

See: Minutes of Commission
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Tapes #57 & 58

CRIMINAL LAW REVISION COMMISSION
311 Capitol Building
Salem, Oregon

ARTICLE ³²~~33~~. MISCELLANEOUS OFFENSES

Preliminary Draft No. 1; May 1970

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³²
ARTICLE 33. MISCELLANEOUS OFFENSES

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INDEX

	<u>Page</u>
Section 1. Offensive littering.	2
Section 2. Unlawful stream pollution.	4
Section 3. Creating a hazard.	5
Section 4. Misconduct with emergency telephone calls.	6
Section 5. Unlawful legislative lobbying.	8
Section 6. Promoting adoption of a child.	9
Section 7. Failing to maintain a metal purchase record	10
Section 8. Unlawful transportation of hay	11
Section 9. Misrepresentation of age by a minor.	13
Section 10. Concealing birth of an infant.	14
Recommendations on disposition of remaining miscellaneous offenses	15

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ARTICLE ³²~~33~~. MISCELLANEOUS OFFENSES

Preliminary Draft No. 1; May 1970

INTRODUCTORY COMMENTARY:

The proposed substantive criminal code revision is divided into 33 major Articles; the Commission has sought to systematically categorize the individual offenses within this framework. An examination of ORS chapters 161 to 168 reveal many miscellaneous statutes that cannot logically be placed within this framework. For purposes of categorization, these sections have been labeled "Miscellaneous Offenses."

Sixty three statutes were found to be within this category. Recourse to one of four possible alternatives may properly dispose of each statute:

- (1) Recommend repeal without comparable coverage in the revised criminal code.
- (2) Recommend transfer to an appropriate ORS regulatory chapter.
- (3) Repealed by duplicatory coverage in the proposed criminal code.
- (4) Recommend incorporation into Article 33, Miscellaneous Offenses.

The choice of alternatives will in some instances involve a policy decision by the Commission. Ten sections have been drafted for inclusion in the Article on Miscellaneous Offenses. Recommendations have been made in regard to disposition of the remaining 54 statutes.

Assuming that the Commission decides to retain the coverage represented by the ten sections in Article 33, sections 4, 5, 6, 7, 8 and 10 could logically be placed in other Articles:

<u>Section</u>		<u>Article</u>	
4	Misconduct with telephone calls	27	Offenses Against Privacy of Communications
5	Unlawful legislative lobbying	24	Obstructing Governmental Administration
6	Promoting adoption of a child	20	Offenses Against the Family
7	Failing to maintain a metal purchase record	19	Business and Commercial Frauds
8	Unlawful transportation of hay	19	Business and Commercial Frauds
10	Concealing birth of an infant	20	Offenses Against the Family

Section 1. Offensive littering. (1) A person commits the crime of offensive littering if he creates an objectionable stench, or degrades the beauty or appearance of property, or detracts from the natural cleanliness or safety of property, by intentionally:

(a) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way; or

(b) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

(c) Permitting any glass, cans or other articles likely to injure an animal, vehicle or person to be thrown from a vehicle which he is operating; except that this subsection shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner or a person operating a school bus subject to ORS 485.010 to 485.060.

(2) As used in this section, "public way" means any place established, maintained or dedicated for the use and enjoyment of the general public, and includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the state, a county or a local municipality.

Derivation: ORS 164.440

164.440 Dumping rubbish on private land or public way; clearing of litter by violators. (1) Any person who throws, dumps, places, deposits or drains, or causes or permits to be drained upon the land of another, without permission of the owner, or upon any public road, highway, street, alley or any easement used by the public for public travel, referred to later in this section as a public way, any cans, glass, nails, tacks, broken dishes or crockery, carcass of any dead animal, old clothing, old automobile tires, old automobile parts, boards, metal, or any sort of rubbish, trash, debris, or refuse, or any sewage or the drainage from any cesspool or septic tank, or any substance which would mar the appearance, create a stench or detract from the cleanliness or safety of such public way, or would be likely to injure any animal, vehicle or person traveling upon such public way, shall be punished upon conviction by a fine not to exceed \$500 or by imprisonment in the county jail not to exceed 30 days, or both.

(2) The operator of any vehicle shall not permit any glass, cans or other articles that would be likely to injure any animal, vehicle or person to be thrown or discarded from such

vehicle while traveling upon a public way. This subsection does not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner or a person operating a school bus subject to ORS 485.010 to 485.060. Violation of this subsection shall be punished, upon conviction, as provided by subsection (1) of this section. However, in any case, upon conviction, if punishment by imprisonment is awarded against the defendant, the form of the sentence shall include that the defendant shall be punished by confinement at labor clearing rubbish, trash and debris from the public ways for not less than one day nor more than five days.

(3) Any person sentenced to pay a fine under this section shall be permitted, in default of the payment of the fine, to work at clearing rubbish, trash and debris from any public way located in the county or the right of way for any such public way. Credit in compensation for such work shall be allowed at the rate of \$25 for each day of work. While performing such work, such person shall wear an arm band on which appears the letters "LP", meaning "Litter Patrol."
[Amended by 1969 c.511 §1]

Section 2. Unlawful stream pollution. A person commits the crime of unlawful stream pollution if he intentionally:

(1) Cuts timber or slashings, or digs, pulls or cuts stumps while clearing land for agricultural purposes, on land adjacent to the banks of any stream subject to overflow within this state, and fails to burn or remove such material before any part of it is carried away by flood or high water; or

(2) Cuts, falls, throws or places in any running stream, irrigation ditch, or draining ditch in this state, any tree, brush, log or drift, without immediately removing the same. This subsection shall not apply to saw logs placed in a stream for driving or rafting.

