Chapter 164

1961 REPLACEMENT PART

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ARSON

164.010 "Dwelling house" defined. Any building, railroad car, house trailer, house boat or other structure is a "dwelling house" within the meaning of ORS 164.020 to 164.040, if any part of it has usually been occupied by any person lodging therein.
[Amended by 1959 c.236 §1]

164.020 First degree arson. Any person who wilfully and maliciously or wantonly sets fire to or burns or causes to be burned, or who wilfully and maliciously or wantonly aids, counsels or procures the burning of the following designated property, is guilty of arson in the first degree, and shall be punished upon conviction by imprisonment in the penitentiary for not more than 20 years:

(1) Any dwelling house.

(2) Any building that is a part of, belongs to, adjoins or is adjacent to a dwelling house, the burning of which building would imperil such dwelling house, whether the dwelling house or building is his property or the property of another.

(3) Any public building as defined by ORS 479.010.
[Amended by 1959 c.236 §2]

164.030 Second degree arson. Any person who wilfully and maliciously or wantonly sets fire to or burns or causes to be burned, or who wilfully and maliciously or wantonly aids, counsels or procures the burning of any building or structure of any class or character, except those set forth in ORS 164.020, whether the property of himself or another, is guilty of arson in the second degree and shall be punished upon conviction by imprisonment in the penitentiary for not more than 10 years.
[Amended by 1955 c.37 §1; 1959 c.236 §3]

164.040 Third degree arson. Except as otherwise provided in ORS 164.020 and 164.030, any person who wilfully and maliciously or wantonly sets fire to or burns or causes to be burned, or who wilfully and maliciously or wantonly aids, counsels or procures the burning of another's property of any class or character, is guilty of arson in the third degree and 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.
[Amended by 1959 c.236 §4]

164.050 Wilfully and maliciously setting fire to forests. Any one who wilfully and maliciously sets fire to any forest, woods, timber, brush, slashing, cut-over land or clearing, or any place from which fire may be communicated thereto, shall be punished upon conviction by imprisonment in the penitentiary for not more than two years.

164.060 Accidentally setting forest fire; failure to prevent spread of fire set in forest. Any one who accidentally sets fire to any forest, woods, timber, brush, slashing, cut-over land or clearing, or any place from which fire may be communicated thereto, and fails to extinguish the same or use every possible effort so to do, or who builds any fire for lawful purposes or otherwise in or near a forest, woods, timber, brush, slashing, cut-over land or clearing, and through carelessness or neglect permits the fire to burn into or through it, shall be punished upon conviction by a fine not exceeding $100, or by imprisonment in the county jail not exceeding one year, or both.

164.070 Crimes relating to fires on land. The following persons shall be punished by a fine of not less than $25 nor more than $500, or by imprisonment in the county jail for not less than 10 days nor more than 90 days, unless the act in question was the setting of a backfire under the direction of the forester or a warden or ranger, as defined in ORS 526.005, to prevent the progress of a fire then burning:

(1) Anyone who unlawfully sets on fire, or causes to be set on fire, any forest land, as defined in ORS 526.005, grass, grain, stubble or other material being or growing on any lands within the state.

(2) Anyone who wilfully or negligently allows fire to escape from his own land, or land of which he is in possession or control.

(3) Anyone who accidentally sets any fire on his own land or the land of another and allows it to escape from his control without extinguishing it, or using every possible effort so to do.

(4) Anyone who, having knowledge of a fire burning on his own lands, or lands of which he is in possession or control, fails or neglects to make every possible effort to extinguish the same, regardless of whether or not he is responsible for the starting or existence thereof.

164.080 Fires affecting land of another. Any person who maliciously or wantonly

sets on fire any prairie or other grounds, other than his own or those of which he is in the lawful possession, or who wilfully or negligently permits a fire to pass from his own grounds or premises to the injury of another, shall be punished upon conviction by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than $50 nor more than $500.

164.090 Attempt to burn property. (1) Any person who wilfully and maliciously or wantonly attempts to set fire to or to burn or to aid, counsel or procure the burning of any dwelling house, building or property described in ORS 164.010 to 164.040, or who commits any act preliminary thereto, or in furtherance thereof, is guilty of arson and shall be sentenced upon conviction to the penitentiary for not more than three years or fined not to exceed $1,000, or both.

