Chapter 166

1987 REPLACEMENT PART

Offenses Against Public Order; Firearms and Other Weapons; Racketeering

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TREASON, RIOT, DISORDERLY CONDUCT AND RELATED OFFENSES

166.005 Treason. (1) A person commits the crime of treason if the person levies war against the State of Oregon or adheres to its enemies, giving them aid and comfort.

(2) No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or upon confession in open court.

(3) A person convicted of treason shall be punished by imprisonment for life. [1971 c.743 §217]

166.010 [Repealed by 1971 c.743 §432]

166.015 Riot. (1) A person commits the crime of riot if while participating with five or more other persons the person engages in tumultuous and violent conduct and thereby intentionally or recklessly creates a grave risk of causing public alarm.

(2) Riot is a Class C felony. [1971 c.743 §218]

166.020 [Repealed by 1971 c.743 §432]

166.025 Disorderly conduct. (1) A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person:

(a) Engages in fighting or in violent, tumultuous or threatening behavior; or

(b) Makes unreasonable noise; or

(c) Disturbs any lawful assembly of persons without lawful authority; or

(d) Obstructs vehicular or pedestrian traffic on a public way; or

(e) Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or

(f) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or

(g) Created a hazardous or physically offensive condition by any act which the person is not licensed or privileged to do.

(2) Disorderly conduct is a Class B misdemeanor. [1971 c.743 §220; 1983 c.546 §5]

166.030 [Repealed by 1971 c 743 §432]

166.035 [1971 c.743 §221; repealed by 1975 c.715 §2]

166.040 [Repealed by 1971 c.743 §432]

166.045 [1971 c.743 §222; repealed by 1983 c.546 §3]

166.050 [Repealed by 1971 c 743 §432]

166.060 [Amended by 1959 c.436 §1; 1961 c 503 §1; repealed by 1971 c.743 §432]

166.065 Harassment. (1) A person commits the crime of harassment if the person intentionally:

(a) Harasses or annoys another person by:

(A) Subjecting such other person to offensive physical contact; or

(B) Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response;

(b) Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or

(c) Subjects another to alarm by conveying a telephonic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.

(2) A person is criminally liable for harassment if the person knowingly permits any telephone under the person's control to be used in violation of subsection (1) of this section.

(3) Harassment is a Class B misdemeanor. [1971 c.743 §223; 1981 c.468 §1; 1985 c 498 §1; 1987 c.806 §3]

166.075 Abuse of venerated objects. (1) A person commits the crime of abuse of venerated objects if the person intentionally abuses a public monument or structure, a place of worship or burial, or the national or state flag.

(2) As used in this section and ORS 166.085, "abuse" means to deface, damage, defile or otherwise physically mistreat in a manner likely to outrage public sensibilities.

(3) Abuse of venerated objects is a Class C misdemeanor. [1971 c.743 §224]

166.085 Abuse of corpse. (1) A person commits the crime of abuse of corpse if, except as otherwise authorized by law, the person intentionally:

(a) Abuses a corpse; or

(b) Disinters, removes or carries away a corpse.

(2) Abuse of corpse is a Class C felony.

(3) As used in this section, "abuse of corpse" includes treatment of a corpse by any person in a manner not recognized by generally accepted standards of the community or treatment by a professional person in a manner not generally

accepted as suitable practice by other members of the profession, as may be defined by rules applicable to the profession. [1971 c.743 §225; 1985 c 207 §2]

166.090 Telephonic harassment. (1) A telephone caller commits the crime of telephonic harassment if the caller intentionally harasses or annoys another person:

(a) By causing the telephone of the other person to ring, such caller having no communicative purpose; or

(b) By causing such other person's telephone to ring and causing such other person to answer it, knowing that the caller has been forbidden from so doing by a person exercising lawful authority over the receiving telephone.

(2) Telephonic harassment is a Class B misdemeanor. [1987 c.806 §2]

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

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

(b) Requests another to relinquish a party line or public pay telephone to place an emergency call with knowledge that no such emergency exists.

