Chapter 165

1957 REPLACEMENT PART

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EMBEZZLEMENT; RECEIVING STOLEN PROPERTY

165.005 Embezzlement by officer, agent, servant or person acting as fiduciary; commingling not defense. Any officer, agent, clerk, employe or servant of any person, partnership, association or any guardian, conservator, administrator or executor of any estate, any assignee for the benefit of creditors, or trustee or any other person acting as fiduciary who embezzles or fraudulently converts to his own use, or takes or secretes with intent to embezzle or fraudulently convert to his own use, any money, property or thing belonging wholly or in part to such person, partnership, association, estate, creditors or debtor, which is property within the meaning of ORS 164.310 and has come into his possession or is under his care by virtue of his employment or appointment, whether or not he has any interest, divisible or indivisible, in such property, shall be deemed guilty of larceny and shall be punished as provided in ORS 164.310. The fact that such officer, agent, clerk, employe, servant, guardian, conservator, administrator, executor or assignee for the benefit of creditors, trustee or any other person acting as fiduciary has mixed such property with the money, property or thing of another person, partnership, association or estate shall not constitute a defense in a prosecution under this section. [Amended by 1955 c.435 §1]

165.010 Embezzlement by bailee, mortgagor or purchaser under conditional sale; indictment and proof of ownership in case of mixed grain. (1) Any bailee, with or without hire, including every mortgagor of personal property having possession of property mortgaged, or any purchaser or lessee of personal property obtaining the possession thereof under a written or printed contract of conditional sale providing that title thereto shall not vest in the purchaser until the unpaid balance of the purchase price is wholly paid for, and before it is wholly paid for, who embezzles or wrongfully converts to his own use, or secretes or conceals with intent to convert to his own use, or injures, destroys, sells, gives away or removes from the county where situated when obtained, without the written consent of the bailor or vendor, or fails, neglects or refuses to deliver, keep or account for, according to the nature of his trust, any money or property of another delivered or intrusted to his care, control or use, which is property within the meaning of ORS 164.310, shall be deemed guilty of larceny and shall be punished as provided in ORS 164.310.

(2) If any such bailee receives grain of any kind from different bailors and mixes and stores it together in bulk, in an indictment charging him with committing, with reference to said grain, the crime defined and made penal in this section, it is not necessary to charge in the indictment or prove on trial that ownership of said grain is in more than one bailor.

165.015 Conversion of public funds. Any person who receives any money, warrant or instrument in writing directing the payment of money for this state, or for any county, town, or other municipal or public corporation therein, or has in his possession any money, warrant or instrument in writing directing the payment of money belonging to such state, county, town or corporation, or in which it has an interest, and converts to his own use any portion thereof, or loans with or without interest any portion thereof, or neglects or refuses to pay over or deliver any portion thereof as required by law, or when lawfully demanded so to do, shall be deemed guilty of larceny and shall be punished upon conviction by imprisonment in the penitentiary for not more than 15 years, and by fine equal to twice the amount so converted, loaned or neglected, or refused to be paid.

165.020 Claim against public body no defense to embezzling public funds. In a proceeding brought under ORS 165.015 the amount of money converted, loaned, neglected or refused to be paid must be ascertained by the verdict of the jury as near as may be, and no person shall be allowed to set up or prove any private demand which he has or claims to have against the state, county, town or corporation as a defense to such proceeding, or in any way to account for the public money received by him or in his possession.

165.025 Trustee converting subject matter of trust. Any person, being the trustee of any property for the benefit of another or for any public or charitable use, who, with intent to defraud, converts the same or any portion thereof to his own use or benefit, or to the use and benefit of another not entitled thereto, 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 $1,000.

165.030 Agent, attorney, broker, banker or merchant converting intrusted property. Any person who, being a banker, broker, merchant, attorney or agent and intrusted with the property of another for sale or custody, with intent to defraud, converts all or a part of such property to his own use or benefit, or to the use or benefit of another not entitled thereto, 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 $1,000.

165.035 Embezzlement by bank official or employe. Every owner, officer, director or employe of any bank or trust company, as defined in ORS 706.030 and 706.060, respectively, who embezzles, abstracts or wilfully misapplies any of the money, funds, credits, assets or property of the bank or trust company, whether owned by the bank or trust company or held for safe keeping or as agent, or held in trust, or who, without authority of the board of directors of the bank or trust company, issues or puts forth any certificate of deposit, draws any order, draft or bill of exchange, makes acceptance or assigns any note, bond, draft, bill, bill of exchange, mortgage, judgment or decree, or who makes any false entry in the books or statements of the bank or trust company, with the intent in either case to injure or defraud the bank or trust company, or deceive any officer of the bank or trust company; or any person who with like intent aids or abets any owner, officer, director or employe of any bank or trust company in violating this section, shall be punished upon conviction by a fine of not less than $1,000 nor more than $5,000, or by imprisonment in the penitentiary for not more than 10 years, or both.