Derivation: ORS 164.820
164.470

164.820 Placing drift in stream or ditch. Any person who wilfully, wantonly or negligently cuts, falls, throws or places in any running stream, irrigation ditch, or draining ditch in this state, any tree, brush, log or drift, without forthwith removing the same, shall be punished upon conviction by a fine of not less than \$50 or more than \$500. This section does not apply to saw logs placed in any stream for driving or rafting. Justices' courts shall have jurisdiction of all offenses committed under this section. [Amended by 1957 c.647 §1]

164.470 Failure to remove timber before carried away by high water. Any person, firm or corporation who cuts timber or slashing, or digs, pulls or cuts stumps for the purpose of clearing land for agricultural purposes, which land is subject to overflow along or adjacent to the banks of any stream within this state, without burning or removing the timber, slashing or stumps before the same or any part thereof is carried away by flood or high water, shall be punished upon conviction by a fine of not more than \$500 nor less than \$25, or by imprisonment in the county jail for not less than one month nor more than six months.

Section 3. Creating a hazard. A person commits the crime of creating a hazard if:

(1) He intentionally discards in a place where it may attract children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot easily be opened from the inside; or

(2) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more, he intentionally fails or refuses to cover or fence it with a suitable protective construction.

Derivation: Michigan Revised Criminal Code s. 7505
New York Revised Penal Law s. 270.10
ORS 166.560

166.560 Abandoning refrigerators in places accessible to children. It is unlawful to maintain or leave in a place accessible to children any discarded ice box, refrigerator or similar container with a door or lid attached that cannot be opened with ease from the inside. Violation of this section is a misdemeanor.
[1985 c.118 §1]

Section 4. Misconduct with emergency telephone calls. (1) A person commits the crime of misconduct with emergency telephone calls if:

(a) He intentionally refuses to relinquish a party line or pay telephone immediately after being informed that it is needed for an emergency call; or

(b) He knowingly requests another to relinquish a party line or pay telephone to place an emergency call when no such emergency exists.

(2) "Party line" means a subscriber's line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

(3) "Emergency call" means a telephone call to a police or fire department, or for medical aid or ambulance service, necessitated by a situation in which human life or property is in jeopardy and prompt summoning of aid is essential.

(4) Every telephone directory published after _____ which is distributed to members of the general public in this state shall contain in a prominent place a notice of the offense punishable by this section.

Derivation: Michigan Revised Criminal Code s. 7515
New York Revised Penal Law s. 270.15
ORS 166.710

EMERGENCY TELEPHONE CALLS

166.710 Relinquishing telephone to permit emergency call. (1) Every person shall relinquish a telephone party line or a public pay telephone after he has been informed that the party line or telephone is needed to place an emergency call to a fire department or police department, or for emergency medical aid or ambulance service. This subsection does not apply to persons using a telephone party line or pay telephone for such an emergency call.

(2) No person shall request another to relinquish a telephone party line or pay telephone to place an emergency call to a fire department or police department, or for emergency medical aid or ambulance service knowing that no such emergency exists.

(3) Every telephone directory published after August 20, 1957, and which is distributed to the members of the general public in this state shall contain in a prominent place a notice which explains the offenses provided in this section.

(4) As used in this section, "emergency" means a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential.

(5) Violation of subsection (1), (2) or (3) of this section is a misdemeanor.

[1957 c.601 §1]

Section 5. Unlawful legislative lobbying. A person commits the crime of unlawful legislative lobbying if, having an interest in the passage or defeat of a measure being considered by either house of the Legislative Assembly of this state, as either an agent or principal, he knowingly attempts to influence a member of the assembly in relation to the measure without first disclosing completely to the member his true interest therein, or that of his principal and his own agency therein.

Derivation: ORS 162.520

162.520 Lobbying without disclosing interest to legislators. Any person having any interest in the passage or defeat of any measure before, or which shall come before, either house of the Legislative Assembly of this state, or any agent of such person, who converses with, explains to, or in any manner attempts to influence any member of the assembly in relation to such measure without first truly and completely disclosing to the member his interest therein, or that of his principal and his own agency therein, shall be punished upon conviction by imprisonment in the county jail for not less than three months nor more than one year, or by fine of not less than \$50 nor more than \$500.

Section 6. Promoting adoption of a child. A person commits the crime of promoting adoption of a child if he knowingly:

- (1) Publishes or causes to be published an advertisement to the effect that a child is available or is offered for adoption; or
- (2) Publishes or causes to be published an advertisement seeking or soliciting a child for adoption.

Derivation: ORS 167.645

167.645 Promoting adoption of child by advertising. Any person who publishes or causes to be published any advertisement to the effect that any child is available or is offered for adoption, or publishes or causes to be published any advertisement seeking or soliciting any child for adoption, shall be punished upon conviction by a fine of not more than \$500.

Section 7. Failing to maintain a metal purchase record. (1) A person commits the crime of failing to maintain a metal purchase record if he buys or otherwise obtains new, used or secondhand copper, copper wire, copper cable, brass, electrolytic nickel or zinc, without keeping a record of all such articles purchased or obtained.

(2) The record required by subsection (1) shall be retained by the purchaser for a period of not less than one year and shall be available to any peace officer on demand. The record shall contain:

- (a) A general description of all property purchased.
- (b) The type and quantity or weight of the property.
- (c) The name, address, description and signature of the seller or person making delivery.
- (d) A description of any motor vehicle and its license number used in the delivery of such articles.

(3) This section shall not apply to purchases made by or from a manufacturer, remanufacturer or a distributor appointed by a manufacturer of such articles.

Derivation: ORS 164.385

164.385 Record of metal purchases required. (1) Every person, firm or corporation engaged in the business of buying, selling, or otherwise obtaining new, used or secondhand copper, copper wire, copper cable, brass, electrolytic nickel or zinc shall keep a record of all such articles purchased, except that no record need be kept of purchases made by or from a manufacturer, remanufacturer or a distributor appointed by a manufacturer, of such articles. The record shall contain (a) a general description of all property purchased; (b) the type and quantity or weight; (c) the name, address, de-

scription and signature of the seller or the person making delivery; and (d) a description of any motor vehicle and the license number thereof, used in the delivery of such articles. The information so recorded shall be retained by the purchaser for a period of not less than one year and shall be available to any police officer on demand.

