

See: Minutes of Subcommittee No. 1  
5/27/68, p. 5, Vol. X, Tapes #14 & 15

CRIMINAL LAW REVISION COMMISSION  
309 Capitol Building  
Salem, Oregon

ARTICLE 16

CRIMINAL TAMPERING

Preliminary Draft No. 2; May 27, 1968

Section \_\_\_\_\_. A person commits criminal tampering if he tampers or interferes with property of another with intent to cause substantial inconvenience to the owner or to another person and without having any right to do so or any reasonable ground to believe that he has such right.

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[Note: For Preliminary Draft No. 1 of Criminal Tampering, see second section of Theft of Services, P.D. #1, Article 14, Theft.]

CRIMINAL MISCHIEF

(Alternate to P.D. #2, Criminal Tampering)

Preliminary Draft No. 2a; May 27, 1968

Section \_\_\_\_\_. Criminal mischief in the second degree. A person commits criminal mischief in the second degree if he tampers or interferes with property of another with intent to cause substantial inconvenience to the owner or to another person and without having any right to do so nor any reasonable ground to believe that he has such right.

Section \_\_\_\_\_. Criminal mischief in the first degree. A person commits criminal mischief in the first degree if:

(1) He violates section \_\_\_\_\_, and as a result thereof, damages property of another person; or

(2) With intent to damage property, and without having any right to do so nor any reasonable ground to believe that he has such right, he damages property of another person.

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Existing Oregon Law

ORS 164.810. Any person who wilfully breaks, cuts away, injures or destroys any boom or wharf lawfully established upon any river or other water in this state, shall be punished upon conviction by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than \$50 nor more than \$500.

ORS 164.830. Any person who purposely and maliciously and with intent to injure the person or property of another, sets off or explodes, or attempts to set off or explode, any bomb, dynamite, powder or other explosive, shall be punished upon conviction by imprisonment in the penitentiary for not more than 20 years, or by imprisonment in the county jail for not more than one year, or by a fine of not more than \$500, or by both such fine and imprisonment.

ORS 164.840. Any person who wilfully tears down, alters or defaces any posted, written or printed notice, posted or put up pursuant to any law requiring or authorizing it to be done, before the time for which such notice is given has expired, shall be punished upon conviction by imprisonment in the county jail for not less than one month nor more than six months, or by a fine of not less than \$50 nor more than \$300.

ORS 164.850. Any person who breaks or robs in any manner, or attempts to break or rob, any flume, rocker, quartz mill, quartz vein or lode, bed rock sluice, sluice box or mining claim not his own, or trespasses upon such mining claim with the intent to commit a felony, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years, or by a fine of not less than \$100 nor more than \$1,000, or both.

ORS 164.860. (1) Any person who wilfully and maliciously defaces, removes, pulls down, injures or destroys any location stake, side post, corner post, landmark or any other legal land boundary monument in this state designating or intending to designate the location boundary or name of any mining claim, lode or vein of mineral, or the name of the discoverer or date of its discovery, shall be punished upon conviction by a fine of not more than \$500, or by imprisonment in the county jail for not more than six months, or both.

(2) This section does not apply to abandoned property.

ORS 164.871. Any person who:

- (1) Wilfully breaks down, injures, removes or destroys any monument erected or used for the purpose of designating the boundary of any town, tract or parcel of land, or any tree marked for that purpose; or
- (2) Wilfully breaks down, injures, removes or destroys any milestone, board or post or any guide or fingerboard erected or placed upon any road or highway, or wilfully alters or defaces the inscription upon any such stone, post or board; or
- (3) Wilfully extinguishes, breaks, injures, destroys or removes any lamp, lamppost, sign or signpost, or any railing or posts erected upon any street, highway, sidewalk, court or passage; or
- (4) Wilfully breaks, destroys, injures or removes any barricade, fence, sign or warning device placed, kept or maintained upon any street, highway, sidewalk or passage by any public authority, or by any contractor for the State of Oregon, any county, municipality or other public authority where such barricade, fence, sign or warning device is placed by said contractor in connection with a contractor with the said public authority; or
- (5) Wilfully breaks, destroys, injures or removes any barricade, fence, sign or warning device which is placed, kept or maintained upon any privately owned real property by the owner or lessee of said property in order to prevent injury to persons or property on said real property; or
- (6) Wilfully breaks, destroys, injures or removes any barricade, fence, sign or warning device which is placed, kept or maintained upon any privately owned real property by a contractor of the owner or lessee of said real property in connection with a construction contract with said owner or lessee for construction on said real property and in order to prevent injury to persons or property on said real property, is guilty of a misdemeanor.

