) of this section.

11 (2) The crimes to which subsection (1) of this section applies are:

- 12 (a) Theft in the second degree under ORS 164.045;
- 13 (b) Theft in the first degree under ORS 164.055;
- 14 (c) Aggravated theft in the first degree under ORS 164.057;
- 15 (d) Unauthorized use of a vehicle **in the first degree** under ORS 164.135;
- 16 (e) Mail theft or receipt of stolen mail under ORS 164.162;
- 17 (f) Burglary in the second degree under ORS 164.215;
- 18 (g) Burglary in the first degree under ORS 164.225;
- 19 (h) Criminal mischief in the second degree under ORS 164.354;
- 20 (i) Criminal mischief in the first degree under ORS 164.365;
- 21 (j) Computer crime under ORS 164.377;
- 22 (k) Forgery in the second degree under ORS 165.007;
- 23 (L) Forgery in the first degree under ORS 165.013;
- 24 (m) Criminal possession of a forged instrument in the second degree under  
25 ORS 165.017;
- 26 (n) Criminal possession of a forged instrument in the first degree under  
27 ORS 165.022;
- 28 (o) Fraudulent use of a credit card under ORS 165.055;
- 29 (p) Identity theft under ORS 165.800;
- 30 (q) Possession of a stolen vehicle under ORS 819.300;
- 31 (r) Trafficking in stolen vehicles under ORS 819.310; and



1 (s) Any attempt to commit a crime listed in this subsection.

2 (3)(a) A presumptive sentence described in subsection (1)(a) or (b) of this  
3 section shall be increased by two months for each previous conviction the  
4 person has that:

5 (A) Was for any of the crimes listed in subsection (1) or (2) of this section;  
6 and

7 (B) Was not used as a predicate for the presumptive sentence described  
8 in subsection (1)(a) or (b) of this section.

9 (b) Previous convictions may not increase a presumptive sentence de-  
10 scribed in subsection (1)(a) or (b) of this section by more than 12 months  
11 under this subsection.

12 (4) The court may impose a sentence other than the sentence provided by  
13 subsection (1) or (3) of this section if the court imposes:

14 (a) A longer term of incarceration that is otherwise required or author-  
15 ized by law; or

16 (b) A departure sentence authorized by the rules of the Oregon Criminal  
17 Justice Commission based upon findings of substantial and compelling rea-  
18 sons. Unless the law or the rules of the Oregon Criminal Justice Commission  
19 allow for imposition of a longer sentence, the maximum departure allowed  
20 for a person sentenced under this subsection is double the presumptive sen-  
21 tence provided in subsection (1) or (3) of this section.

22 (5) Notwithstanding subsection (4)(b) of this section, the court may not  
23 sentence a person under subsection (4) of this section to a term of incarcer-  
24 ation that exceeds the period of time described in ORS 161.605.

25 (6) The court shall sentence a person under this section to at least the  
26 presumptive sentence described in subsection (1)(a) or (b) or (3) of this sec-  
27 tion, unless the parties stipulate otherwise or the court finds that:

28 (a) The person was not on probation, parole or post-prison supervision for  
29 a crime listed in subsection (1) of this section at the time of the commission  
30 of the current crime of conviction;

31 (b) The person has not previously received a downward departure from a

1 presumptive sentence for a crime listed in subsection (1) of this section;

2 (c) The harm or loss caused by the crime is not greater than usual for  
3 that type of crime; and

4 (d) In consideration of the nature of the offense and the harm to the  
5 victim, a downward departure will:

6 (A) Increase public safety;

7 (B) Enhance the likelihood that the person will be rehabilitated; and

8 (C) Not unduly reduce the appropriate punishment.

9 (7) When the court imposes a sentence of probation for a conviction for  
10 theft in the first degree or identity theft or under subsection (6) of this sec-  
11 tion, the supervisory authority as defined in ORS 144.087 may require the  
12 person to receive a high level of supervision for at least 12 months, and may  
13 extend the period of high-level supervision for all or part of the remaining  
14 probationary term.