(2) The placing or distributing of any flammable, explosive or combustible material or substance, or any device in any dwelling house, building or property described in ORS 164.010 to 164.040, or adjacent thereto, in any arrangement or preparation, with intent eventually to wilfully and maliciously or wantonly set fire to or burn it, or to procure the setting fire to or burning of it, shall, for the purposes of this section, constitute an attempt to burn the dwelling house, building or property.

164.100 Destroying property with intent to defraud insurer. Any person who wilfully burns or in any other manner injures or destroys his or another's property, which is at the time insured against loss or damage by fire or other casualty, with intent to defraud or prejudice the insurer, shall be punished upon conviction by imprisonment in the penitentiary not more than seven years.

164.110 Proving existence of insurance when defendant is charged with defrauding insurer. In all criminal cases where the defendant is charged with burning or attempting to burn, or otherwise injuring or destroying his or another's building or other property which is at the time insured against loss or damage by fire or other casualty, with intent to defraud or prejudice the insurer of the building or other property, proof of a policy of insurance in force at the time of the alleged offense in which the defendant had a direct or indirect interest, is prima facie evidence of the fact of such insurance and of the capacity of the company, firm or individual purporting to issue such policy to legally issue the policy. In all such cases it is not necessary to allege or prove that the alleged insurer was a corporation.

164.120 to 164.200 [Reserved for expansion]

BURGLARY

164.210 Definitions for ORS 164.230 to 164.260. As used in ORS 164.230 to 164.260:

(1) "Nighttime" includes the period between sunset and sunrise.

(2) "Dwelling house" includes any building of which any part has usually been occupied by any person lodging therein at night, and any structure joined to and immediately connected with such building.

164.220 Acts constituting breaking and entering. Every unlawful entry of a dwelling house, with intent to commit a crime therein, is a breaking and entering of the dwelling house within the meaning of ORS 164.230. Every unlawful entry of any building, booth, tent, railroad car, vessel, boat, or other structure or erection mentioned in ORS 164.240, with intent to steal or commit any felony therein, is a breaking and entering of the same within the meaning of ORS 164.240.

164.230 Breaking and entering dwelling. Any person who breaks and enters any dwelling house with intent to commit a crime therein, or having entered with such intent, breaks any dwelling house, or is armed with a dangerous weapon therein, or assaults any person lawfully therein, is guilty of burglary, and shall be punished upon conviction by imprisonment in the penitentiary for not more than 15 years.

164.240 Breaking and entering structure other than dwelling. Any person who breaks and enters any building within the curtilage of any dwelling house, but not forming a part thereof, or breaks and enters any building or part thereof, booth, tent, railroad car, vessel, boat, or other structure or erection in which any property is kept and which is not a dwelling house, with intent to steal or to commit any felony therein, is guilty of burglary and shall be punished upon conviction by imprisonment in the penitentiary for not more than 10 years.

[Amended by 1959 c.99 §1]

164.250 Breaking out of dwelling house in nighttime. Any person who, having committed or attempted to commit a crime in the dwelling house of another, breaks, in the nighttime, any outer door, window shutter, or other part of the house to get out of the house, is guilty of burglary, and shall be punished upon conviction by imprisonment in the penitentiary for not more than three years.

164.260 Use of explosive to commit crime in building entered in nighttime. Any person who breaks and enters any building in the nighttime with intent to commit a crime therein, and in the commission of or attempt to commit such crime, uses or attempts to use nitroglycerine, dynamite, gunpowder or other high explosive, is guilty of burglary with explosives, and shall be punished upon conviction by imprisonment in the penitentiary for not more than 40 years.

164.270 to 164.300 [Reserved for expansion]

LARCENY AND SHOPLIFTING

164.310 Larceny defined; punishment. (1) Any person who steals the property of another, or who wilfully takes, carries, leads or drives away the property of another with the intent to deprive such other of such property permanently, is guilty of larceny; and

(a) If such property exceeds $75 in value, shall be punished upon conviction by imprisonment in the penitentiary for not more than 10 years.

(b) If such property does not exceed $75 in value, 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 $500, or both.