(2) Violation of this section is punishable, 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. [1967 c.243 §1]

Section 8. Unlawful transportation of hay. (1) A person commits the crime of unlawful transportation of hay if he knowingly transports any quantity of hay on a public highway without having in his possession a transportation certificate signed by the producer or his agent.

(2) As used in this section:

(a) "Hay" means grasses, legumes and other forage plants grown in Oregon and intended for use as feed.

(b) "Producer" means a person who raises and harvests hay on land he owns or leases and is delivering that hay from the field to a place of storage or sale or to a feedlot for feeding to livestock.

(c) "Transportation certificate" means a certificate showing the amount of hay in possession and its date of acquisition, the price paid or agreed to be paid for the hay or other terms of any transportation or sale contract, the location of the place where the hay was loaded and its destination, the total number of bales or other units and the method of baling or packaging, and the type of hay transported.

(3) This section shall not apply to transportation of hay by a producer thereof, or his agent who has in his possession written evidence of his authority to transport hay for the producer, or to a person or his agents under contract to transport such hay for the producer.

164.355 Transportation of hay without certificate prohibited. (1) As used in this section, unless the context requires otherwise:

(a) "Hay" means grasses, legumes and other forage plants grown in Oregon and intended for or used as feed.

(b) "Producer" means a person who raises and harvests hay on land he owns or leases and is delivering that hay from the field to a place of storage or sale or to a feedlot for feeding to livestock.

(2) No person shall transport any quantity of hay on a public highway without having in his possession a transportation certificate signed by the producer or his agent showing:

(a) The amount of hay in his possession and the date of acquisition of such hay.

(b) The price paid or agreed to be paid for the hay or other terms of any transportation or sale contract.

(c) The location of the place where the hay was loaded and its destination.

(d) The total number of bales or other units and the method of baling or packaging.

(e) The type of hay.

(3) Subsection (2) of this section does not apply to transportation of hay:

(a) By the producer thereof or his agents who have in their possession written evidence of their authority to transport hay for the producer.

(b) By a person, or his agents, under contract to transport for the producer of such hay.

(4) Violation of subsection (2) of this section is a misdemeanor.

[1967 c.378 §§1, 2, 3, 4; 1969 c.287 §1]

Section 9. Misrepresentation of age by a minor. A person commits the crime of misrepresentation of age by a minor if being less than 21 years of age he knowingly represents himself to be of an age other than his true age with the intent of securing a right, benefit or privilege which by law is denied to persons less than 21 years of age.

Derivation: ORS 165.605

**MISREPRESENTING AGE OR
FINANCIAL CONDITION**

165.605 Falsely representing age. Any person under the age of 21 years who represents falsely that he is of any age other than his true age for the purpose of securing any right, benefit or privilege which by law is denied to persons under the age of 21 years, shall be punished upon conviction by a fine of not more than \$50 or by imprisonment in the county jail for not more than 30 days, or both.

Section 10. Concealing birth of an infant. A person commits the crime of concealing the birth of an infant if he conceals the corpse of a newborn child with intent to conceal the fact of its birth or to prevent a determination of whether it was born dead or alive.

Derivation: ORS 163.660

163.660 Concealment of dead child by unmarried mother. (1) Any unmarried woman who conceals the death of any issue of her body so that it may not be known whether the issue was born alive or dead, or was murdered, shall be punished upon conviction by imprisonment in the penitentiary for not more than one year, or by imprisonment in the county jail for not less than three months nor more than one year.

(2) When a woman is indicted for the murder of her bastard infant she may be charged in the same indictment with the crime defined in this section. If she is found not guilty of the charge of murder she may be found guilty of the crime defined in this section and punished accordingly.

ORS

RECOMMENDATION

MISCELLANEOUS CRIMES

161.310 Punishment for gross injury to another's person or property and offenses against public peace, health or morals. If no punishment is expressly prescribed for the act by the criminal statutes, any person who wilfully and wrongfully commits any act which grossly injures the person or property of another, or which grossly disturbs the public peace or health, or which openly outrages the public decency and is injurious to public morals, upon conviction, shall be punished by imprisonment in the county jail for not less than one month nor more than six months, or by fine not less than \$50 nor more than \$200.

Repeal

162.560 Maintenance of a privately operated police force. (1) No person or his agents, members or officers shall organize, maintain, or employ an armed body of men in this state for the purpose of assuming, discharging or attempting to discharge in any city in this state any of the duties or occupations properly belonging to the city's duly organized police patrol.

Repeal

(2) No person or his members, agents or officers shall establish or maintain in any city of this state any armed or uniformed patrol system not under the direct control and appointed by the proper municipal departments, as provided in the city's charter.

(3) Violation of this section is punishable upon conviction by a fine of not less than \$1,000 nor more than \$5,000, and a like sum for each day violation of this section is continued by the violator after having been once fined. In addition the violator, if an individual, may be imprisoned in the county jail not to exceed one year.

(4) The fine shall be paid into the general fund of the county in which the offense was committed. All arms, uniforms, accoutrements and other property of a military or police character in the possession of each violator or armed body of men, shall be seized by the officer making the arrest for violation of this section and shall be forfeited to the State of Oregon.

ORS

RECOMMENDATION

162.580 Sale of badges without permit prohibited. No person shall sell or offer for sale any star or other insignia employed as a badge of authority to act as a peace officer unless a written permit to sell the badge has been first obtained from the sheriff of the county in which the badge is to be offered for sale, or from the chief of police of any incorporated city or town in which the badge is to be offered for sale. The permit shall state the name of the person to whom the badge is to be sold and the date of the permit. A copy of the permit shall be kept in the issuing officer's office and shall be always open to inspection by any prosecuting or peace officer.

Repeal

162.590 Seizure and destruction of badges not lawfully possessed. Any star or badge of authority of a peace officer found in the unlawful possession of any person, firm or corporation may be immediately seized by any peace officer and destroyed as contraband. No person shall resist an officer in the seizure of such star.

