

OREGON CRIMINAL LAW REVISION COMMISSION

ORS 164.310, LARCENY
Selected Oregon Cases

Fundamental elements of common law larceny, preserved by statute, are (1) trespassory (2) taking and (3) carrying away of the (4) personal property (5) of another (6) with intent to steal.

State v. Tauscher, 227 Or 1 (1961).

Statute defining the crime of larceny originally was designed to cover only those cases which would have been larceny at common law.

State v. Dooley, 102 Or 563 (1922).

Larceny consists of taking the personal property of another, without the owner's consent, coupled with the intent wholly to deprive the owner thereof; such intents must exist concurrently and contemporaneously.

State v. Teller, 45 Or 571 (1904).

One who obtained money by pretense of making a bet, the owner not intending to part with title, was guilty of larceny.

State v. Ryan, 47 Or 338 (1905).

Obtaining possession of goods but not title to the goods is within this section.

Lilly v. Gladden, 220 Or 84 (1959)..

State v. Thompson, 240 Or 468 (1965).

The corpus delicti of the crime of larceny consists of (1) the property was lost by the owner and (2) it was lost by a felonious taking.

State v. O'Donnell, 229 Or 487 (1962).

That a person may be charged with either this section or ORS 164.390 (shoplifting) is not unconstitutional as a denial of equal protection of the laws.

Black v. Gladden, 237 Or 631 (1964).

When defendant drove a car to a garage at the owner's request and then later took the car from the garage and sold it, the conviction for larceny was affirmed.

State v. Cooley, 102 Or 563 (1922).

A man cannot be guilty of stealing his own goods if he is also entitled to the possession at the time of the taking. State v. Luckey, 150 Or 566 (1935).

An instruction that proof of ownership by a partnership would be insufficient where ownership by one person only was alleged, unless the one person held some special property interest in the goods, was not error. State v. Wilson, 6 Or 428 (1877).

An indictment alleging that the articles were the "property of" a corporation implied not only ownership but also that the thing owned had some value. State v. Poyntz, 168 Or 69 (1942).

One who received a payment of money in excess of what he was entitled to receive and appropriated the money to his own use, with intent to defraud the owner thereof, was guilty of larceny. State v. Ducher, 8 Or 394 (1880).

A taking of animals with intent to convert them to the taker's use was not presumed to have been felonious, where defendant set up a claim at the time that the animals were lost or abandoned property. State v. Swayze, 11 Or 357 (1884).
State v. Hunsaker, 16 Or 497 (1888).

Defendant was guilty of larceny by trick when he executed a worthless check as down payment on a new car and executed a conditional sales contract for the balance, and received possession of the car, because the vendor had retained legal title to the car for security. State v. Thompson, 240 Or 468 (1965).

Secrecy is not an element of larceny, but may be evidence of a felonious intent, which is an essential element and must exist at the time of the taking. State v. Albert, 117 Or 179 (1926).

A justice court, or any municipal court having the authority of a justice, has jurisdiction where the value of the property taken does not exceed \$35. State v. Browning, 47 Or 470 (1906).

Larceny of property of the United States is punishable under the state law.
State v. Frach, 162 Or 602 (1939).

Property is not taken without the owner's consent within the meaning of the term larceny, where an authorized agent of the owner cooperates with the actors in planning and carrying out the operation.
State v. Hull, 33 Or 56 (1898).

The property is sufficiently described in the words of the section which makes it a subject of larceny.
State v. Wilson, 63 Or 344 (1912).

An indictment charging that the defendant did take, steal and carry away, without using the word "feloniously" sufficiently charges the crime of simple larceny, at least.
State v. Minnick, 54 Or 86 (1909).

The indictment need not state the aggregate value of the articles stolen where the several items are specifically described and the value of each is alleged, and a general verdict of guilty need not state the value of the property stolen, either severally or in the aggregate.
State v. Howell, 1 Or 241 (1859).
State v. Kelliher, 32 Or 240 (1897).

An allegation of the sum stolen is necessary in order to determine the value of the property taken, and the extent of the punishment.
State v. Hanlon, 32 Or 95 (1897).

In charging larceny of a bank check, it is sufficient to describe the instrument by giving its usual name, amount and value.
State v. Hinton, 56 Or 428 (1910).

An allegation in the indictment that the value of the property stolen was more than the amount specified in the statute does not reduce or raise the offense.
State v. Wright, 122 Or 377 (1927).

Where a person was charged with larceny of a horse, saddle and bridle, taken at the same time and place, and from the same person, the whole transaction constituted but one crime, and only one indictment could be sustained for such taking.

State v. McCormack, 8 Or 236 (1880).

An allegation that the defendant "feloniously took and carried away" the described property, without employing the word "steal" in any form, was sufficient.

State v. Lee Yan Yan, 10 Or 365 (1882).

An indictment under this section which charged larceny of saw logs was sufficient and not subject to the objection that a prosecution would lie for trespass under ORS 164.420.

State v. Donahue, 75 Or 409 (1915).

An indictment which charged larceny under this section did not charge two crimes because it charged stealing of a cow, prohibited by ORS 164.380.

State v. Wright, 122 Or 377 (1927).

In commission of the crime defined by ORS 164.320, larceny in a building, the offense denounced by this section is necessarily committed.

State v. Savage, 36 Or 191 (1899).

The crimes of larceny from a store under ORS 164.320 and larceny from the person under ORS 164.340 consist of simple larceny under this section aggravated by the circumstances, the value of the property not being an ingredient of the offense.

State v. Reyner, 50 Or 224 (1907).

State v. Grinolds, 223 Or 68 (1960).

The offense of larceny, committed outside the state, continues and accompanies the stolen property, and the offense may be tried in any county into which the stolen property may be brought by the offender.

State v. Johnson, 2 Or 115 (1864).

An indictment charging burglary and larceny is defective under statute which commands that an indictment shall charge but one crime.

State v. Briggen, 112 Or 681 (1924).

Obtaining possession of personalty by trick or device with intent to convert it to own use constitutes "theft" or "larceny" for purposes of automobile theft policy.
Nugent v. Union Auto Ins. Co., 140 Or 61 (1932).

That one accused of larceny has secured possession of the property with the owner's consent is not conclusive of his innocence, but the question of his guilt will depend on the intent with which the possession was so secured, which is a matter of fact.
State v. Meldrum, 41 Or 380 (1902).