(2) As used in subsection (1) of this section "property" means any real or personal property, including but not limited to:

(a) Any goods or chattels.

(b) Any government note, bank note, coin, money, promissory note, bill of exchange, bond or other thing in action.

(c) Any book of accounts or order or certificate concerning money due or to become due or goods to be delivered.

(d) Any deed or writing containing a conveyance of land or any interest therein.

(e) Any bill of sale or writing containing a conveyance of goods or chattels, or any interest therein.

(f) Any valuable contract in force.

(g) Any receipt, release, or defeasance.

(h) Any writ, process, or public record.

(i) Any railroad, railway, steamboat or steamship passenger ticket or other evidence of the right of a passenger to transportation. [Amended by 1957 c.653 §1; 1959 c.302 §2]

164.320 Larceny in building or boat. Any person who commits larceny in any dwelling house, banking house, office, store, shop or warehouse, or in any ship, steamboat or other vessel, or breaks and enters any church, courthouse, meeting house, town house, college, academy or other building erected or used for public uses, and commits larceny therein, shall be punished upon conviction by imprisonment in the county jail for not more than one year or in the penitentiary for not more than seven years. [Amended by 1959 c.77 §1]

164.330 Entering motor vehicles or trailers with intent to steal or commit felony. Any person who enters any automobile, motor truck or other motor vehicle, trailer or trailer house, in which any property is kept, with intent to steal or to commit any felony therein, is guilty of larceny and 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 $25 nor more than $500, or by imprisonment in the penitentiary for not more than five years, or by a fine of not less than $100 nor more than $1,000, or by both such imprisonment and fine.

164.340 Stealing from the person. Any person who commits larceny by stealing from the person of another, 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 six months nor more than one year, or by fine not less than $100 nor more than $500.

164.350 Stealing harvested and threshed grain. Any person who commits larceny by stealing any wheat, barley, rye, oats or other grain, in sacks or bulk, after it has been harvested and threshed, whether it is situated on the premises of the owner or elsewhere, shall be punished upon conviction by imprisonment in the penitentiary for not to exceed 10 years, or by imprisonment in the county jail not to exceed one year, or by fine of not to exceed $1,000, or both such fine and imprisonment.

164.360 Severance and stealing of fixture, ore, tree, plant or produce. Any person who severs or causes to be severed, and steals or causes to be stolen, any stationary bathtub, toilet or washbasin in any building, or any fixture or part of the realty, or any ore, growing tree, plant, or produce, is guilty of larceny, and shall be punished upon conviction as provided in ORS 164.310. The fact that the severance is made at the time of the taking constitutes no bar or defense to a prosecution under this section, and the punishment for severing and taking at the same time shall be in the same manner as if the thing had been severed by another person at a previous time.

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]

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 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]

164.370 Skinning or removing carcass of livestock without permission. Any person who skins or removes from the carcass any part of the hide of any neat cattle, sheep, hogs or goats, found dead, without the permission of the owner, is guilty of larceny, and shall be punished upon conviction as provided in ORS 164.310.

164.380 Stealing livestock. Any person who commits larceny by stealing, or taking with the intention of converting to his own use, any horse, gelding, mare, mule, ass, jenny or foal, bull, steer, cow, heifer, calf, hog, dog, sheep or goat or any poultry bird, including chickens, turkeys, ducks or geese, whether the owner is known or unknown, shall be punished upon conviction by imprisonment in the penitentiary for not more than 10 years, or by imprisonment in the county jail for not less than three months nor more than one year or by a fine of not less than $50 nor more than $1,000. This section shall not apply to any person taking up such animal under the estray laws of this state.

164.390 Shoplifting defined; punishment. (1) Any person who wilfully conceals or takes possession of any goods offered for sale by a wholesale or retail store or other mercantile establishment, without the knowledge or consent of the owner and with intent to convert the goods to his own use without paying the purchase price thereof, is guilty of shoplifting.