165.040 Embezzling funds of savings and loan association; civil liability. Every officer, director, member of any committee, clerk or agent of any savings and loan association, as defined in ORS 722.005, doing business in this state, who embezzles, abstracts or misapplies any of the moneys, funds or credits of the association; who issues or puts into circulation any warrant or other orders, without proper authority; who assigns, transfers, cancels or delivers up any note, bond, draft, mortgage, judgment, decree or any other written instrument belonging to the association, without proper authority; who certifies to or makes a false entry in any book, report or statement of or to the association, with intent in either case to deceive, injure or defraud the association, or any member thereof, or to deceive anyone appointed to examine the affairs of such association, shall be imprisoned upon conviction in the penitentiary for a period of not more than 10 years. Whoever aids or abets any officer, member of any committee or other person in committing any of the prohibited acts enumerated in this section shall be punished upon conviction by a fine of not less than $50 nor more than $200, or by imprisonment in the penitentiary for a period of not more than two years, or both, and is also liable to the association for any loss or damage sustained by it as a result of his unlawful act.

165.045 Buying, receiving or concealing stolen property. Any person who buys, receives, or conceals or attempts to conceal any stolen money or property, knowing or having good reason to believe that it was stolen, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years, or by imprisonment in the county jail not less than three months nor more than one year, or by a fine of not less than $50 nor more than $500.

165.050 to 165.100 [Reserved for expansion]

FORGERY AND COUNTERFEITING

165.105 Making, forging or counterfeiting any writing or money. Any person who, with intent to injure or defraud anyone, falsely makes, alters, forges or counterfeits any of the following records, instruments or writings shall be punished upon conviction by imprisonment in the penitentiary for not more than 20 years:

(1) Any public record, or any certificate, return or attestation of any clerk, notary public or other public officer, in relation to any matter wherein such certificate, return or attestation may be received as legal evidence.

(2) Any note, certificate or other evidence of debt issued by any officer of this state, or any county, town, or other muni-

cipal or public corporation therein, authorized to issue the same.

(3) Any application to purchase state lands or assignment thereof.

(4) Any contract, charter, letters patent, deed, lease, bill of sale, will, testament, bond, writing obligatory, undertaking, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, evidence of debt, or any acceptance of a bill of exchange, indorsement, or assignment of a promissory note.

(5) Any warrant, order, check, money or other property.

(6) Any receipt for money or other property, or any acquittance or discharge for money or other property.

(7) Any plat, draft or survey of land.

165.110 Forging note, draft or check. Any person who, with intent to injure or defraud anyone, makes, alters, forges or counterfeits any bank bill, promissory note, draft, check or other evidence of debt issued by the United States, this state, any state or territory of the United States, any other state, government, or country or by any corporation, company, or person duly authorized for that purpose by the laws of the United States, this state, or any state or territory of the United States, or any other state, government, or country, shall be punished upon conviction in the manner provided in ORS 165.105.

165.115 Uttering forged instrument. Any person who, with intent to injure or defraud anyone, knowingly utters, publishes, passes or tenders in payment as true and genuine, any false, altered, forged or counterfeited evidence of debt specified in ORS 165.110, or with such intent, knowingly utters or publishes as true or genuine any false, altered, forged or counterfeited record, writing, instrument or other matter specified in ORS 165.105, shall be punished upon conviction in the manner provided in ORS 165.105.

165.120 Possession of instrument with intent to utter or pass it. Any person who has in his possession any evidence of debt specified in ORS 165.110, with intent to utter or pass the same as true, knowing it to be false, altered, forged or counterfeited, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years.

165.125 Making or possessing plate, tool, implement or material for forging instrument. Any person who engraves, makes or begins to engrave, make or mend any plate, block, press or other tool, instrument or implement, or makes, prepares or provides any paper or other materials adapted and designed for forging or making any false or counterfeit evidence of debt, as specified in ORS 165.110, or has in his possession or control any such thing adapted and designed as aforesaid, with intent to use the same, or to cause or permit the same to be used in forging or making any such false or counterfeit evidence of debt, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years.

165.130 Making or uttering false warehouse receipt. Any person who wilfully or knowingly makes or utters any receipt or other written evidence of the delivery into any warehouse, commission house, forwarding house, mill, store or other like building occupied by him or his employer, of any grain, flour, pork, beef, wool or other goods, wares or merchandise, which was not so received or delivered previous to the making and uttering of the receipt or other written evidence thereof, 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 months nor more than one year.

165.135 Connecting parts of bank notes or other instruments. If any person connects together different parts of several bank notes or other genuine instruments in such manner as to produce an additional or different note or instrument, with intent to utter or pass all of them as true and genuine, it is a forgery in like manner and with like effect as if each of them had been falsely made or forged.