(2) As used in this section:

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

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

(3) Every telephone directory published after January 1, 1972, which is distributed to members of the general public in this state shall contain in a prominent place a notice of the offense punishable by this section.

(4) Misconduct with emergency telephone calls is a Class B misdemeanor. [1971 c 743 §288]

166.110 [Amended by 1961 c.503 §2; repealed by 1971 c 743 §432]

166.115 Interfering with public transportation. (1) A person commits the crime of interfering with public transportation if, with intent to harass, annoy or alarm, the person subjects the operator of any bus to offensive physical contact when the bus is operated by or under contract to any public body in order to provide public transportation.

(2) As used in this section, "public body" means the state, any city, county or special district, or any other political subdivision or municipal or public corporation.

(3) Interfering with public transportation is a Class A misdemeanor. [1981 c 783 §3]

166.120 [Repealed by 1971 c.743 §432]

166.130 [Repealed by 1971 c.743 §432]

166.140 [Repealed by 1971 c.743 §432]

166.150 [Repealed by 1971 c.743 §432]

INTIMIDATION

166.155 Intimidation in the second degree. (1) A person commits the crime of intimidation in the second degree if the person:

(a) Tampers or interferes with property, having no right to do so nor reasonable ground to believe that the person has such right, with the intent to cause substantial inconvenience to another because of the other's race, color, religion or national origin;

(b) Intentionally subjects another to offensive physical contact because of the other's race, color, religion or national origin; or

(c) Intentionally, because of race, color, religion or national origin of another or of a member of the other's family, subjects such other person to alarm by threatening:

(A) To inflict serious physical injury upon or to commit a felony affecting such other person, or a member of the person's family; or

(B) To cause substantial damage to the property of the other person or of a member of the other person's family.

(2) Intimidation in the second degree is a Class A misdemeanor.

(3) For purposes of this section, "property" means any tangible personal property or real property. [1981 c 785 §1; 1983 c.521 §1]

166.160 [Repealed by 1971 c.743 §432]

166.165 Intimidation in the first degree. (1) Two or more persons acting together commit the crime of intimidation in the first degree, if the persons:

(a)(A) Intentionally, knowingly, or recklessly cause physical injury to another because of that person's race, color, religion or national origin; or

(B) With criminal negligence cause physical injury to another by means of a deadly weapon because of that person's race, color, religion or national origin;

(b) Intentionally, because of race, color, religion or national origin of another, place that person in fear of imminent serious physical injury; or

(c) Commit such acts as would constitute the crime of intimidation in the second degree, if undertaken by one person acting alone.

(2) Intimidation in the first degree is a Class C felony. [1981 c.785 §2, 1983 c.521 §2]

POSSESSION AND USE OF WEAPONS

166.180 Negligently wounding another. Any person who, as a result of failure to use ordinary care under the circumstances, wounds any other person with a bullet or shot from any firearm, or with an arrow from any bow, shall be punished by imprisonment in the county jail for a period not to exceed six months, or by a fine not to exceed $500, or both. In addition, any person so convicted shall forfeit any license to hunt, obtained under the laws of this state, and shall be ineligible to obtain a license to hunt for a period of 10 years following the date of conviction. [Formerly 163.310]

Note: 166.180 to 166.350 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Criminal Code of 1971 by legislative action. See Preface to Oregon Revised Statutes for further explanation

166.190 Pointing firearm at another; courts having jurisdiction over offense. Any person over the age of 12 years who, with or without malice, purposely points or aims any loaded or empty pistol, gun, revolver or other firearm, at or toward any other person within range of the firearm, except in self-defense, shall be fined upon conviction in any sum not less than $10 nor more than $500, or be imprisoned in the county jail not less than 10 days nor more than six months, or both. Justices of the peace and district courts have jurisdiction concurrent with the circuit court of the trial of violations of this section. When any person is charged before a justice of the peace with violation of this section, the court shall, upon motion of the district attorney, at any time before trial, act as a committing magistrate, and if probable cause be established, hold such person to the grand jury. [Formerly 163.320]

Note: See note under 166.180.