(2) Any person who violates subsection (1) of this section shall be punished upon conviction by imprisonment in the county jail for not more than one year, or in the penitentiary for not more than seven years.
[1959 c.626 §§1, 4]

164.392 Detention and interrogation of person suspected of shoplifting; "reasonable cause" as defense to action for false arrest, etc. (1) Notwithstanding ORS 133.550 and subsection (2) of ORS 133.560, a peace officer, merchant or merchant's employe who has reasonable cause for believing that a person has committed the crime of shoplifting under subsection (1) of ORS 164.390 may detain and interrogate such person in regard thereto in a reasonable manner and for a reasonable time.

(2) Where a peace officer, merchant or merchant's employe, with reasonable cause for believing that a person has committed the crime of shoplifting as defined under subsection (1) of ORS 164.390, detains and interrogates him in regard thereto, and such person thereafter brings against the peace officer, merchant or merchant's employe a civil or criminal action for slander, false arrest, false imprisonment, assault, battery or wrongful detention based upon the detention and interrogation, such reasonable cause shall be a defense to the action if the detention and interrogation were done in a reasonable manner and for a reasonable time.
[1959 c.626 §§2, 3]

164.394 to 164.400 [Reserved for expansion]

INJURY TO REAL PROPERTY, BUILDINGS AND APPURTENANCES

164.410 Trespass to real property generally. Any person who maliciously or wantonly cuts down, destroys or injures any bush, shrub, fruit or other tree not his own, standing or growing for fruit, ornament or other useful purpose, or wilfully breaks the glass in or defaces any building not his own, or wilfully breaks down or destroys any fence or hedge belonging to or inclosing land not his own, or wilfully throws down, opens and leaves down, or opens any bars, gate, fence or hedge belonging to or inclosing land not his own, or maliciously or wantonly severs from the land of another any produce thereof, 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 $10 nor more than $500.

164.420 Cutting trees or removing wood, minerals or earth. Any person who wilfully cuts down, destroys or injures any standing or growing tree upon the land of another, or wilfully takes or removes from such land any timber or wood previously cut or severed from the land, or wilfully digs, takes, quarries or removes from such land any mineral, earth or stone, shall be punished upon conviction by imprisonment in the county jail for not less than one month nor more than one year, or by a fine of not less than $50 nor more than $1,000.

164.430 Entering improved land of another with intent to injure growing products. Any person who wilfully enters upon the garden, orchard or other improved land of another or in another's possession, with intent to cut, take, carry away, destroy or injure the trees, grain, grass, hay, fruit or vegetable products growing on the land, shall be punished upon conviction by imprisonment in the county jail for not less than one nor more than six months, or by fine of not less than $5 nor more than $50.

164.440 Dumping rubbish on private land or public way. 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 $100 or by imprisonment in the county jail not to exceed 30 days.

164.450 Defacing building or contents; rights of informer. (1) Any person who maliciously or wantonly destroys or defaces any cabin or other building or place of shelter, or any of the contents of such cabin, building or shelter, constructed by any person upon any public land of this state, or of the United States within this state, or upon any land not owned by such person so destroying or defacing the same, shall be punished upon conviction by a fine of not less than $50 nor more than $250, or by imprisonment in the county jail not less than 10 days nor more than six months, or both.

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

(3) Justice courts shall have jurisdiction of any offenses enumerated in this section.

164.455 Damaging buildings or equipment and personal property used in connection with penal or correctional institution. Every person who, without any right or authority, wilfully and intentionally damages the penitentiary or the Oregon State Correctional Institution or any of the buildings or parts of buildings thereat or upon the grounds adjacent thereto, or destroys or damages any machinery, equipment, furniture, furnishings, fixtures or personal property of any kind located within or about the buildings or upon or about the grounds of the penitentiary or the Oregon State Correctional Institution, or helps, aids or assists another or others in such destruction or damages, is guilty of a felony and, upon conviction therefor, shall be imprisoned in the penitentiary for not more than five years, and shall be fined not more than $5,000. If such person is, at the time of the commission of such felony, a prisoner in the penitentiary or the Oregon State Correctional Institution, term of imprisonment under this section shall commence at the time he would otherwise have been discharged from the penitentiary or the Oregon State Correctional Institution. [1953 c.535 §1; 1959 c.687 §2]

164.460 Entry on lands and refusal to depart; what constitutes inclosure. (1) Any person, other than an officer on lawful business, who goes or trespasses upon any inclosed lands or premises not his own, and upon verbal, written or printed notice of the owner or person in lawful occupation of the lands or premises fails or refuses to depart therefrom immediately and remain away until permitted to return, shall be punished upon conviction by a fine of not more than $50. Any barrier, such as a river, lake or other obstruction to the passage of stock and also the established and posted boundaries of Indian reservations within the State of Oregon, which boundaries are established and desig-

nated by treaties between the United States of America and the various Indian tribes, constitutes an inclosure for the purpose of this section.