15 (8)(a) For a crime committed on or after November 1, 1989, a conviction  
16 is considered to have occurred upon the pronouncement of sentence in open  
17 court. However, when sentences are imposed for two or more convictions  
18 arising out of the same conduct or criminal episode, none of the convictions  
19 is considered to have occurred prior to any of the other convictions arising  
20 out of the same conduct or criminal episode.

21 (b) For a crime committed prior to November 1, 1989, a conviction is  
22 considered to have occurred upon the pronouncement in open court of a  
23 sentence or upon the pronouncement in open court of the suspended imposi-  
24 tion of a sentence.

25 (9) For purposes of this section, previous convictions must be proven  
26 pursuant to ORS 137.079.

27 (10) As used in this section:

28 (a) "Downward departure" means a downward dispositional departure or  
29 a downward durational departure under the rules of the Oregon Criminal  
30 Justice Commission.

31 (b) "Previous conviction" includes:

- 1 (A) Convictions occurring before, on or after July 1, 2003; and  
2 (B) Convictions entered in any other state or federal court for comparable  
3 offenses.

4 **SECTION 7.** ORS 161.067 is amended to read:

5 161.067. (1) When the same conduct or criminal episode violates two or  
6 more statutory provisions and each provision requires proof of an element  
7 that the others do not, there are as many separately punishable offenses as  
8 there are separate statutory violations.

9 (2) When the same conduct or criminal episode, though violating only one  
10 statutory provision involves two or more victims, there are as many sepa-  
11 rately punishable offenses as there are victims. However, two or more per-  
12 sons owning joint interests in real or personal property shall be considered  
13 a single victim for purposes of determining the number of separately  
14 punishable offenses if the property is the subject of one of the following  
15 crimes:

16 (a) Theft as defined in ORS 164.015.

17 (b) Unauthorized use of a vehicle as defined in ORS 164.135 **or section**  
18 **3 of this 2019 Act.**

19 (c) Criminal possession of rented or leased personal property as defined  
20 in ORS 164.140.

21 (d) Criminal possession of a rented or leased motor vehicle as defined in  
22 ORS 164.138.

23 (e) Burglary as defined in ORS 164.215 or 164.225.

24 (f) Criminal trespass as defined in ORS 164.243, 164.245, 164.255, 164.265  
25 or 164.278.

26 (g) Arson and related offenses as defined in ORS 164.315, 164.325 or  
27 164.335.

28 (h) Forgery and related offenses as defined in ORS 165.002 to 165.070.

29 (3) When the same conduct or criminal episode violates only one statutory  
30 provision and involves only one victim, but nevertheless involves repeated  
31 violations of the same statutory provision against the same victim, there are

1 as many separately punishable offenses as there are violations, except that  
2 each violation, to be separately punishable under this subsection, must be  
3 separated from other such violations by a sufficient pause in the defendant's  
4 criminal conduct to afford the defendant an opportunity to renounce the  
5 criminal intent. Each method of engaging in oral or anal sexual intercourse  
6 as defined in ORS 163.305, and each method of engaging in unlawful sexual  
7 penetration as defined in ORS 163.408 and 163.411 shall constitute separate  
8 violations of their respective statutory provisions for purposes of determin-  
9 ing the number of statutory violations.

10 **SECTION 8.** ORS 164.395 is amended to read:

11 164.395. (1) A person commits the crime of robbery in the third degree if  
12 in the course of committing or attempting to commit theft or unauthorized  
13 use of a vehicle **in the first degree** as defined in ORS 164.135 the person  
14 uses or threatens the immediate use of physical force upon another person  
15 with the intent of:

16 (a) Preventing or overcoming resistance to the taking of the property or  
17 to retention thereof immediately after the taking; or

18 (b) Compelling the owner of such property or another person to deliver  
19 the property or to engage in other conduct which might aid in the commis-  
20 sion of the theft or unauthorized use of a vehicle.

21 (2) Robbery in the third degree is a Class C felony.