166.210 Definitions for ORS 166.250 to 166.470. As used in ORS 166.250 to 166.270, 166.280, 166.290 and 166.410 to 166.470:

(1) "Firearm" means a weapon, by whatever name known, which is designed to expel a projectile by the action of black powder or smokeless powder and which is readily capable of use as a weapon.

(2) "Pistol," "revolver" and "firearms capable of being concealed upon the person," apply to and include all firearms having a barrel less than 12 inches in length.

(3) "Machine gun" means a weapon of any description by whatever name known, loaded or unloaded, from which two or more shots may be fired by a single pressure on the trigger device. [Amended by 1977 c 769 §1; 1979 c 779 §3]

Note: See note under 166.180

166.220 Attempting to use unlawfully dangerous weapon; carrying dangerous weapon with intent to use it unlawfully. Any person who attempts to use unlawfully against another, or who carries or possesses with intent to use unlawfully against another, any dangerous or deadly weapon as defined in ORS 161.015, commits a Class C felony. [Amended by 1975 c 700 §1, 1985 c 543 §1]

Note: See note under 166.180.

166.230 [Repealed by 1979 c 779 §7]

166.240 Carrying of concealed weapons. (1) Except as provided in ORS 166.260, 166.290 and subsection (2) of this section, any person who carries concealed upon the person any knife having a blade that projects or swings into position by force of a spring or by centrifugal force and commonly known as a switchblade knife, any dirk, dagger, ice pick, slung shot, metal knuckles, or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person, commits a Class B misdemeanor.

(2) Nothing in subsection (1) of this section applies to any peace officer as defined in ORS 133.005, whose duty it is to serve process or make arrests. Justices of the peace have concurrent jurisdiction to try any person charged with violating any of the provisions of subsection (1) of this section. [Amended by 1977 c.454 §1; 1985 c.543 §2]

Note: See note under 166 180.

166.250 Unlawful possession of firearms. (1) Except as otherwise provided in this section, ORS 166.260, 166.270, 166.280, 166.290 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm if the person knowingly:

(a) Possesses or has in possession any machine gun not registered as required under federal law;

(b) Carries any firearm concealed upon the person, without having a license to carry such firearm as provided in ORS 166.290; or

(c) Carries concealed and readily accessible about the person within any vehicle which is under the person's control or direction any firearm capable of being concealed upon the person, without having a license to carry such firearm as provided in ORS 166.290.

(2) This section does not prohibit any citizen of the United States over the age of 18 years who resides in or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270, from owning, possessing or keeping within the person's place of residence or place of business any pistol, revolver or other firearm capable of being concealed upon the person, and no permit or license to purchase, own, possess or keep any such firearm at the person's place of residence or place of business is required of any such citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle while used, for whatever period of time, as residential quarters.

(3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

(4) Unlawful possession of a firearm is a Class A misdemeanor. [Amended by 1979 c.779 §4, 1985 c.543 §3]

Note: See note under 166.180.

166.260 Persons not affected by ORS 166.250. ORS 166.250 does not apply to or affect:

(1) Sheriffs, constables, marshals, policemen, whether active or honorably retired, or other duly appointed peace officers.

(2) Any person summoned by any such officer to assist in making arrests or preserving the peace, while said person so summoned is actually engaged in assisting the officer.

(3) The possession or transportation by any merchant of unloaded firearms as merchandise.

(4) Members of the Army, Navy or Marine Corps of the United States, or of the National Guard, when on duty.

(5) Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state.

(6) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organization.

(7) Members of any club or organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges.

(8) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.

(9) A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention. [Amended by 1977 c.207 §1]

Note: See note under 166.180.

166.270 Certain exconvicts forbidden to possess arms. (1) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any firearm that is a shotgun having a barrel less than 18 inches in length, any other firearm having a barrel less than 16 inches in length, any firearm having a total length of less than 26 inches, any firearm designed to be fired other than from the shoulder or any machine gun, commits the crime of exconvict in possession of a firearm.