165.140 Evidence admissible to prove forgery. (1) In all prosecutions for forgery or counterfeiting any bank bill or note, or for uttering, publishing or tendering in payment as true and genuine any forged or counterfeited bank bill or note, or for being in possession thereof with the intent to utter or pass them as true and genuine, the testimony of any person acquainted with the signature of the officer or agent authorized to sign the bills or notes of the bank of which such bill or note is alleged to be a

counterfeit or similitude, or who has knowledge of the difference in appearance of the true and counterfeit bills or notes thereof, may be admitted to prove that it is counterfeit.

(2) In all prosecutions for forging or counterfeiting any note, certificate, bond, bill of credit, or other security or evidence of debt issued on behalf of the United States or any state or territory, or for uttering, publishing or tendering in payment the same as true and genuine, or for being in possession thereof with intent to utter and pass the same as true and genuine, the certificate duly sworn to of the Secretary of the Treasury, or of the Treasurer of the United States, or of the secretary or treasurer of any state or treasury on whose behalf the note, certificate, bond, bill of credit or other security or evidence of indebtedness purports to have been issued, shall be admitted as evidence for the purpose of proving that it is forged or counterfeit.

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.

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

165.150 Counterfeiting or forging ticket; uttering such ticket. Any person who with intent to injure or defraud anyone, counterfeits, forges or alters any ticket, check, order, coupon, receipt for fare or pass issued by any railroad company or by any lessee, manager or agent thereof as is designated and intended as evidence of a right to ride in the cars of the company, or who, with like intent, knowingly utters, publishes or puts into circulation any such counterfeit, forged or altered evidence of right, shall be punished upon conviction by imprisonment in the county jail for not less than 30 days nor more than one year, or by a fine of not less than $100 nor more than $1,000, or both.

165.155 Restoring or uttering canceled railroad ticket. Any person who, with intent to injure or defraud anyone and for the purpose of restoring to its original appearance or nominal value, in whole or in part removes, conceals, fills up or obliterates any cuts, marks, punch holes or other evidence of cancelation in or upon any ticket, check, order, coupon, receipt for fare or pass previously issued by any railroad company or by its lessee, manager or agent as evidence of a right to ride in the cars of the company, and previously canceled in whole or in part, or who, with like intent, knowingly utters, publishes, offers for sale or in payment of fare, any such evidence of right wholly or partially restored to its original appearance or nominal value, shall be punished upon conviction by imprisonment in the county jail for not less than 30 days nor more than one year, or by a fine of not less than $100 nor more than $1,000, or both.

165.160 Making or uttering counterfeit coins. (1) Any person who counterfeits any gold, silver or other coin current by law or usage within this state, or who, with the intent to utter or pass the same as true and genuine, has in his possession or control any false coin counterfeited in the similitude of any such coin current, knowing the same to be false and counterfeit, shall be punished upon conviction by imprisonment in the penitentiary for not more than 10 years.

(2) Any person who, with intent to injure or defraud anyone, knowingly utters, passes or tenders in payment as true and genuine any false and counterfeit coin specified in subsection (1) of this section, shall be punished in the manner provided in subsection (1) of this section.

165.165 Making or possessing implement for counterfeiting. Any person who stamps, engraves, makes or mends or begins to stamp, engrave, make or mend, or has in his possession or control any mold, pattern, die, puncheon, engine, press or other tool, implement or instrument adapted and designed for coining or making any counterfeit coin in the similitude of any gold,

silver, or other coin current by law or usage in this state, with intent to use it, or cause or permit it to be used in coining or making any such false and counterfeit coin, shall be punished upon conviction in the manner provided in subsection (1) of ORS 165.160.

165.170 Affixing signature of fictitious officer of corporation. If any fictitious or pretended signature purporting to be the signature of an officer or agent of any public or private corporation is affixed to any instrument or writing purporting to be a note, draft or other evidence of debt issued by such corporation, with intent to utter or pass the same as true and genuine, it shall be deemed a forgery, though no such person has ever been an officer or agent of such corporation, or no such corporation has ever existed.

165.175 Counterfeiting or removing serial number. Any person who counterfeits, obliterates, removes or changes the serial number impressed upon or attached to any manufactured article with the intent to defraud the purchaser of such article, or knowingly sells or offers for sale any such article after the serial number thereon has been counterfeited, obliterated, removed or changed, without disclosing such condition to the purchaser, 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 one month nor more than six months, or both.

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.

165.185 Use of counterfeit label or empty container. Any person who wilfully and knowingly uses or causes to be used any private brand, label, stamp or trade-mark of another, by counterfeiting the same or using any impression or copy thereof made or prepared by its owner; or who wilfully and knowingly uses or causes to be used any colorable imitation of such brand, label, stamp or trade-mark with intent to deceive anyone; or who with like intent, uses or causes to be used any empty or secondhand package which has contained goods, wares, merchandise or articles of the same general character as those for which they were first used, shall be punished upon conviction by imprisonment in the county jail for not less than one month nor more than six months, or be fined not less than $20 nor more than $300.