Repeal

162.600 Penalty for violating ORS 162.570 to 162.590. Violation of ORS 162.570 to 162.590 is punishable upon conviction by imprisonment in the county jail for a period not exceeding six months or by a fine not exceeding \$500, or both.

Repeal

**CRIMES INVOLVING PUBLIC RECORDS
AND PROPERTY**

Transfer to ORS chapter
192, Public Records

162.610 Records required by law to be in English. (1) With the exception of druggists' or physicians' prescriptions, all records, reports and proceedings required to be kept by law shall be written in the English language or in a machine language capable of being converted to the English language by a data processing device or computer.

(2) Violation of this section is punishable upon conviction by a fine not to exceed \$50, or imprisonment in the county jail not to exceed one month, or both.

[Amended by 1967 c.489 §3]

ORS

RECOMMENDATION

162.740 Display of red flag or other emblem as manifestation of disloyalty, belief in anarchy or defiance of law. No person shall carry or cause to be carried or publicly displayed, any red flag or other emblem or banner for the purpose of manifesting disloyalty to the Government of the United States or a belief in anarchy or other political doctrines or beliefs whose objects are either the disruption or destruction of organized government, or for the purpose of manifesting defiance of the laws of the United States or of this state. Violation of this section is a felony punishable upon conviction by imprisonment in the penitentiary not exceeding 10 years, or by a fine not exceeding \$1,000, or both.

Repeal

163.410 Libel and slander; penalty for publishing or broadcasting defamatory matter. (1) Any person who wilfully, by any means other than words orally spoken, except as provided in this section, publishes or causes to be published false and scandalous matter concerning another, with intent to injure or defame such other person, or any person who wilfully uses or utters over, through or by means of the radio, commonly called broadcasting, false and scandalous matter concerning another, with intent to injure or defame such other person, 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 \$100 nor more than \$500.

Repeal (Adequate civil remedy)

(2) Any allusion to any person or family, with intent to injure, defame or maliciously annoy the person or family, comes within the provisions of this section.

(3) Any person who violates this section shall be prosecuted whether the party injured desires to prosecute or not.

163.420 Truth as defense in libel actions; presumption of malice. (1) In all criminal prosecutions for libel the truth may be given in evidence. If it appears to the jury that the matter charged as libelous is true and was published with good motives and justifiable ends, the defendant must be found not guilty.

Repeal

(2) An injurious publication is presumed to have been malicious if no justifiable end or good motive is shown for making it.

ORS

RECOMMENDATION

163.430 Defamation of insurers or fraternal benefit societies. Any person who, verbally or otherwise makes, publishes, prints, distributes, circulates, or causes the same to be done, or in any way aids, abets or encourages the making, printing, publishing, distributing or circulating of any pamphlet, circular, article, literature, comparison or statement of any kind of any insurer, as defined in ORS 731.106, or fraternal benefit society doing business in this state, which contains any false or malicious criticism or statement designed to injure such insurer or society in its reputation or business, shall be punished upon conviction by a fine of not more than \$100.

[Amended by 1987 c.359 §683]

Repeal

163.440 Defamation of banks and trust companies. Any person who wilfully and knowingly makes, circulates or transmits to another any statement or rumor, written, printed, or by word of mouth, which is untrue in facts and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank or trust company, as defined in ORS 706.030 and ORS 706.060, respectively, or national bank doing business in this state, or who knowingly counsels, aids or procures another to start, transmit or circulate any such statement or rumor, shall be punished upon conviction by imprisonment in the

Repeal

county jail for a period of not less than one year, or by a fine of not less than \$1,000 nor more than \$5,000, or both.

163.450 Defamation of savings and loan association. Any person who wilfully and knowingly makes, utters, circulates or transmits to another any statement untrue in fact, derogatory to the financial condition of any savings and loan association, as defined in ORS 722.005, in this state, with intent to injure such financial institution, or who wilfully and knowingly by counsel aids, procures or induces another to originate, make, utter, transmit or circulate, any such statement or rumor with like intent, is guilty of a felony and shall be punished upon conviction by a fine of not more than \$2,500 or by imprisonment in the penitentiary for a period not exceeding two years, or both.

Repeal

ORS

RECOMMENDATION

163.460 Publishing of picture importing that person is convict or criminal. Any person, firm, or corporation who prints or publishes in any newspaper, magazine or periodical in this state, any photograph or picture of any person which bears thereon a number which such person might bear if convicted and sentenced to imprisonment, or which might tend to indicate to the public that he is a criminal or that he is or has been an inmate of a penal institution, unless he is or has been an inmate of a penal institution, is guilty of the crime of malicious publication and shall be punished upon conviction by a fine of not less than \$50 nor more than \$1,000, or by imprisonment in the county jail for a period of not less than 30 days nor more than one year, or both.

Repeal (Adequate civil remedy)

163.470 Statements designed to injure former convicts. Any person who knowingly and wilfully and orally or in writing communicates to another any statement concerning any person convicted of a felony who is then on conditional pardon or parole or finally discharged, with the purpose and intent to deprive the convicted person of employment, or to prevent him from procuring the same, or makes or threatens to make such communication with the purpose and intent to extort from him any money or article of value, shall be punished upon conviction by imprisonment in the county jail not longer than six months or by a fine not greater than \$100, or both. Justice, municipal and district courts shall have original jurisdiction in the trial of such cases.

Repeal (Covered by Theft by Extortion)

ORS

RECOMMENDATION

164.362 Transportation of coniferous trees without bill of sale prohibited. (1) Except as provided in subsection (2) of this section, it shall be unlawful for any person to transport over the highways of this state more than five coniferous trees without having in his possession a bill of sale showing his title thereto. The bill of sale shall specify:

- (a) The date of its execution;
- (b) The name and address of the vendor or donor of the trees;
- (c) The name and address of the vendee or donee of the trees;
- (d) The number of trees, by species, sold or transferred by the bill of sale; and
- (e) The property from which the trees were taken.