(2) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any instrument or weapon having a blade that projects or swings into position by force of a spring or by centrifugal force and commonly known as a switchblade knife, or any instrument or weapon commonly known as a blackjack, slung shot, sandclub, sandbag, sap glove or metal knuckles, or who carries a dirk, dagger or stiletto, commits the crime of exconvict in possession of a restricted weapon.

(3) For the purposes of this section, a person "has been convicted of a felony" if, at the time of conviction for an offense, that offense was a felony under the law of the jurisdiction in which it was committed. Provided, however, that such conviction shall not be deemed a conviction of a felony if:

(a) At the time of conviction, and pursuant to the law of the jurisdiction in which the offense

occurred, the offense was made a misdemeanor by the type or manner of sentence actually imposed; or

(b) The offense was for possession of marijuana.

(4) Subsection (1) of this section shall not apply to any person who has been convicted of only one felony under the law of this state or any other state, or who has been convicted of only one felony under the laws of the United States, which felony did not involve the possession or use of a firearm or switchblade knife, and who has been discharged from imprisonment, parole or probation for said offense for a period of 15 years prior to the date of alleged violation of subsection (1) of this section.

(5) Exconvict in possession of a firearm is a Class C felony. Exconvict in possession of a restricted weapon is a Class A misdemeanor. [Amended by 1975 c.702 §1; 1985 c.543 §4; 1985 c 709 §2; 1987 c 853 §1]

Note: See note under 166.180

166.275 Possession of weapons by inmates of institutions. Any person committed to any institution who, while under the jurisdiction of any institution or while being conveyed to or from any institution, possesses or carries upon the person, or has under the custody or control of the person any dangerous instrument, or any weapon including but not limited to any blackjack, slingshot, billy, sand club, metal knuckles, explosive substance, dirk, dagger, sharp instrument, pistol, revolver or other firearm without lawful authority, is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the custody of the Department of Corrections for a term not more than 20 years. [1953 c.533 §1, 1987 c 320 §88]

Note: See note under 166.180.

166.280 Seizure of concealed weapons; destruction; exception; sale by auction. (1) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any machine gun, pistol, revolver or other firearm capable of being concealed upon the person, or any firearm used during the commission of any felony or misdemeanor is a nuisance. Any such weapons taken from the person or vehicle of any person unlawfully carrying the same are nuisances, and shall be surrendered to the magistrate before whom the person is taken, except that in any city, county, town or other municipal corporation the weapons shall be surrendered to the head of the police force or police department.

(2) The officers to whom the weapons are surrendered, except as provided under subsection (4) of this section or upon the certificate of a judge of a court of record or of the district attorney of the county that their preservation is necessary or proper to the ends of justice, shall have authority and be responsible, subject to applicable laws, for selling such weapons or shall destroy the weapons to such extent that they are wholly and entirely ineffective and useless for the purpose for which they were manufactured.

(3) Upon the certificate of a judge or of the district attorney that the ends of justice will be subserved thereby, such weapon shall be preserved until the necessity for its use ceases, at which time, except as provided under subsection (4) of this section, the court shall order that the weapons be delivered to the officials having responsibility under applicable laws and subsection (2) of this section for selling such weapons, or destroying the weapons to such extent that they are wholly and entirely ineffective and useless for the purpose for which they were manufactured.

(4) In the event any such weapon has been stolen and is thereafter recovered from the thief or the thief's transferee, it shall not be destroyed but shall be restored to its lawful owner as soon as its use as evidence has been served, upon identification of the weapon and proof of ownership.

(5) The sale of any weapons under this section shall be by public auction. The agency holding the weapons shall conduct the auction annually. The agency shall publish notice of the time and place of the auction in the principal local newspaper no less than 20 nor more than 30 days before the date of the auction. Written or printed notice of the auction shall also be posted in three public places of the county where the sale is to take place, not less than 10 days successively. The agency shall permit public inspection of the weapons to be auctioned. Items shall be sold individually unless there is no interested bidder, in which case they may be sold in lots. [Amended by 1981 c 767 §1]

Note: See note under 166.180.