165.190 Allegation and proof of intent to defraud. Where the intent to injure or defraud is necessary under ORS 165.105 to 165.125, 165.135 to 165.140, or 165.160 to 165.170 to constitute the crime, it is sufficient to allege in the indictment an intent to injure or defraud without naming therein the particular person or body corporate intended to be injured or defrauded. On the trial of the action it is not a variance, but is sufficient, if there appears to be an intent to injure or defraud the United States, any state, territory, county, town or other municipal or public corporation, any public officer in his official capacity, any private corporation, copartnership or any person.

165.195 to 165.200 [Reserved for expansion]

FALSE PRETENSES GENERALLY

165.205 Obtaining property by false pretenses. (1) Any person who, by any false pretenses or any privity or false token, and with intent to defraud, obtains or attempts to obtain from any other person, any money or property, or who obtains or attempts to obtain with like intent the signature of any person to any writing, the false making of which would be punishable as forgery, 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 more than one year, or by a fine of not more than $500, or by both such fine and imprisonment.

(2) The making of a bill of sale, assignment or mortgage of personal property by any person not the owner thereof, for the purpose of obtaining money or credit or to secure an existing indebtedness, is a false pretense within the meaning of this section.

(3) The presentation by any person of a bill, invoice, statement, account or claim in writing to another knowing the same to contain items of overcharge, false items or wrongful charges, with intent to obtain payment thereof, whether obtained or not, is a false pretense, and the account, bill, invoice or claim is a false token within this section without the signature thereon of the person presenting it.

165.210 Common law fraud; civil liability. Any person convicted of any gross fraud or cheat at common law shall be punished 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 $500. Such person is liable to the party defrauded in double damages, to be recovered by civil action, whether he is convicted thereof or not.

165.215 Obtaining money or property by falsely personating another. Any person who falsely personates or represents another, and in such assumed character receives or obtains any money or property intended to be delivered to the person so personated or represented, with intent to defraud or to convert the same to his own use, shall be deemed guilty of larceny and upon conviction shall be punished as provided in ORS 164.310.

165.220 Falsely representing ownership of land. Any person who falsely represents that he is the owner of any land to which he has no title, or falsely represents that he is the owner of any interest or estate in any land and executes any conveyance of the same with intent to defraud anyone, shall be punished upon conviction by imprisonment in the penitentiary for not more than two years.

165.225 Drawing check on insufficient funds; when intent to defraud presumed. (1) Any person who, for himself or as agent or representative of another, or as an officer, agent or employe of a corporation, and on behalf thereof, wilfully and with intent to defraud, makes, draws, utters or delivers any check, draft or order upon any bank or other depository for the payment of money, knowing at the time of the making, drawing, uttering or delivering that the maker or drawer, or his principal or the corporation, has not sufficient funds in or credit with said bank or other depository for the payment of the check, draft or order in full upon its presentation, although no express representation is made that there are sufficient funds in or credit with such bank or other depository for its payment in full upon presentation, shall be punished upon conviction as follows:

(a) If the amount of such check exceeds $25, by imprisonment in the penitentiary for not more than five years.

(b) If the amount of such check does not exceed $25, by imprisonment in the county jail for not more than one year or by a fine of not to exceed $1,000, or both. If a person is prosecuted for a misdemeanor under this section, justices' courts, district courts and circuit courts shall have concurrent jurisdiction of the crime.

(2) As against the person making, drawing, uttering or delivering a check, draft or order, payment of which is refused by the drawee because the maker or drawer, or his principal or the corporation has insufficient funds in, or credit with, such drawee, such refusal by the drawee is prima facie evidence of the intent of the person making, drawing, uttering or delivering such check, draft or order, to defraud, and of his knowledge of the insufficiency of funds in, or credit with, such bank or other depository.

(3) If such check, draft or order is protested because the maker or drawer, or his principal or the corporation, has insufficient funds in, or credit with, such drawee, the notice of protest thereof is admissible as proof of presentation, nonpayment and protest, and is presumptive evidence of the intent of the person making, drawing, uttering or delivering such check, draft or order, to defraud, and of his knowledge of the insufficiency of funds in, or credit with, such bank or other depository.

(4) The word "credit" as used in this section shall be construed to mean an arrangement or understanding with the bank or depository for the payment of such check, draft or order. [Amended by 1955 c.436 §1]

165.230 Fraudulently obtaining food or lodging; surreptitious removal of baggage. (1) Any person who, with intent to de-

fraud, obtains food, lodging or other accommodations at any hotel, apartment house, inn, boarding house, tourists' campground or restaurant, or who, after having obtained such food, lodging, or other accommodations at any such place, surreptitiously removes his baggage and clothing from the hotel, apartment house, inn, boarding house, tourists' campground or restaurant, without first paying or tendering payment for the food, lodging or other accommodation, shall be fined upon conviction not more than $100, or imprisoned for not more than 50 days, or both.