(2) The provisions of subsection (1) of this section do not apply to:

- (a) The transportation of trees in the course of transplantation, with their roots intact.
- (b) The transportation of logs, poles, pilings or other forest products from which substantially all the limbs and branches have been removed.
- (c) The transportation of coniferous trees by the owner of the land from which they were taken or his agent.
- (d) The transportation of coniferous trees by a common carrier or contract carrier.

(3) Violation of the provisions of subsection (1) of this section is punishable, upon conviction, by a fine of not less than \$50 nor more than \$500 or by imprisonment in the county jail not exceeding six months, or both.

[1957 c.714 §§1, 6(1)]

164.364 Investigations to prevent violations of ORS 164.362 to 164.368; jurisdiction of courts. (1) All peace officers shall note and investigate the transportation of coniferous trees for the purpose of preventing violations of the provisions of ORS 164.362 to 164.368.

(2) Justice courts, district courts and circuit courts have concurrent jurisdiction of violations of the provisions of ORS 164.362 to 164.368.

[1957 c.714 §§4, 5]

Transfer to ORS chapter
527, Forest Conservation

Transfer to ORS chapter
527, Forest Conservation

ORS

RECOMMENDATION

164.366 Arrest; trial; summons. (1) Whenever any peace officer has reasonable cause for believing that a person is transporting trees in violation of the provisions of ORS 164.362, he may arrest the person without a warrant and take him before any court having jurisdiction of the offense. The court shall proceed without delay to hear, try and determine the matter and enter judgment according to the allegations and proofs.

(2) The peace officer making the arrest, if he does not immediately take the person arrested into custody, may issue a summons to him. The summons shall direct him to appear at the court named in the summons to answer a complaint to be filed therewith. The violation shall be noted on the summons, which shall be dated and signed by the peace officer.

(3) Any person to whom a summons is issued under this section who fails to appear at the time and place specified therein is guilty of a misdemeanor.

[1957 c.714 §§2, 6(2)]

164.368 Seizure of trees transported in violation of ORS 164.362. (1) Whenever any peace officer has reasonable cause for believing that a person is transporting trees in violation of the provisions of ORS 164.362, he may, at the time of making the arrest under ORS 164.366, seize and take possession of the trees. The peace officer shall hold the trees subject to the order of the court before which the arrested person is ordered to appear. If the owner of the trees appears before the court within 48 hours after the seizure thereof and presents satisfactory evidence of his ownership, the court shall order the peace officer to deliver the trees to the owner. If the owner does not appear within the 48-hour period and prove his ownership of the trees, the court shall direct the peace officer to sell the trees in any manner and for any price that appears to the court to be warranted. If the trees have no value, the court may direct the officer to destroy them in any manner practicable. The proceeds of the sale, less the reasonable expenses thereof, shall be paid to the treasurer of the county in which the trees are sold. At any time within one year after the seizure of the trees the owner thereof may appear before the court, and if he presents

Transfer to ORS chapter
527, Forest Conservation

satisfactory evidence of his ownership, the court shall direct the treasurer of the county to pay the proceeds to the owner. If the owner does not appear within one year from the seizure of the trees and prove his right to the proceeds, the proceeds shall thereafter belong to the county, and may be disposed of as the county court may direct.

(2) The return of the trees or the payment of the proceeds shall not preclude the court from imposing any fine or penalty for any violation of the provisions of ORS 164.362 to 164.368.

[1957 c.714 §3]

Transfer to ORS chapter
527, Forest Conservation

ORS

RECOMMENDATION

164.462 Unlawful entry of dwelling. (1)
Any person who, without authority of law, enters any dwelling house, as defined in ORS 164.210, without consent, express or implied, of a person in possession or entitled to possession thereof, and who has no reasonable basis for believing that his entry into the dwelling house is lawful or is required to assist a person in distress or to prevent injury to a person therein or damage to property, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished according to the provisions of ORS 161.080.

Repeal (Covered by
Criminal Trespass)

(2) Notwithstanding the provisions of subsection (1) of this section, an employer or an employer's agent may enter any quarters provided by the employer without charge to the employe for the purpose of making a reasonable inspection thereof.

[1963 c.552 §§1, 2; 1965 c.450 §1]

164.465 Unauthorized entry of penal or correctional institutions. Any person who, without authority or permission, knowingly enters into or upon the Oregon State Penitentiary or the Oregon State Correctional Institution, or any jail, road, forestry camp, farm or other premises or establishment maintained or operated as a penal or correctional institution by this state or any political subdivision thereof, or in connection with any such penal or correctional institution, shall, upon conviction thereof, be punished by a fine of not to exceed \$250, or by imprisonment for a term not more than five years, or both.

Repeal (Covered by
Criminal Trespass)

[1953 c.430 §1; 1959 c.687 §3]

164.520 Operating hand car on railroad track. With the exception of employes of the railroad whose duty it is to keep the track in condition, any person who runs or operates any push car, velocipede, hand car or any other wheeled contrivance upon any railroad track in this state, shall be punished upon conviction by a fine of not less than \$20 nor more than \$100, or by imprisonment in the county jail for not less than 10 days nor more than 50 days, or both. Justices of the peace have concurrent jurisdiction to try any person charged with violating this section.

Repeal

ORS

RECOMMENDATION

164.530 Throwing or shooting at motor or railway vehicle. Any person who throws or projects any stone, rock, brick, bottle, missile or any substance at any motor or railway vehicle operated for the transportation of persons or freight, while the vehicle is in motion or is standing and occupied, ~~or discharges any gun, pistol or any other firearm at such vehicle,~~ shall be punished upon conviction by a fine of not to exceed \$500 or by imprisonment in the county jail for not to exceed one year, or both, or by imprisonment in the penitentiary for not more than two years.