166.290 Issuance of license to carry weapon concealed; fees; liability. (1) The sheriff of a county, upon proof before the sheriff, that the person applying therefor is of good moral character, and that good cause exists for the issuance thereof, may issue to such person a license to carry concealed a pistol, revolver or other firearm for a period of one year from the date of the license, upon payment of the fee established under subsection (3) of this section. The fees shall be turned over to the treasurer of such county and credited to the general fund thereof.

(2) All applications for licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and business address of the applicant; date of birth, height, weight, color of eyes and hair, and reason for desiring a license to carry the weapon. The sheriff shall require that the applicant submit to fingerprinting at the time of applying for issuance or renewal of a license under this section. Any license issued upon the application shall set forth the foregoing data and shall, in addition, contain a description of the weapon authorized to be carried, giving the name of the manufacturer, the serial number and the caliber thereof. The record of each license issued or renewed under this section shall be kept in the office of the county clerk. The applications and licenses shall be uniform throughout the state, upon forms to be prescribed by the Attorney General.

(3) Fees for the issuance and renewal of licenses under this section shall be set by the governing body of each county at an amount estimated to provide for the administration of this section, but the fees shall not exceed:

(a) $10 for the issuance of a license.

(b) $2.50 for the renewal of a license.

(4) Neither a sheriff nor any authorized representative of a sheriff who is engaged in the receipt and review of any application for or in the issuing or denial of any license under this section shall incur any civil or criminal liability as the result of the lawful performance of duties under this section. [Amended by 1973 c.391 §1]

Note: See note under 166.180.

166.300 Killing another as cause for loss of right to bear arms. (1) Any person who has committed, with firearms of any kind or description, murder in any degree, or manslaughter, either voluntary or involuntary, or who in a careless or reckless manner, kills or injures another with firearms, and who, at any time after committing murder or manslaughter or after said careless or reckless killing or injury of another, carries or bears firearms of any kind or description within this state, shall be punished upon conviction by a fine of not more than $500, or by imprisonment in the county jail not to exceed one year, or both.

(2) Subsection (1) of this section does not deprive the people of this state of the right to bear arms for the defense of themselves and the state, and does not apply to any peace officer in the discharge of official duties or to a member of any regularly constituted military organization while on duty with such military organization.

(3) Justices of the peace, district courts, county courts and all other courts having jurisdiction as justices of the peace, shall have concurrent jurisdiction with the circuit courts of all prosecutions under subsection (1) of this section.

Note: See note under 166 180

166.310 [Repealed by 1985 c.709 §4]

166.320 Setting springgun or setgun. (1) Any person who places or sets any loaded springgun, setgun, or any gun, firearm or other device of any kind designed for containing or firing explosives, in any place where it may be fired, exploded or discharged by the contact of any person or animal with any string, wire, rod, stick, spring or other contrivance affixed to or connected with it, or with its trigger, shall be punished upon conviction by a fine of not less than $100 nor more than $500, or by imprisonment in the county jail for not less than 30 days nor more than six months, or both.

(2) Subsection (1) of this section does not apply to any loaded springgun, setgun, firearm or other device placed for the purpose of destroying gophers, moles or other burrowing rodents, and does not prevent the use of a coyote getter by employes of county, state or federal governments engaged in cooperative predatory animal control work.

Note: See note under 166.180.

166.330 Use of firearms with other than incombustible gun wadding. Any person who uses in any firearms discharged on lands within this state, not owned by the person, anything other than incombustible gun wadding, shall be punished upon conviction by a fine of not less than $5 nor more than $100, or by imprisonment in the county jail for not less than two days nor more than 60 days.

Note: See note under 166.180.

166.340 [1965 c 20 §§2, 3; 1969 c.351 §1; repealed by 1981 c 41 §3]

166.350 Unlawful possession of armor piercing ammunition. (1) A person commits the crime of unlawful possession of armor piercing ammunition if the person:

(a) Makes, sells, buys or possesses any handgun ammunition the bullet or projectile of which is coated with Teflon or any chemical compound with properties similar to Teflon and which is intended to penetrate soft body armor, such person having the intent that the ammunition be used in the commission of a felony; or

(b) Carries any ammunition described in paragraph (a) of this subsection while commit-

ting any felony during which the person or any accomplice of the person is armed with a firearm.