(2) Printed or written notices having attached thereto, by authority, the name of the owner or person in the lawful occupation of the lands or premises, and requiring all persons to forbear trespassing on the lands or premises and to depart therefrom, posted in three conspicuous places on the lands or premises, is sufficient prima facie evidence of notice mentioned in subsection (1) of this section.

(3) Justices' courts shall have jurisdiction over all offenses defined in this section. All fines collected under the provisions of this section shall be paid into and shall constitute a part of the county school fund of the county in which the offense is committed.
[Amended by 1957 c.470 §1; 1959 c.530 §2]

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.
[1953 c.430 §1; 1959 c.687 §3]

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.

164.480 Damaging state lands. (1) Any person who:

(a) Cuts down, removes, destroys or injures or permits to be cut down, removed, destroyed or injured, any timber, trees or firewood, standing, growing or lying upon any of the lands of this state before a deed to the land is issued by the state as provided by law;

(b) Takes or removes, or causes to be taken or removed from any such lands, any timber, wood, clay, sand or other material or substance;

(c) Unless he is a bona fide mineral claimant under the mining laws of the United States or by contract with the state, digs, quarries, takes or removes or causes to be dug, quarried, taken or removed any mineral, earth or stone from such lands; or

(d) Otherwise injures, defaces or damages, or causes to be injured, defaced, or damaged, any such land,

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 of not less than $50, nor more than $1,000, or both.

(2) The state shall not be required to prove title to the lands in question. The fact that the lands have been selected by the state or are a part of section 16 or 36 in any township, is prima facie evidence of the state's title.

(3) Any person who holds such lands under contract with the state for the purchase thereof, and occupies the land for the purpose of a home, may, with the written consent of the State Land Board, cut such timber as may be necessary for domestic use or clear the land for actual cultivation.

164.490 to 164.500 [Reserved for expansion]

CRIMES INVOLVING ROADS, RAILROADS AND CEMETERIES

164.510 Injuring road, canal, bridge, railroad, post or wire; procedure by justice. (1) Any person who wilfully breaks down, injures, undermines, obstructs, removes or destroys any free or toll bridge, railroad, railway, plank road, macadamized road, highway, canal, telegraph or telephone posts or wires, or any gate upon such road, or any lot or embankment of any canal, or injures or destroys any materials being used in the construction or repair of such road, highway, railway, canal or bridge, or wilfully arranges telephone or telegraph wires so as to interfere with their efficiency, or wilfully obstructs in any manner the service of such

telephone or telegraph wires, shall be punished upon conviction by imprisonment in the penitentiary for not more than two years, or by imprisonment in the county jail not less than one month nor more than six months, or by fine of not less than $25, nor more than $1,000.

(2) When any person is accused before any justice of the peace of violation of this section, the justice shall, on motion of the district attorney at any time before trial, proceed to examine and dispose of the case as a committing magistrate, either discharging the defendant or holding him to answer the charge before the circuit court, or proceed with the trial as in other cases over which he has jurisdiction. If the defendant is convicted, the justice cannot impose upon him any other or greater punishment than imprisonment in the county jail for a period of three months or a fine of not more than $100.

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.

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.

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.

(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.

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.

164.560 Stealing or interfering with railroad rolling stock; receiving stolen railroad property. (1) Any person who wilfully, wrongfully or maliciously takes, steals, removes, changes, adds to, alters or in any manner interferes with any journal bearing, brass, waste, packing, triple valve, pressure cock, brake, or any other part or attachment of any locomotive, engine, tender, coach, car, caboose, or motor track car used or capable of being used by any railroad or railway company in this state, shall be punished upon conviction by a fine not exceeding $1,000, or by imprisonment in the county jail

for a term not exceeding one year, or by imprisonment in the penitentiary for a term not exceeding three years.