22 **SECTION 9.** ORS 166.715 is amended to read:

23 166.715. As used in ORS 166.715 to 166.735, unless the context requires  
24 otherwise:

25 (1) "Documentary material" means any book, paper, document, writing,  
26 drawing, graph, chart, photograph, phonograph record, magnetic tape, com-  
27 puter printout, other data compilation from which information can be ob-  
28 tained or from which information can be translated into usable form, or  
29 other tangible item.

30 (2) "Enterprise" includes any individual, sole proprietorship, partnership,  
31 corporation, business trust or other profit or nonprofit legal entity, and in-

1 cludes any union, association or group of individuals associated in fact al-  
2 though not a legal entity, and both illicit and licit enterprises and  
3 governmental and nongovernmental entities.

4 (3) "Investigative agency" means the Department of Justice or any district  
5 attorney.

6 (4) "Pattern of racketeering activity" means engaging in at least two in-  
7 cidents of racketeering activity that have the same or similar intents, re-  
8 sults, accomplices, victims or methods of commission or otherwise are  
9 interrelated by distinguishing characteristics, including a nexus to the same  
10 enterprise, and are not isolated incidents, provided at least one of such in-  
11 cidents occurred after November 1, 1981, and that the last of such incidents  
12 occurred within five years after a prior incident of racketeering activity.  
13 Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision  
14 of law providing that a previous prosecution is a bar to a subsequent prose-  
15 cution, conduct that constitutes an incident of racketeering activity may be  
16 used to establish a pattern of racketeering activity without regard to  
17 whether the conduct previously has been the subject of a criminal prose-  
18 cution or conviction or a juvenile court adjudication, unless the prosecution  
19 resulted in an acquittal or the adjudication resulted in entry of an order  
20 finding the youth not to be within the jurisdiction of the juvenile court.

21 (5) "Person" means any individual or entity capable of holding a legal or  
22 beneficial interest in real or personal property.

23 (6) "Racketeering activity" includes conduct of a person committed both  
24 before and after the person attains the age of 18 years, and means to commit,  
25 to attempt to commit, to conspire to commit, or to solicit, coerce or intim-  
26 idate another person to commit:

27 (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under  
28 any of the following provisions of the Oregon Revised Statutes:

29 (A) ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995, relating to  
30 securities;

31 (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and

1 perjury;

2 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365,  
3 relating to obstructing governmental administration;

4 (D) ORS 162.405 to 162.425, relating to abuse of public office;

5 (E) ORS 162.455, relating to interference with legislative operation;

6 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to crimi-  
7 nal homicide;

8 (G) ORS 163.160 to 163.205, relating to assault and related offenses;

9 (H) ORS 163.225 and 163.235, relating to kidnapping;

10 (I) ORS 163.275, relating to coercion;

11 (J) ORS 163.665 to 163.693, relating to sexual conduct of children;

12 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095,  
13 164.098, 164.125, 164.135, 164.140, 164.215, 164.225 and 164.245 to 164.270 **and**  
14 **section 3 of this 2019 Act**, relating to theft, burglary, criminal trespass and  
15 related offenses;

16 (L) ORS 164.315 to 164.335, relating to arson and related offenses;

17 (M) ORS 164.345 to 164.365, relating to criminal mischief;

18 (N) ORS 164.395 to 164.415, relating to robbery;

19 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful re-  
20 cording or labeling of a recording;

21 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, re-  
22 lating to forgery and related offenses;

23 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

24 (R) ORS 165.540 and 165.555, relating to communication crimes;

25 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450  
26 and 166.470, relating to firearms and other weapons;

27 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007  
28 to 167.017, 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147,  
29 167.164, 167.167, 167.212, 167.355, 167.365, 167.370, 167.428, 167.431 and 167.439,  
30 relating to prostitution, obscenity, sexual conduct, gambling, computer  
31 crimes involving the Oregon State Lottery, animal fighting, forcible recovery

