

Chapter 168

1957 REPLACEMENT PART

Habitual Criminals

168.011	Penalty for second conviction of a felony	168.050	Peace officer's duty to report an habitual criminal
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CROSS REFERENCES

Indictment not to allege previous conviction, 132.540	Second conviction for violating narcotics law, 474.990
More than one conviction for carrying dangerous weapons, 166.510	Second conviction of crimes involving rape or sodomy, 167.050
Penalties for repeated violations of liquor law, 471.990	Second violation of narcotics law, 475.070
Repeated convictions for committing felonies while armed, 166.230	Sentence for indeterminate term upon conviction for certain sexual offenses, 137.111, 137.116, 167.050
Second conviction for violating lottery law, 167.430	

168.010 [Repealed by 1955 c.663 §1 (ORS 168.011, 168.021 and 168.031 enacted in lieu of ORS 168.010, 168.020 and 168.030)]

168.011 Penalty for second conviction of a felony. Any person who, after having been convicted within this state of a felony, or an attempt to commit a felony, or, under the laws of any other state, government or country, of a crime which, if committed within this state would be a felony, commits any felony within this state, may, upon conviction of such second offense, be sentenced to imprisonment for a term not to exceed twice the longest term prescribed upon a first conviction of the offense for which such person is last convicted. [1955 c.663 §2 (ORS 168.011, 168.021 and 168.031 enacted in lieu of ORS 168.010, 168.020 and 168.030)]

168.020 [Repealed by 1955 c.663 §1 (ORS 168.011, 168.021 and 168.031 enacted in lieu of ORS 168.010, 168.020 and 168.030)]

168.021 Penalty for third conviction of a felony. Any person who, after having been twice convicted within this state of felonies, or attempts to commit felonies, or under the law of any other state, government or country, of crimes which, if committed within this state, would be felonious, commits a felony within this state, shall be sentenced, upon conviction of such third, or subsequent, offense, for a term not less than, nor more than three times, the longest term prescribed for the offense for which such person is last convicted. [1955 c.663 §3 (ORS 168.011, 168.021 and 168.031 enacted in lieu of ORS 168.010, 168.020 and 168.030)]

168.030 [Repealed by 1955 c.663 §1 (ORS 168.011, 168.021 and 168.031 enacted in lieu of ORS 168.010, 168.020 and 168.030)]

168.031 Penalty for fourth or subsequent conviction of a felony. Any person who, after having been three times convicted within this state of felonies or attempts to commit felonies, or, under the law of any other state, government or country, of crimes which, if committed within this state, would be felonious, commits a felony within this state, shall be sentenced, upon conviction of such fourth or subsequent offense, to imprisonment for a term not less than twice the longest term prescribed for the offense for which such person was last convicted, or may be sentenced to life imprisonment. [1955 c.663 §4

(ORS 168.011, 168.021 and 168.031 enacted in lieu of ORS 168.010, 168.020 and 168.030)]

168.040 Investigation and trial of an habitual criminal. (1) If at any time within two years after conviction the district attorney of the county in which the conviction was had has reason to believe that the convicted person has previously been convicted within or without this state of any felony, he shall immediately investigate.

(2) If, upon investigation, it is determined by competent evidence that the person has been so previously convicted, the district attorney shall immediately file an information accusing the person of the previous convictions and serve a copy of the information upon him. The information shall be filed within two years after the last conviction, and a copy served on the defendant 30 days before any further proceedings are taken in court.

(3) At the end of the 30-day period the court in which the last conviction was had shall cause the person, whether confined in the penitentiary or otherwise, to be brought before it and shall inform him of the allegations contained in the information and of his right to be tried as to the truth thereof according to law. The court shall require him to state whether or not he is the person charged in the information. If he denies being that person, refuses to answer, or remains silent, his plea or the fact of his silence shall be entered of record, and a jury shall be empaneled to inquire whether he is the person mentioned in the several records as set forth in the information. If the jury finds that he is that person, or if he acknowledges or confesses in open court, after being duly cautioned as to his rights, that he is that person, the court shall sentence him as provided in ORS 168.011, 168.021 or 168.031, and shall vacate any previous sentence imposed on the last conviction, deducting from the new sentence all time actually served on the sentence so vacated, unless the new sentence is for the term of his natural life. [Amended by 1955 c.663 §5]

168.050 Peace officer's duty to report an habitual criminal. When any warden or prison, probation, parole or police officer, or other peace officer knows that any person charged with, or convicted of crime has been previously convicted, within the meaning of ORS 168.011, 168.021 or 168.031, he shall immediately report the facts to the

district attorney of the county in which the last conviction was had. [Amended by 1955 c.663 §6]

168.060 Review of sentences; effect of repeal. Sentences imposed under ORS 168.011, 168.021, 168.031 or ORS 168.040 are reviewable upon appeal by the Supreme Court. All penalties incurred before August 3, 1955, pursuant to any section repealed by chapter 663, Oregon Laws 1955, shall be enforced in accordance with the provisions of any sections so repealed. [Amended by 1955 c.663 §7]

168.070 Sentence to correctional institution as a prior felony. For the purposes of this chapter a conviction of crime resulting in a sentence or commitment to the Oregon State Correctional Institution shall not be considered a prior felony, unless the person so sentenced is transferred to the Oregon State Penitentiary under ORS 421.265. [1955 c.660 §4]

168.080 to 168.200 [Reserved for expansion]

168.210 Procedure for enhanced penalties after more than one conviction in cases where ORS 168.011 to 168.031 not applicable. Where any statute provides enhanced pen-

alties upon conviction of a person previously convicted one or more times of the same or other offenses, other than the penalties as provided in ORS 168.011 to 168.031, the district attorney, within two years after conviction of any crime shall file an information accusing the person of the previous conviction and serve a copy of the information upon him. The court shall cause the person to be brought before it and shall inform him of the allegations contained in the information and of his right to be tried as to the truth thereof, according to law. The court shall require him to state whether or not he is the person charged in the information. If he denies being that person, refuses to answer, or remains silent, his plea or the fact of his silence shall be entered of record and a jury shall be empaneled to inquire whether he is the person mentioned as having been previously convicted as set forth in the information. If the jury finds that he is that person or if he acknowledges or confesses in open court, after being duly cautioned as to his rights, that he is that person, the court shall vacate any previous sentence imposed on the last conviction and sentence him as provided by the statute for enhanced penalties for the crime committed. [1957 c.577 §1]

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