(2) Every person who buys or receives any of the property described in subsection (1) of this section, knowing that it was stolen, shall be punished upon conviction as provided in subsection (1) of this section.

164.570 Disinterment or removal of body. Any person who wilfully and wrongfully digs up, disinters, removes or conveys away any human body or the remains thereof shall be punished upon conviction by imprisonment in the penitentiary for not more than two years, or by imprisonment in the county jail not less than three months nor more than one year.

164.580 Defacing, destroying or removing property in cemetery; civil liability. Any person who wilfully destroys, mutilates, defaces, injures or removes any tomb, monument, gravestone or other structure in any cemetery, or any fence, railing, or other work for its protection or ornament of any cemetery lot within a cemetery, or who wilfully destroys, cuts, breaks or injures any tree, shrub or plant within the limits of a cemetery, shall be punished upon conviction by a fine of not more than $500, and imprisonment in the county jail for a term not more than 30 days. The offender shall also be liable in an action of trespass in the name of a corporation organized under authority of ORS 61.005 to 61.950 to pay all damages occasioned by his unlawful act. Such damages when recovered shall be applied to the reparation and restoration of the property destroyed or injured.
[Amended by 1959 c.580 §103]

164.590 Building road through cemetery. Any person who, without authority specially granted by law or without the authority or consent of the proprietor or owner, opens or makes, or begins to open or make, any highway, street, road, railroad, macadamized road or other thing in the nature of a public easement, over, in, through or upon any inclosure or yard used for the burial of the dead, 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.

164.600 [Reserved for expansion]

CRIMES INVOLVING APPLIANCES, VEHICLES AND VESSELS

164.610 Interference with water rights and appliances. Any person who:

(1) Maliciously, wantonly or wilfully cuts, breaks down, injures, destroys, extends, alters, tampers or interferes with or removes any ditch, canal, flume, flashboard, trench, pipe, dam, reservoir, well, pump, main, meter, gate, gate valve, wheel, wheel gear, machinery or any thing or device, or appurtenance thereto, used for conveying, receiving, holding, pumping, measuring or delivering water used or designed for any lawful public or private purpose;

(2) Maliciously or without color of right obstructs, draws off or uses any portion of the water flowing through or contained in any such ditch, canal, flume, dam, trench, pipe, reservoir, well, pump, main, meter or other receptacle or thing used for containing, conveying, pumping, measuring or delivering such water; or

(3) Retains possession of or refuses to deliver any meter, article or appliance loaned or rented to him by any person, company or public or private corporation for the purpose of measuring or furnishing water through the same, or sells, loans or in any manner disposes of the same,

shall be punished upon conviction by a fine of not less than $10 nor more than $500, or by imprisonment in the county jail not more than six months, or both.

164.620 Interference with gas and electric appliances. Any person who wilfully or maliciously, with intent to injure or defraud:

(1) Connects a tube, pipe, wire or other instrument or contrivance, with a pipe or wire used for the conducting or supplying of illuminating gas or fuel or electricity in such a manner as to supply gas or electricity to any burner, orifice, lamp or motor where it is or can be burned or used, without passing through the meter or instrument provided for registering the quantity consumed;

(2) Obstructs, alters, injures, or prevents the action of a meter or other instrument used to measure or register the quantity of illuminating gas or fuel or electricity consumed or used in a building, house, department or office, or at any orifice, burner, lamp or motor, or by a lawful consumer;

(3) Detaches or disconnects any gas or electric meter, or makes or reports any test or examines for the purpose of testing

any such meter so detached or disconnected unless he is a city official, inspector or deputy inspector, or an employe of the company owning the meter;

(4) In any manner whatever changes, extends, or alters any service or other pipe, wire or attachment of any kind connecting or through which artificial gas or electricity is furnished from the gas mains or pipes or wires of any person, without first procuring from the person written permission to make the change, extension, or alteration;

(5) Makes any connection or reconnection with the gas mains, service pipes, or wires of any person furnishing to consumers gas or electricity, or turns on or off or in any manner interferes with any valve, stopcock or other appliances belonging to the person, and connected with his service or other pipes or wires, or uses electricity for any purpose, without first procuring from such person a written permit to so act;