Repeal (Covered by Reckless Endangerment and Article on Firearms)

164.540 Unlawfully riding or attempting to ride on train; jurisdiction of justice court; venue. (1) With the exception of any person operating the train, locomotive or car, or any person having business with or acting under legal authority of the railroad company, or any passenger for hire lawfully entitled to ride on any passenger train, every person who, at any place within this state, rides or attempts to ride upon any locomotive, engine, railroad car, railroad train, or trains of any character, or in or upon any part thereof, for the purpose or with the intent of stealing a ride thereon, or who, for a like purpose or with like intent, at any place within this state, climbs upon, holds to or in any manner attaches himself to any locomotive engine, railroad car or railroad trains of any character, while they are in motion or standing still, shall be punished upon conviction by imprisonment in the county jail for a period not exceeding 30 days, or by a fine of not more than \$60, or both.

Repeal (Covered by Theft of Services)

(2) Justice of the peace courts shall have exclusive jurisdiction of violations of this section. Any person charged with violation of this section may be tried in any county in this state through which the train carrying the violator may pass, or in any county in which the violation may have occurred or may be discovered.

ORS

RECOMMENDATION

164.550 Authority of railroad officials to arrest unlawful riders and to demand assistance from others. Railroad conductors, brakemen, firemen and engineers of railroad trains hereby are authorized to immediately arrest any person violating ORS 164.540 without warrant or other process, and to call upon any bystanders or other persons for assistance whenever necessary to enable them to make the arrest. Any person authorized under this section to make arrests may cause the person arrested to be delivered to any sheriff or other peace officer, to be prosecuted for such offense. However, nothing in this section restricts the authority or duty of any regular peace officer within the state to make arrests for the offense.

Repeal

164.640 Interference with radio reception. (1) Any person who maliciously or wantonly operates or causes to be operated, any machine, device, apparatus or instrument of any kind whatsoever, which causes reasonably preventable electrical interference with radio reception within the corporate limits of any city or town within this state, between the hours of 6 p. m., and 12 p. m., shall be fined upon conviction not less than \$50 nor more than \$500.

Repeal (Matter for municipal legislation)

(2) This section does not apply to the taking of X-ray pictures, the making of X-ray examinations or the giving of X-ray treatments if the machine or apparatus used therefor is properly equipped to avoid all unnecessary or reasonably preventable interference with radio reception and is not negligently operated.

(3) This section does not embrace or cover the regulation of any transmitting, broadcasting or receiving instrument, apparatus or device used or useful in interstate commerce, or the operation of which instrument, apparatus or device is licensed or authorized by, or is under the provisions of any Act of the Congress of the United States of America, and does not affect any person whose business is regulated by the Public Utility Commissioner of this state.

ORS

RECOMMENDATION

164.720 Attempting to poison domestic animals. (1) Any person who puts out or places any poison where it is liable to be eaten by another's horse, cattle, sheep, hogs, or other domestic animals of value, with intent to poison such animal, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years, or by imprisonment in the county jail for not less than three nor more than 12 months, or by fine of not less than \$100 nor more than \$1,000.

Repeal (Attempted cruelty to animals)

(2) This section does not prohibit the owner or person in possession of inclosed land in any county west of the Cascade Mountains, whose sheep, goats or other domestic animals are being killed, injured or harassed by wild or domestic animals, from putting out poison upon the inclosed premises between sunset and sunrise of any day.

164.730 Taking animal without consent of owner. Every person who takes or uses without authority of the owner or person entitled to possession thereof any horse, mare, gelding, foal, mule, ass, jenny, sheep, goat, sow or other swine, bull, cow, steer, calf or heifer not seized under judicial process or not distrained for trespass, or who is a party to any such unauthorized taking or using, shall be punished upon conviction by imprisonment in the penitentiary for not more than two years, or by a fine of not more than \$500. For the first offense the court may reduce the punishment to imprisonment in the county jail for not more than six months, or a fine of not more than \$200.

Repeal (Covered by Criminal Mischief)

[Amended by 1967 c.351 §1]

164.740 Detention of cows or bulls. (1) Any person who takes up any cow for the purpose of milking it and detains it for two hours in any enclosure, or holds or detains in any herd of cattle for like purpose, another's cow or her calf, without the written consent of the owner, shall be fined upon conviction not less than \$15 nor more than \$50. The taking up and detention of each and every cow or calf as specified in this subsection constitutes a separate offense.

(2) Any person who takes up and detains for any time in any enclosure another's bull, for the purpose of improving his stock, without the written consent of the bull's owner, shall be punished upon conviction by a fine of not less than \$20 nor more than \$100, or by imprisonment in the county jail for not less than 15 days nor more than three months, or both.

(3) Prosecution for violations of this section may be had in justice or district courts.

Repeal (Covered by Criminal Mischief)

ORS

RECOMMENDATION

165.145 Transmission and delivery of false and forged messages; civil liability. (1) Any person who knowingly and wilfully sends by telegraph to any person, any false or forged message purporting to be from a telegraph office or from any other person; or who wilfully delivers or causes to be delivered to any person any such message, falsely purporting to have been received by telegraph; or who furnishes, or conspires to furnish or causes to be furnished, to any agent, operator, or employe in any telegraph office, to be so sent by telegraph or to be so delivered, any such message, knowing the message to be false or forged, with the intent to deceive, injure or defraud any individual, partnership, corporation or the public, shall be punished upon conviction by a fine not to exceed \$1,000, or imprisonment not to exceed one year, or both.

Repeal

(2) Any person violating this section shall be liable in a civil suit for all damages occasioned thereby.

165.180 Receiving, disposing of or concealing article from which number or mark has been removed. Any person who sells, receives, disposes of, conceals or has in his possession a radio, automobile tire, piano, phonograph, sewing machine, washing machine, typewriter, adding machine, comptometer, firearm, safe or vacuum cleaner, from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed, and who knows or has good reason to believe that such number or mark has been so removed, defaced, covered, altered or destroyed for the purpose of enabling and with the intent to enable violation of the terms or conditions of any contract covering the purchase or sale of any such chattel, shall be punished upon conviction by a fine of not more than \$500.