(2) Proof of any of the following facts is prima facie evidence of the fraudulent intent mentioned in subsection (1) of this section:

(a) Lodging, food or other accommodations were obtained by false pretense or by false or fictitious show or pretense of any baggage or other property.

(b) The person refused or neglected to pay for such food, lodging or other accommodation on demand.

(c) The person made, drew and gave in payment for such food, lodging or other accommodation any check or draft on which payment was refused.

(d) The person absconded without paying or offering to pay for such food, lodging or other accommodation.

(e) The person surreptitiously removed or attempted to remove his baggage.

165.235 Issuing false invoice, bill of lading, or estimate of property. The owner of any ship, steamboat or other vessel, or of any property laden or pretended to be laden on board the same, or any other person concerned or assisting in the fitting out or lading of any ship, steamboat or other vessel, who makes out, exhibits, or causes to be made out or exhibited, any false or fraudulent invoice, bill of lading, bill of parcels or other false estimate of any property laden or pretended to be laden on board the ship, steamboat or other vessel, with intent to injure or defraud any insurer of the ship, steamboat or other vessel or property, or any part thereof, shall be punished upon conviction by imprisonment in the penitentiary for not more than three years.

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.

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.

165.250 Destruction or falsification of corporate records or securities. Any person, being or assuming to be an officer, agent or member of any private corporation or company, who, with intent to defraud or deceive anyone, wilfully and knowingly destroys, alters, mutilates or in any manner falsifies, or concurs in the destruction, alteration, mutilation or falsification of any of the books, papers, writing or securities belonging to or in the possession of such corporation or company, 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 $50 nor more than $1,000.

165.255 Officer or agent of savings and loan association distributing false material. Every director, officer, or agent of any savings and loan association as defined in ORS 722.005, who wilfully and knowingly concurs in publishing, circulating or posting, either generally or privately, to the shareholders or to other persons, any advertisement, sign, circular, written report, exhibit or statement of its affairs or pecuniary condition, or book or notice containing any material statement which is false, or any untrue or wilfully or fraudulently exaggerated report, prospectus, account, statement of operations, values, business, profits or expenditures, or any other paper or document calculated to mislead others as to the value of the shares or certificates of such association, shall be punished upon conviction by a fine of not less than $50 nor more than $200, or by confinement in the county jail for a period of not

less than one month and not more than one year, or both.

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.

165.265 Use of false pretenses in collecting debts. Any person who uses or employs any false pretenses as defined in this section in collecting or attempting to collect any debt or purported debt shall be punished, upon conviction, by a fine of not less than $25 nor more than $500. For the purposes of this section the sending by mail, or the delivery to any person of any document, letter or other paper which falsely appears or purports to be a court order or any other legal process, or which is intended to so purport, shall be conclusively presumed to be a false pretense.

165.270 Fraud in obtaining taxicab transportation. Any person who obtains transportation of a person or of personal property by taxicab and who, with intent to defraud, after obtaining such transportation removes himself or the personal property from the taxicab without first paying or tendering a reasonable amount as payment for the transportation, shall be fined upon conviction not more than $25, or imprisoned for not more than 10 days, or both. [1957 c.369 §1]

165.275 to 165.300 [Reserved for expansion]

MISREPRESENTING MEMBERSHIP IN FRATERNAL, MILITARY OR CHARITABLE SOCIETY

165.305 Definitions for ORS 165.305 to 165.330. As used in ORS 165.305 to 165.330:

(1) "Order, society or organization" include every labor organization, association, fraternal council, brotherhood or order of men or women, as well as all secret societies and fraternities of every name and nature now authorized, chartered and recognized by a parent order, society or organization holding the original charter thereof in the United States, and the Ancient Order of United Workmen as now incorporated under the laws of this state and other like orders and societies incorporated in this state or authorized, chartered and recognized in the Dominion of Canada prior to 1905.

(2) "Parent order, society or organization" mean and include the highest body in any such order, society or organization exercising administrative jurisdiction over all subordinate bodies of the same order, society or organization elsewhere situated in the United States.

165.310 Using unauthorized representations to solicit membership in a society. Any person representing or claiming to represent any order, society, or organization when not entitled or authorized so to do and who solicits, induces or persuades persons to become members of a like order, society or organization that is alleged to be of like authority, object and purpose but of superior right and claim to the order, society or organization recognized in this state or by the parent thereof in these United States, when in truth and in fact it is not authorized, chartered or recognized by a parent organization within the United States, and who, by such representations, inducements and persuasions seeks to make it appear, or alleges, that the only true right held or possessed is in the persons so representing, inducing or persuading or in the order or society alleged to be represented by him, shall be punished upon conviction in the manner provided in ORS 165.315.