(2) As used in this section, "handgun ammunition" means ammunition principally for use in pistols or revolvers notwithstanding that the ammunition can be used in some rifles.

(3) Unlawful possession of armor piercing ammunition is a Class A misdemeanor. [1985 c.755 §2; 1987 c 158 §29]

Note: See note under 166 180.

POSSESSION OF DESTRUCTIVE DEVICE OR FIREARM IN PUBLIC BUILDING

166.360 Definitions for ORS 166.360 to 166.380. As used in ORS 166.360 to 166.380, unless the context requires otherwise:

(1) "Capitol building" means the Capitol, the Supreme Court Building, the State Office Building, the State Library Building, the Labor and Industries Building, the State Highway Building, the Agriculture Building or the Public Service Building and includes any new buildings which may be constructed on the same grounds as an addition to the group of buildings listed in this subsection.

(2) "Destructive device" means:

(a) A projectile containing an explosive or incendiary material or any other chemical substance; or

(b) A bomb, grenade, missile or similar device or any launching device therefor.

(3) "Loaded firearm" means:

(a) A breech-loading firearm in which there is an unexpended cartridge or shell in or attached to the firearm including but not limited to, in a chamber, magazine or clip which is attached to the firearm.

(b) A muzzle-loading firearm which is capped or primed and has a powder charge and ball, shot or projectile in the barrel or cylinder.

(4) "Public building" means a hospital, capitol building, a public or private school, college or university, a county courthouse, a city hall or the residence of any state official elected by the state at large, and the grounds adjacent to each such building. The term also includes that portion of any other building occupied by an agency of the state or a municipal corporation, as defined in ORS 297.405. [1969 c 705 §1; 1977 c.769 §2; 1979 c.398 §1]

Note: 166.360 to 166.380 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Criminal Code of 1971 by legislative action See Preface to Oregon Revised Statutes for further explanation.

166.370 Possession of destructive device or firearm in public building; exceptions. (1) Any person who possesses a destructive device or loaded or unloaded firearm, on the person in or on a public building, shall be punished upon conviction by a fine of not more than $500 or by imprisonment in the county jail for not more than one year, or both.

(2) Subsection (1) of this section does not apply to:

(a) A sheriff, policeman, other duly appointed peace officers or a corrections officer while acting within the scope of employment.

(b) A person summoned by a peace officer to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

(c) A member of the military forces of this state or the United States, when engaged in the performance of duty.

(d) A person who is licensed under ORS 166.290 to carry a concealed weapon.

(e) A person who is authorized by the officer or agency that controls the public building to possess a firearm in that public building. [1969 c.705 §§2, 4; 1977 c 207 §2; 1979 c.398 §2]

Note: See note under 166.360

166.380 Examination of device or firearm by peace officer; arrest for failure to allow examination. (1) A peace officer may examine a firearm possessed by anyone on the person while in or on a public building to determine whether the firearm is a loaded firearm.

(2) Refusal by a person to allow the examination authorized by subsection (1) of this section constitutes reason to believe that the person has committed a crime and the peace officer may make an arrest pursuant to ORS 133.310. [1969 c.705 §3]

Note: See note under 166.360.

SALE OR TRANSFER OF FIREARMS

166.410 Manufacture, importation, sale, gift, loan or possession of firearms. Any person who manufactures or causes to be manufactured within this state, or who imports into this state, or keeps, offers, exposes for sale, gives, lends or possesses a pistol, revolver or machine gun, otherwise than in accordance with ORS 166.250 to 166.270, 166.280, 166.290 and 166.420 to 166.470, shall be punished upon conviction by imprisonment in the custody of the Department of Corrections for not more than five years. [Amended by 1979 c.779 §5; 1987 c.320 §89]

Note: 166.410 to 166.490 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Criminal Code of 1971 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

166.420 Register of transfers of concealed weapons; form and content of register and by whom to be maintained. (1) Except as provided in subsection (5) of this section every person in the business of selling, leasing or otherwise transferring a pistol, revolver or other firearm, of a size capable of being concealed upon the person, whether the person is a retail dealer, pawnbroker or otherwise, shall keep a register in which shall be entered the time, date and place of sale, the name of the salesman making the sale, the make, model, manufacturer's number, caliber or other marks of identification on the pistol, revolver or other firearm. The register shall be prepared by and obtained from the State Printer in the form provided in subsection (6) of this section, and shall be furnished by the State Printer to the dealer on application at a cost of $3 per 100 leaves, in duplicate.