Repeal (Covered by
Business and Commercial
Frauds)

165.240 Producing infant and falsely pretending heirship. Any person who fraudulently produces an infant and falsely pretends that it was born of any parent whose child would be entitled to inherit any interest in real estate, or to receive a share of any personal estate, with intent to intercept the inheritance of any interest in such real estate, or the distribution of any such personal estate, from any person lawfully entitled thereto, shall be punished upon conviction by imprisonment in the penitentiary for not more than 10 years.

Repeal (Attempted Theft
by Deception)

ORS

165.245 Substituting another child for infant committed to one's care. Any person to whom an infant has been confided for nursing, education or other purpose, who, with intent to deceive any parent or guardian of such child, substitutes or produces to such parent or guardian another child in the place of the one so confided, shall be punished upon conviction by imprisonment in the penitentiary for not more than 10 years.

165.260 Use of dramatic or musical composition without consent. Any person who knowingly causes to be publicly performed, or represented for profit, any unpublished or undedicated dramatic or musical composition known as an opera, without the consent of its owner or proprietor, or who, knowing that such dramatic or musical composition is unpublished or undedicated, and without the consent of its owner or proprietor, permits, aids or takes part in such a performance or representation, shall be punished upon conviction by a fine not exceeding \$100, or by imprisonment in the county jail for not more than six months, or both. Each performance or representation so given is a substantive offense.

165.325 Creation of society having name or purpose similar to that of existing body. Any person who organizes, authorizes or creates an order, society or organization similar in name, purpose and object to one already existing in this state, without the consent of the governing body thereof within this state, or attempts to do so, and thereby deceives others to believe that it has the right or authority of the authorized, chartered and recognized order and society in this state, shall be punished upon conviction in the manner provided in ORS 165.315.

165.330 Organization of corporation to violate ORS 165.310 to 165.325. Any person who organizes a corporation, or any Corporation Commissioner who issues a certificate to a corporation, to do the things prohibited by ORS 165.310 to 165.325, shall be punished upon conviction in the manner provided in ORS 165.315.

RECOMMENDATION

Repeal (See Article 12, Kidnapping)

Repeal (Adequate civil remedy)

Transfer to ORS chapter 649, Insignias and Names of Organizations

Transfer to ORS chapter 649, Insignias and Names of Organizations

ORS

165.335 Circulating signs or rituals of fraternal society without authority. Any person, firm, or corporation who, directly or indirectly, writes, prints, indites or circulates or procures to be written, printed, indited or circulated in any language, any signs, plates, rituals or secret work, or any part thereof, of any fraternal order or fraternal society having a grand or supreme lodge in this state, or with jurisdiction in this state, without the written authority of such grand or supreme lodge, shall be punished upon conviction by a fine of not less than \$50 nor more than \$500.

165.410 Tampering with brands on hides of cattle; wrongfully selling or destroying hides. Any person who cuts or burns or otherwise mutilates, disfigures, removes or obliterates the brand, earmark, ear, dewlap or other mark of identification upon any hide of any cattle, or burns or in any manner destroys the hide of any cattle, or who buys or sells, or has in his possession with intent to sell or otherwise dispose of, the hide of any cattle with brand, dewlap, earmark, ear, or other mark of identification, cut or burned or otherwise disfigured, mutilated, obliterated or removed, shall be fined not more than \$100 or imprisoned in the county jail for not more than 90 days, or both.

165.415 Misrepresentations of pedigree; mutilation of certificate or proof of pedigree.

(1) No person shall:

(a) By any false representation and with intent to defraud, obtain from any corporation, club, association, society or company organized in whole or in part for the purpose of improving breeds of cattle, horses, sheep, swine or other domestic animals, a false certificate of registration of any such animal in their herd register or other register, or obtain the transfer of any such certificates.

(b) Knowingly and with intent to defraud, give a false pedigree of any such animal.

RECOMMENDATION

Transfer to ORS chapter
649, Insignias and Names
of Organizations

Transfer to ORS chapter
604, Brands and Marks

(c) During the existence of any mortgage on or lien or charge against any such animal, spoliage, mutilate or destroy the registration certificates or proofs of pedigree, or so encumber the same that the animal covered thereby cannot, in connection with the records, rules and regulations of the corporation, club, association, society or company under which the animal is registered, be directly designated thereby.

(2) Violation of this section shall be punishable upon conviction by imprisonment in the county jail for not more than one year, or by fine not exceeding \$500, or both.

Transfer to ORS chapter
605, Breeding of Animals

ORS

RECOMMENDATION

165.420 Abandonment of animals by bailees. (1) Any person to whom livestock of another is entrusted by the owner or his agent for herding, care, safekeeping, driving or shipping, upon contract for valuable consideration, who leaves or abandons the livestock wilfully or maliciously or without just cause and without giving reasonable notice to the owner or his agent to enable him to supply a substitute for such person, from which abandonment injury or damage results to the owner by loss or impairment of the value of the livestock, 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 more than one year, or by a fine of not more than \$300, or by both such fine and imprisonment.

(2) Subsection (1) of this section is not violated by a shepherd who abandons sheep entrusted to him when the owner of the sheep, or his representative, agent or camp tender, refuses to visit and supply him with the necessaries of life at reasonable intervals.

[Amended by 1961 c.261 §1]

165.450 Adulteration of gold dust. Any person who mixes or adulterates any gold dust with any metal or compound of less value, with intent to pass, sell or in any way dispose of the gold dust, so mixed or adulterated, as genuine, or causes it to be sold, passed or otherwise disposed of as genuine and pure, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years.

165.455 Possession of adulterated gold dust. Any person who has any gold dust in his possession mixed or adulterated as described in ORS 165.450, knowing that it is mixed or adulterated, and with intent to pass, sell or in anywise dispose of the same as pure and genuine, or to cause the same to be sold, passed, or in any way disposed of as pure and genuine gold dust, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years.