(6) Retains possession of or refuses to deliver any meter, lamp or other appliance loaned or rented to him by any person for the purpose of furnishing gas, electricity or power through it, or sells, loans or in any manner disposes of it to anyone other than the person entitled to possess it;

(7) Sets on fire any gas escaping from leaking mains, pipes, valves or other appliances used by any person in conveying gas to consumers, or interferes in any manner with the pipes, mains, gate boxes, valves, stopcocks, wires, cables, conduits or any other appliances, machinery or property of any person engaged in furnishing gas or electricity to consumers, unless employed by or acting under the authority or direction of such person;

(8) Without lawful authority displaces, removes, injures, interferes with, alters or destroys any lawfully constructed line of wire or cable, or other material, property or apparatus belonging or appertaining thereto used for conducting or transmitting electricity, or cuts, breaks, taps, or makes connections with any thereof;

(9) Breaks, injures, interferes with, alters or destroys any arc or incandescent electric lamp, or its appurtenances, or any gas lamp lawfully used for lighting any street, road, or public or private place; or

(10) Aids, assists, agrees with, employs or conspires with any person to do or causes to be done or permitted any of the acts made punishable by this section,

shall be punished upon conviction by imprisonment in the county jail not less than 30 days nor more than one year, or by imprisonment in the penitentiary not more than two years, or by fine not less than $50 nor more than $500, or by both such imprisonment and fine.

164.630 Interference with telegraph equipment or service. (1) Any person who wilfully and maliciously performs as follows shall be punished by a fine not to exceed $500, or imprisonment in the county jail not to exceed six months, or both:

(a) Cuts, breaks or throws down any telegraph pole, or any tree or other object used in any line of telegraph.

(b) Breaks, displaces or injures any insulator in use in any telegraph line.

(c) Cuts, breaks or removes from its insulators any wire used as a telegraph line.

(d) By the attachment of a ground wire, or by any other contrivance, destroys the insulation of such telegraph line, or interrupts the transmission of the electric current through the line.

(e) Injures, molests or destroys any property or material appertaining to any telegraph line or belonging to any telegraph company.

(f) Interferes with the use of any telegraph line, or obstructs or postpones the transmission of any message over the line, or procures or advises any such injury, interference or obstruction.

(2) Any person who violates this section is liable to the telegraph company whose property is injured or line obstructed in a sum equal to 100 times the amount of actual damages.

164.635 Interference with coin telephone. Any person who wilfully and wrongfully opens, removes or damages any coin telephone 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 $500, or by both.

[1961 c.310 §2]

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.

(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.

164.650 Entering, manipulating or starting motor vehicle without consent of owner. With the exception of an authorized officer, marshal, constable or policeman, any person who, without the consent of the owner or person lawfully in charge of a motor vehicle, as defined in ORS 483.014, climbs upon or into such motor vehicle, whether it is at rest or in motion; or, while it is at rest or unattended, attempts to manipulate any of the levers, the starting crank or other device, brakes or mechanism, or sets the vehicle in motion, shall be punished, upon conviction, as provided in subsection (1) of ORS 483.990 for violation of the statutes listed therein.

164.660 Injury to or interference with motor vehicles. Any person who, individually or in association with one or more others and against the will or without the consent of the owner of any motor vehicle, as defined in ORS 483.014, wilfully breaks, injures, tampers with or removes any part of such vehicle for the purpose of injuring, defacing or destroying it, or temporarily or permanently preventing its useful operating for any purpose, or in any manner wilfully or maliciously interferes with or prevents the running or operation of such motor vehicle, shall be punished, upon conviction, as provided in subsection (1) of ORS 483.990 for violation of the statutes listed therein.

164.670 Taking or using vehicle without permission; responsibility of owner. (1) Every person who takes or uses without authority any vehicle without intent to steal it, or is a party to 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.

(2) This section applies to any person employed by the owner of a vehicle, or anyone else who, by the nature of his employment, has the charge of or the authority to drive the vehicle, if it is driven or used without the owner's knowledge or consent; and when so driven the owner thereof shall not be responsible.