- 1 of a fighting bird and related offenses;
- 2 (U) ORS 171.990, relating to legislative witnesses;
- 3 (V) ORS 260.575 and 260.665, relating to election offenses;
- 4 (W) ORS 314.075, relating to income tax;
- 5 (X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cig-  
6 arette and tobacco products taxes and the directories developed under ORS  
7 180.425 and 180.477;
- 8 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance  
9 payments or medical assistance benefits, and ORS 411.990 (2) and (3);
- 10 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;
- 11 (AA) ORS 463.995, relating to entertainment wrestling and unarmed com-  
12 bat sports, as defined in ORS 463.015;
- 13 (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405,  
14 471.425, 471.442, 471.445, 471.446, 471.485, 471.490 and 471.675, relating to al-  
15 coholic liquor, and any of the provisions of ORS chapter 471 relating to li-  
16 censes issued under the Liquor Control Act;
- 17 (CC) ORS 475B.010 to 475B.545, relating to marijuana items as defined in  
18 ORS 475B.015;
- 19 (DD) ORS 475.005 to 475.285 and 475.752 to 475.980, relating to controlled  
20 substances;
- 21 (EE) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to ex-  
22 plosives;
- 23 (FF) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor  
24 vehicles;
- 25 (GG) ORS 658.452 or 658.991 (2) to (4), relating to labor contractors;
- 26 (HH) ORS chapter 706, relating to banking law administration;
- 27 (II) ORS chapter 714, relating to branch banking;
- 28 (JJ) ORS chapter 716, relating to mutual savings banks;
- 29 (KK) ORS chapter 723, relating to credit unions;
- 30 (LL) ORS chapter 726, relating to pawnbrokers;
- 31 (MM) ORS 166.382 and 166.384, relating to destructive devices;

- 1 (NN) ORS 165.074;
- 2 (OO) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage  
3 brokers;
- 4 (PP) ORS chapter 496, 497 or 498, relating to wildlife;
- 5 (QQ) ORS 163.355 to 163.427, relating to sexual offenses;
- 6 (RR) ORS 166.015, relating to riot;
- 7 (SS) ORS 166.155 and 166.165, relating to intimidation;
- 8 (TT) ORS chapter 696, relating to real estate and escrow;
- 9 (UU) ORS chapter 704, relating to outfitters and guides;
- 10 (VV) ORS 165.692, relating to making a false claim for health care pay-  
11 ment;
- 12 (WW) ORS 162.117, relating to public investment fraud;
- 13 (XX) ORS 164.170 or 164.172;
- 14 (YY) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;
- 15 (ZZ) ORS 164.886;
- 16 (AAA) ORS 167.312 and 167.388;
- 17 (BBB) ORS 164.889;
- 18 (CCC) ORS 165.800; or
- 19 (DDD) ORS 163.263, 163.264 or 163.266.
- 20 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961  
21 (1)(B), (C), (D) and (E).
- 22 (7) “Unlawful debt” means any money or other thing of value constituting  
23 principal or interest of a debt that is legally unenforceable in the state in  
24 whole or in part because the debt was incurred or contracted:
- 25 (a) In violation of any one of the following:
- 26 (A) ORS chapter 462, relating to racing;
- 27 (B) ORS 167.108 to 167.164, relating to gambling; or
- 28 (C) ORS 82.010 to 82.170, relating to interest and usury.
- 29 (b) In gambling activity in violation of federal law or in the business of  
30 lending money at a rate usurious under federal or state law.
- 31 (8) Notwithstanding contrary provisions in ORS 174.060, when this section



1 references a statute in the Oregon Revised Statutes that is substantially  
2 different in the nature of its essential provisions from what the statute was  
3 when this section was enacted, the reference shall extend to and include  
4 amendments to the statute.

5 **SECTION 10. Section 3 of this 2019 Act and the amendments to ORS**  
6 **131.602, 137.717, 161.067, 164.135, 164.395 and 166.715 by sections 1 and 4**  
7 **to 9 of this 2019 Act apply to offenses committed on or after the ef-**  
8 **fective date of this 2019 Act.**

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