ORS 164.880. (1) Any person who wilfully defaces or obliterates any inscription on any corner or bearing tree, cuts down any bearing tree, or destroys any corner of a survey made under the provisions of statutes defining the duties of county surveyor, is liable for all damages to the persons interested, and is also subject to a fine of not less than \$50 nor more than \$500, and imprisonment in the county jail, if the circuit court so decides.

ORS 164.890. (1) Any person who maliciously or wantonly removes, destroys, or carries away any record, book or document of any kind, or any box or other receptacle for containing the same, or any instrument or device for scientific purposes established or placed upon any mountain peak or summit or at any other place of resort, or upon any land belonging to this state or to the United States, or in or upon any body or stream of water within this state, shall be punished upon conviction by a fine of not less than \$50 nor more than \$250, or by imprisonment in the county jail for not less than 10 days nor more than six months, or both.

(2) Any person acting as informer, in case of conviction under this section, shall be entitled to one-half of the fine imposed.

(3) Justices' courts shall have jurisdiction of the offenses enumerated in this section.

] ORS 164.900. Any person who maliciously or wantonly, in any manner or by any means not otherwise particularly specified, destroys or injures any personal property of another shall be punished upon conviction by imprisonment in the penitentiary for not more than three years, or by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than \$50 nor more than \$1,000.

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TEXT OF REVISIONS OF OTHER STATES

Criminal Mischief

Text of Model Penal Code

Section 220.3. Criminal Mischief.

(1) Offense Defined. A person is guilty of criminal mischief if he:

(a) damages tangible property of another purposely, recklessly, or by negligence in the employment of fire, explosives, or other dangerous means listed in Section 220.2 (1); or

(b) purposely or recklessly tampers with tangible property of another so as to endanger person or property; or

(c) purposely or recklessly causes another to suffer pecuniary loss by deception or threat.

(2) Grading. Criminal mischief is a felony of the third degree if the actor purposely causes pecuniary loss in excess of \$5,000, or a substantial interruption or impairment of public communication, transportation, supply of water, gas or power, or other public service. It is a misdemeanor if the actor purposely causes pecuniary loss in excess of \$100, or a petty misdemeanor if he purposely or recklessly causes pecuniary loss in excess of \$25. Otherwise criminal mischief is a violation.

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Text of Michigan Revised Criminal Code - Final Draft (1967)

Sec. 2705. Criminal Mischief in the First Degree

(1) A person commits the crime of criminal mischief in the first degree if, with intent to damage property, and having no right to do so or any reasonable ground to believe that he has such a right, he damages any property:

(a) Valued in an amount exceeding 1,000 dollars; or

(b) By means of an explosive.

Text of Michigan Revised Criminal Code - Final Draft (Cont'd)

Sec. 2706. Criminal Mischief in the Second Degree

(1) A person commits the crime of criminal mischief in the second degree if, with intent to damage property, and having no right to do so or any reasonable ground to believe that he has such a right, he damages any property valued in an amount exceeding 250 dollars.

Sec. 2707. Criminal Mischief in the Third Degree

(1) A person commits the crime of criminal mischief in the third degree if, having no right to do so or any reasonable ground to believe that he has such a right, he intentionally or recklessly damages property of any value not exceeding 250 dollars.

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Text of New York Penal Law

Section 145.00. Criminal mischief in the third degree

A person is guilty of criminal mischief in the third degree when, having no right to do so nor any reasonable ground to believe that he has such right, he:

1. Intentionally damages property of another person; or
2. Recklessly damages property of another person in an amount exceeding two hundred fifty dollars.

Section 145.05. Criminal mischief in the second degree

A person is guilty of criminal mischief in the second degree when, with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he has such right, he damages property of another person in an amount exceeding two hundred fifty dollars.

Text of New York Penal Law (Cont'd)

Section 145.10. Criminal mischief in the first degree

A person is guilty of criminal mischief in the first degree when with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he has such right, he damages property of another person:

1. In an amount exceeding one thousand five hundred dollars; or
2. By means of an explosive.

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