165.315 Nonmember obtaining aid by representation as to membership. Any person not a member of any order, society or organization, who uses the name of any such order, society or organization to seek or obtain aid or assistance from any member thereof or from the public by virtue of claiming or representing himself to be entitled thereto as a member of any such order, society or organization shall be punished upon conviction by imprisonment for a term not to exceed one year in the county jail or a fine not to exceed $1,000, or both.

165.320 Mailability of letters containing misrepresentations regarding societies. Any

advertisement of any description and any circular or other letter containing the solicitations, inducements or persuasions based upon the representations defined in ORS 165.310, shall be unlawful and nonmailable matter within this state, and any person procuring the same to be published or transmitted in the mail shall be punished upon conviction in the manner provided in ORS 165.315 or may be prosecuted under applicable Acts of Congress.

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.

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.

165.340 Pretending to be member or agent of religious or charitable society. (1) Any person who by oral or written words or by acts or conduct, falsely represents or pretends to be a member or authorized agent or representative of any religious, fraternal, beneficial or charitable society, association or organization of any kind, and while engaged in making or by means of any such false representation or pretense, solicits or obtains money or a written promise to pay money or any other property or valuable thing, shall be guilty of a misdemeanor.

(2) It is a false representation, or pretense, within the meaning of this section, for a person falsely to represent or pretend to be a member, agent or representative of any religious, fraternal, beneficial or charitable society, association or organization which has no actual bona fide existence. The wearing of the distinctive garb or emblem of any religious, fraternal, beneficial or charitable society, association or organization, is a representation or pretense, within the meaning of this section, by the person wearing it that he is a member of such society, association or organization. [Amended by 1957 c.655 §1]

165.345 Misrepresenting present or past membership in the Armed Forces. Any person, who is not now or who has not been in the United States Army, Navy or Marines, and who wears or displays on his person any button, insignia or other emblem issued by the United States, or by any state, municipality or society to any person who is now or who may have served in the Army, Navy or Marine Corps of the United States, or who wears upon his person any article of clothing or apparel similar in appearance to any clothing or article of apparel issued by the United States to soldiers, sailors or marines, with the intent of personating any soldier, sailor or marine or discharged soldier, sailor or marine, or with the intent of creating the impression that he is or has been in the Army, Navy or Marine Corps of the United States, shall be punished upon conviction by imprisonment in the county jail for not more than three months or by a fine not exceeding $200, or both.

165.350 Wearing uniform of armed services when not a member. (1) Every person, other than an officer, enlisted man or veteran of the National Guard of this state, or of any other state, or of the United States Army, Navy, Marine Corps, or member of the United States revenue service or forest service, or inmate of any veterans' or soldiers' home, who at any time wears all or part of a uniform of the United States Army, Navy or National Guard, or all or a part of a uniform similar thereto, within the bounds of this state, shall be punished upon conviction by a fine of not less than $10 nor more than $100, or by imprisonment in the county jail not exceeding 60 days, or both.

(2) This section does not prohibit per-

sons attending any institution of learning of this or any other state or territory which has adopted a uniform mentioned in subsection (1) of this section as the uniform of the institution, from wearing such uniform; nor prohibit persons of the theatrical profession from wearing such uniform in any playhouse or theatre while engaged in following their profession; nor prohibit the uniform rank of civic societies parading or traveling in a body or assembling in a lodge room.

(3) Whenever the National Guard or any part thereof is in active service, no civic or other organization or institution or member thereof shall parade or appear in uniform in the locality where it is in service.

165.355 Selling, giving away or wearing discharge emblem. Any person, firm or corporation who knowingly sells or gives to any person not honorably discharged from service in the Armed Forces of the United States, any emblem denoting honorable discharge from service in the Armed Forces of the United States, or any person not honorably discharged from service in the Armed Forces of the United States who wears or displays any emblem denoting honorable discharge from service in the Armed Forces of the United States, shall upon conviction be fined not more than $250 or imprisoned in the county jail for not more than 30 days, or both.

165.360 to 165.400 [Reserved for expansion]

CRIMES INVOLVING ANIMALS AND MINERALS

165.405 Alteration of brands and earmarks on animals. Any person who wilfully and knowingly makes, alters or defaces any artificial earmark or brand upon any horse, mare, gelding, foal, mule, ass, jenny, sheep, goat, swine, bull, cow, steer, calf or heifer the property of another, with intent thereby to convert the same to his own use, shall be deemed guilty of larceny and shall be punished upon conviction by imprisonment in the penitentiary for not more than five years.

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 certificate.

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

(c) During the existence of any mortgage on or lien or charge against any such animal, spoliate, 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.

165.420 Abandonment of animals by bailees; jurisdiction of courts over ORS 165.420 to 165.440. (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 imprison-

ment 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 $300, or by both such fine and imprisonment.

(2) Subsection (1) of this section is not violated by a sheepherder 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.

(3) Justice of the peace courts and district courts shall have concurrent jurisdiction with circuit courts over proceedings arising under ORS 165.420 to 165.440.