164.680 Casting away or otherwise destroying vessel. Any person who wilfully casts away, burns, sinks or otherwise destroys any ship, steamboat or other vessel within this state, with intent to injure or defraud any owner of such vessel or the owner of any property laden on board the vessel, shall be punished upon conviction by imprisonment in the penitentiary for not more than 10 years.

164.690 Fitting out vessel with intent to destroy it. Any person who lades, equips, fits out, or assists in lading, equipping or fitting out any ship, steamboat or other vessel, with the intent that it shall be wilfully cast away, burnt, sunk or otherwise destroyed to injure or defraud any owner or insurer of such vessel or of any property laden on board the vessel, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years.

164.700 [Reserved for expansion]

CRIMES INVOLVING ANIMALS

164.710 Killing, wounding or poisoning animals. (1) Any person who maliciously or wantonly kills, wounds, disfigures or injures another's animal, or wilfuly administers any poison to any such animal, or maliciously exposes any poison with intent that it shall be taken by any such animal, shall be punished upon conviction by imprisonment in the penitentiary for not more than three years, or by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than $50 nor more than $1,000.

(2) Any person who, while trespassing on the lands of another or while engaged in unlawful hunting, kills, wounds, disfigures or injures another's animal shall be punished upon conviction by imprisonment in the county jail for not more than one year, or by a fine of not less than $50 nor more than $1,000, or both.

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.

(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, swine, bull, sow, 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.

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.

164.750 to 164.800 [Reserved for expansion]

MISCELLANEOUS CRIMES AGAINST PROPERTY

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

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]

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

164.840 Tearing down or defacing posted notices. Any person who wilfully tears down, alters or defaces any posted, written or printed notice, posted or put up pursuant

to any law requiring or authorizing it to be done, before the time for which such notice is given has expired, shall be punished upon conviction by imprisonment in the county jail for not less than one month nor more than six months, or by a fine of not less than $50 nor more than $300.

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

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

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

164.870 [Repealed by 1957 c.269 §1 (ORS 164.871 enacted in lieu of ORS 164.870)]

164.871 Injuring, removing or destroying boundary monuments or signs, lamps, railings, posts, barricades or warning devices. Any person who:

(1) Wilfully breaks down, injures, removes or destroys any monument erected or used for the purpose of designating the boundary of any town, tract or parcel of land, or any tree marked for that purpose; or

(2) Wilfully breaks down, injures, removes or destroys any milestone, board or post or any guide or fingerboard erected or placed upon any road or highway, or wilfully alters or defaces the inscription upon any such stone, post or board; or

(3) Wilfully extinguishes, breaks, injures, destroys or removes any lamp, lamppost, sign or signpost, or any railing or posts erected upon any street, highway, sidewalk, court or passage; or

(4) Wilfully breaks, destroys, injures or removes any barricade, fence, sign or warning device placed, kept or maintained upon any street, highway, sidewalk or passage by any public authority, or by any contractor for the State of Oregon, any county, municipality or other public authority where such barricade, fence, sign or warning device is placed by said contractor in connection with a contract with the said public authority; or

(5) Wilfully breaks, destroys, injures or removes any barricade, fence, sign or warning device which is placed, kept or maintained upon any privately owned real property by the owner or lessee of said property in order to prevent injury to persons or property on said real property; or

(6) Wilfully breaks, destroys, injures or removes any barricade, fence, sign or warning device which is placed, kept or maintained upon any privately owned real property by a contractor of the owner or lessee of said real property in connection with a construction contract with said owner or lessee for construction on said real property and in order to prevent injury to persons or property on said real property,

is guilty of a misdemeanor.

[1957 c.269 §2 (enacted in lieu of ORS 164.870)]

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

164.890 Destroying or removing records, documents and scientific instruments. (1) Any person who maliciously or wantonly removes, destroys, or carries away any record, book or document of any kind, or any box or other receptacle for containing the same, or any instrument or device for scientific purposes established or placed upon any mountain peak or summit or at any other place of resort, or upon any land belonging to this state or to the United States, or in or upon any body or stream of water within this state, shall be punished upon

conviction by a fine of not less than $50 nor more than $250, or by imprisonment in the county jail for not less than 10 days nor more than six months, or both.

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

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

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

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do herebv 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 1, 1961.

Sam R. Haley
Legislative Counsel