Transfer to ORS chapter 607, Stock Running at Large
(See also, Cruelty to Animals, subsection (2), Cruel Neglect)

Repeal (Covered by Theft by Deception)

Repeal

ORS

RECOMMENDATION

165.460 Selling adulterated gold dust. Any person who passes, sells or in any way disposes of any gold dust mixed or adulterated as described in ORS 165.450, or causes the same to be passed, sold, or otherwise disposed of, or attempts to pass, sell, or in any way dispose of the dust, knowing that it is so mixed or adulterated, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years.

Repeal

165.465 Misrepresentation or misbranding of metallic commodity. Any person or his agent, servant or employe doing business in this state, who, intentionally or for the purpose of deceiving any customer or purchaser, misbrands or misrepresents the kind, gauge, analysis, weight, quality or quantity of any metallic commodity offered for sale, of if it is an imitation of or offered for sale under the distinctive name of another article, shall be punished upon conviction by a fine of not less than \$100 nor more than \$500 for each violation.

Repeal

165.610 Third person misrepresenting age of minor. Any person who represents falsely a person under the age of 21 years to be of the age of 21 years or over for the purpose of securing or assisting such person in the securing of any right, benefit or privilege which by law is denied to persons under that age, shall be punished upon conviction by a fine not exceeding \$50 or by imprisonment in the county jail for not more than 30 days, or both.

Repeal (Accomplice
Liability to Endangering
Welfare of a Minor)

166.650 Making or disposing of keys to property of common carrier. Any person who, by himself or another, without the written order and consent of the common carrier, makes, simulates, imitates, sells or disposes of any key belonging to or which might be used to open or unlock any switchlock, carlock, or locks used upon or belonging to any switch or car owned, controlled or operated by any common carrier in this state, shall be punished upon conviction by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail not less than 30 days nor more than one year.

Repeal

ORS

RECOMMENDATION

167.240 Visiting or inducing others to visit houses of prostitution. Any person who procures, requests, orders, or in any way induces any minor to go into or visit any house of prostitution, or any room or place inhabited or frequented by any prostitute, or used for purposes of prostitution, for any purpose whatever, or any minor who goes therein or visits thereat, under any pretext or for any purpose whatever, shall be punished upon conviction as follows:

Repeal

(1) Minors by a fine not exceeding \$100 or by incarceration for a period not exceeding six months in MacLaren School for Boys or Hillcrest School of Oregon.

(2) Corporations, by a fine of not less than \$500 and not more than \$1,000.

(3) Any other persons, by a fine of not less than \$100 and not more than \$250, or by imprisonment in the county jail for a period not exceeding one year, or both.

167.250 Use of tobacco by minor in public place; permitting minor to frequent place of business while smoking. Any minor under the age of 18 years who smokes, uses, or is in possession of any cigar, cigarette, or tobacco in any form in any public highway, street, or place; or any proprietor, clerk, assistant or employe of any place of business who permits any minor under 18 years of age to frequent such place of business while such minor is using or smoking any cigar, cigarette or tobacco in any form, shall be punished upon conviction by a fine of not more than \$5 for each offense, or by imprisonment for not more than two days for each offense.

Repeal

[Amended by 1959 c.322 §2]

167.300 Minor misrepresenting age in order to gamble. Any minor who represents and pretends to the owner, lessee, proprietor or employe of any place enumerated in ORS 167.295, that he is 21 years of age or older, for the purpose of inducing such person to permit him to engage in any of the games enumerated in ORS 167.295, shall be punished upon conviction by a fine of not less than \$10 nor more than \$100.

Repeal (Covered by section 9, this Article)

ORS

RECOMMENDATION

167.640 Promoting divorce. Whoever advertises, prints, publishes, distributes or circulates, or causes to be advertised, printed, published, distributed or circulated, any circular, pamphlet, card, handbill, advertisement, printed paper, book, newspaper, or notice of any kind, offering to procure or obtain, or to aid in procuring or obtaining any divorce, or the severance, dissolution or annulment of any marriage, or offering to engage, appear or act as attorney, counsel or referee, in any suit for alimony, separate maintenance or divorce, or the severance, dissolution or annulment of any marriage in this state or elsewhere, shall be punished upon conviction by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail for not more than six months, or both. This section does not apply to the printing or publishing of any notice or advertisement required or authorized by any law of this state.

Repeal

167.705 Exhibiting person in trance. Any person who in any manner exposes to public view any person in a state of trance, sleep or entire or partial unconsciousness, which was induced by hypnotism, mesmerism, or any other form of the exertion of the will power or suggestion of another person over such subject, or consents to or aids or abets such exhibition either in person or through his agents, servants or otherwise, or hypnotizes any person for the purpose of being so exposed to view, shall be punished upon conviction by a fine of not more than \$1,000.

[Amended by 1959 c.530 §6]

Repeal

167.710 Exhibiting deformed person. Any person who exhibits or causes to be exhibited in any public place within this state, any deformed person, for reward or gratuity, shall be punished upon conviction for each offense by a fine of not less than \$25 nor more than \$50, or by imprisonment in the county jail for not less than one nor more than three months, or both. Justices' courts shall have jurisdiction of actions brought under this section.

Repeal

ORS

167.715 Sponsoring or participating in prize fight. Except as provided in ORS chapter 463, any person who arranges, attempts to arrange, offers to arrange, engages or offers to engage in a prize fight to be fought in this state, or otherwise, in any manner, either as principal, second, assistant, stakeholder, trainer, referee, aider, abettor, solicitor or agent, whether the fight takes place or not, shall, upon conviction, be imprisoned in the penitentiary not more than five years, or fined not less than \$1,000 nor more than \$5,000. Each peace officer and justice of the peace shall see that this section is enforced. When any of said officers have reason to believe that this section is being violated, he shall institute proceedings against any party so suspected.

RECOMMENDATION

Transfer to ORS chapter
463, Boxing and Wrestling