165.425 Bailee, herder or custodian converting animals, wool or mohair. Any person who receives from any owner thereof any animals, goats, sheep, cattle or horses for the purpose of herding or caring for the same, or any person who is employed in any manner about the herding or caring for any such animals, and who, without the consent of the owner, sells, gives away, kills, disposes of or converts the same to his own use, or sells, gives away or disposes of any wool or mohair shorn from such sheep or goats, is guilty of embezzlement and shall be punished for each offense, on conviction thereof, as provided in ORS 164.380.

165.430 Conversion of animals, wool or mohair by the person in possession. Any person, having in his possession or under contract any horses, cattle, goats or sheep or the wool or mohair shorn from such sheep or goats, who contracts, sells or otherwise disposes of the same, or any part thereof, to another, without the consent of such owner, on indictment and conviction shall be imprisoned in the penitentiary for not more than three years, or fined not less than $50 nor more than $500, or both.

165.435 Buying animals from person in possession without owner's consent. Any person who knowingly buys, takes or receives from any person having in his possession or control any horses, cattle, goats or sheep on shares or under contract, without the consent of the owner of such animals, on indictment and conviction shall be punished as provided in ORS 165.430.

165.440 Recorded contract as notice of ownership in ORS 165.430 and 165.435. Any contract for animals on shares, or other contract regarding the possession or control of any animals in the county in which any such animals may be bought, contracted for or received, duly recorded in the office of the county clerk or county recorder in counties having such office, is notice to all persons of the ownership of the animals. In a trial for violation of ORS 165.430 or 165.435 or any part thereof, such recorded contract or a certified copy thereof, is prima facie evidence of ownership.

165.445 Fraudulently renting or hiring vehicle from stablekeeper. Any person who, with intent to defraud, rents or hires from any livery, boarding or exchange stablekeeper, any horse or team of horses or any conveyance, shall be fined upon conviction not less than $10, nor more than $50 or shall be imprisoned in the county jail for not less than five days nor more than 20 days, or both.

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.

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.

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, or 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.

165.470 to 165.500 [Reserved for expansion]

CRIMES INVOLVING COMMUNICATIONS

165.505 Opening or procuring telegraphic message addressed to another; civil liability. (1) Any person, not connected with any telegraph office, who, without the authority or consent of the person to whom the envelope is directed, wilfully or unlawfully opens any sealed envelope inclosing a telegraphic message and addressed to any other person, with the intent to learn the contents of the message, or who fraudulently represents any other person, and thereby procures to be delivered to himself any telegraphic message, addressed to such other person, with the intent to use, destroy or detain the message from the person entitled to receive it, shall be punished upon conviction by a fine not to exceed $1,000, or imprisonment not to exceed one year, or both.

(2) Any person violating this section is liable in treble damages to the party injured for all loss and damage sustained by reason of such wrongful act.

165.510 Learning contents of telegraphic message sent to another; civil liability. (1) Any person, not connected with any telegraph company, who, by means of any machine, instrument or contrivance, or in any other manner, wilfully and fraudulently reads or attempts to read any message, or to learn its contents, while it is being sent over any telegraph line, or who wilfully and fraudulently or clandestinely learns or attempts to learn the contents or meaning of any message, while it is in, or being received at, any telegraph office, or is sent therefrom, or who uses or attempts to use, or communicates to others any information so obtained by any person, shall be punished upon conviction by a fine not to exceed $1,000, or imprisonment not to exceed one year, or both.

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

165.515 Bribery of telegraph company's agents to disclose contents of message. (1) Any person who, by the payment or promise of any bribe, inducement or reward, procures or attempts to procure any telegraphic agent, operator or employe to disclose any private message, or the contents, purport, substance of meaning thereof, or who offers to any such person any bribe, compensation or reward for the disclosure of any private information received by such person by reason of his trust, or who uses or attempts to use information so obtained, shall be punished upon conviction by a fine not to exceed $1,000, or imprisonment not to exceed one year, or both.

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

165.520 Opening, reading or publishing letter; federal jurisdiction. Any person who wilfully opens or reads, or causes to be opened and read, any sealed letter not addressed to himself, without being authorized so to do either by the writer of such letter or by the person to whom it is addressed, or who wilfully, without like authority, publishes any letter or portion thereof knowing it to have been so opened, shall be punished upon conviction by imprisonment in the county jail for not less than one month nor more than one year, or by fine not less than $50 nor more than $500. This section does not extend to or include any act made punishable by the laws of the United States.

165.525 Manufacture or sale of slugs for coin boxes. Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any coin collecting device referred to or described in this section, or who, knowing or having cause to believe that it is intended for unlawful use, manufactures for sale, sells or offers for sale any slug, device or substance intended or calculated to be placed or deposited in any coin-box telephone or other receptacle, depository or contrivance designed to receive lawful coin of the United States in connection with the sale, use or enjoyment of property or service, shall be

punished upon conviction by imprisonment for not more than six months, or by a fine of not more than $500, or both.

165.530 Possession of device to procure service, or procuring service, without deposit of coin in coin-collecting attachment. Every person who, with intent to injure or defraud, has in his possession a machine, appliance, contrivance or device of any character used or intended to be used for the purpose of obtaining a telephone connection, telephonic or telegraphic service, or any merchandise or service without depositing the money necessary or required to be paid therefor in the coin-collecting attachment provided therefor, or who, with intent to defraud or by false pretenses, obtains a telephone connection, any telephonic or telegraphic service or any merchandise or service, without depositing the money necessary or required to be paid therefor in the coin-collecting attachment provided therefor, shall be fined upon conviction not less than $50 nor more than $100.

165.535 Definitions applicable to ORS 165.540. As used in ORS 165.540:

(1) "Person" means any person as defined in ORS 174.100 and includes public officials and law enforcement officers of the state, county, municipal corporation or any other political subdivision of the state.

(2) "Radio communication" means the transmission by radio or other wireless methods of writing, signs, signals, pictures and sounds of all kinds, including all instrumentalities, facilities, apparatus and services (including, among other things, the receipt, forwarding and delivering of communications) incidental to such transmission.

(3) "Telecommunication" means the transmission of writing, signs, signals, pictures and sounds of all kinds by aid of wire, cable or other similar connection between the points of origin and reception of such transmission, including all instrumentalities, facilities and services (including, among other things, the receipt, forwarding and delivering of communications) incidental to such transmission. [1955 c.675 §1]

165.540 Interception of communications. (1) Except as otherwise provided in ORS 141.720 or subsections (2) and (3) of this section, no person shall:

(a) Obtain or attempt to obtain the whole or any part of a telecommunication or a radio communication to which such person is not a participant, by means of any device, contrivance, machine or apparatus, whether electrical, mechanical, manual or otherwise, unless consent is given by at least one participant.

(b) Tamper with the wires, connections, boxes, fuses, circuits, lines or any other equipment or facilities of a telecommunication or radio communication company over which messages are transmitted, with the intent to obtain unlawfully the contents of a telecommunication or radio communication to which such person is not a participant.

(2) The prohibitions in this section shall not apply to officers, employes or agents of a telecommunication or radio communication company who perform the acts prohibited in this section for the purpose of construction, maintenance or conducting of their telecommunication or radio communication service, facilities or equipment; nor shall such prohibitions apply to subscribers or members of their family who perform the acts prohibited in this section in their homes.

(3) The prohibitions in paragraph (a) of subsection (1) of this section do not apply to the receiving or obtaining of the contents of any radio or television broadcast transmitted for the use of the general public.

(4) Violation of subsection (1) of this section is punishable, upon conviction, by a fine of not more than $3,000 or by imprisonment in the penitentiary for not more than three years, or by both. [1955 c.675 §§2, 7]

165.545 to 165.600 [Reserved for expansion]

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.

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.

165.615 False statement as to financial condition or ability to pay. Any person who knowingly makes or causes to be made, either directly or indirectly or through any agency, any false statement in writing, with intent that it shall be relied upon, respecting the financial condition, or means or ability to pay, of himself or any other person, firm or corporation in whom he is interested or for whom he is acting, for the purpose of procuring in any form the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the discount of an account receivable, or the making, acceptance, discount, sale or indorsement of a bill of exchange or promissory note, for the benefit of either himself or of such person, firm or corporation, shall be punished upon conviction by imprisonment in the county jail for not more than one year or by a fine of not more than $1,000, or both.

165.620 Procuring benefit upon false statement concerning financial condition. Any person who, knowing that a statement in writing has been made respecting the financial condition or means or ability to pay of himself, or a person, firm or corporation in whom he is interested or for whom he is acting, shall be punished upon conviction by imprisonment in the county jail for not more than one year or by a fine of not more than $1,000, or both, if he:

(1) Knowing that the statement is false, procures, upon the faith thereof, for the benefit of himself or such person, firm or corporation, any thing of benefit mentioned in ORS 165.615; or

(2) Knowingly and falsely represents in writing on a later day, that such statements theretofore made, if made on the later day, would be then true, when in fact the statement, if then made, would be false, and procures upon the faith thereof, for the benefit of himself or of such person, firm or corporation any thing of benefit mentioned in ORS 165.615.

165.625 Publication of false statement concerning liabilities or assets of company. Any person, being or assuming to be an officer, agent or member of any private corporation or company, who, with intent to defraud or deceive anyone, wilfully and knowingly makes, circulates, or publishes or concurs in the making, circulating or publishing of any written or printed statement or account, concerning or relating to the liabilities, assets or property of the corporation or company, which statement or account is false in any material particular, shall be punished upon conviction in the manner provided in ORS 165.030.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2,1957.

Sam R. Haley
Legislative Counsel