(2) The purchaser of any firearm capable of being concealed upon the person shall sign, and the dealer shall require the person to sign, the name of the person and affix the address of the person to the register in duplicate and the salesman shall affix the signature of the salesman in duplicate as a witness to the signature of the purchaser. Any person signing a fictitious name or address is guilty of a misdemeanor.

(3) The duplicate sheet of the register shall, on the evening of the day of sale, be placed in the mail, postage prepaid, and properly addressed to the board of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the city, county, town or other municipal corporation wherein the sale was made. If the sale is made in a district where there is no municipal police department, the duplicate sheet shall be mailed to the county clerk of the county wherein the sale is made.

(4) Violation of this section by any person engaged in the business of selling, leasing or otherwise transferring such firearm is a misdemeanor.

(5) This section does not apply to wholesale dealers in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms as merchandise by mail, express or other mode of shipment, to points outside of the city, county, town or municipal corporation wherein they are situated.

(6) The register provided for in this section shall be substantially in the following form:

Series No.——

Sheet No. ——

ORIGINAL

(DEALERS' RECORD OF SALE OF REVOLVER OR PISTOL)

State of Oregon

Notice to Dealers. This original is for your files. If spoiled in making out, do not destroy. Keep in books Fill out in duplicate

Carbon duplicate must be mailed on the evening of the day of sale, to head of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the municipal corporations wherein the sale is made, or to the county clerk of your county if the sale is made in a district where there is no municipal police department Violation of this law is a misdemeanor. Use carbon paper for duplicate. Use indelible pencil.

Sold by ———————— Salesman ————————

City, town or township ————

Description of arm (state whether revolver or pistol) ————

Maker ———— Number —— Caliber ——

Name of purchaser ———————— Age —— years

Permanent address (state name of city, town or township, street and number of dwelling) ————

Height —— feet —— inches. Occupation ————

Color ———— Skin ———— Eyes ———— Hair ————

If traveling, or in locality temporarily, give local address ————

Signature of purchaser ————————

(Signing a fictitious name or address is a misdemeanor. To be signed in duplicate.)

Witness ———————— Salesman

(To be signed in duplicate.)

Series No ——

Sheet No. ——

DUPLICATE

(DEALERS' RECORD OF SALE OF REVOLVER OR PISTOL)

State of Oregon

Notice to Dealers: This carbon duplicate must be mailed on the evening of the day of sale as set forth in the original of this register page Violation of this law is a misdemeanor.

Sold by ———————— Salesman ————————

City, town or township ————

Description of arm (state whether revolver or pistol) ————

Maker ———— Number —— Caliber ——

Name of purchaser ———————— Age —— years

Permanent address (state name of city, town or township, street and number of dwelling) ————

Height —— feet —— inches Occupation ————

Color ———— Skin ———— Eyes ———— Hair ————

If traveling, or in locality temporarily, give local address ————

Signature of purchaser ——————————

(Signing a fictitious name or address is a misdemeanor. To be signed in duplicate.)

Witness —————————— Salesman

(To be signed in duplicate.)

Note: See note under 166 410

166.430 Licenses to sell at retail. Licensing authorities of any city, county, town or other municipality within this state may grant licenses in form prescribed by the Attorney General, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the municipality, pistols, revolvers and other firearms capable of being concealed upon the person, subject to the following conditions, for breach of any of which the license is subject to forfeiture:

(1) The business shall be carried on only in the building designated in the license.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed where it can easily be read by the customer.

(3) Before any pistol or revolver shall be delivered:

(a) One hundred twenty hours shall have elapsed after application for the purchase and the register entries required by ORS 166.420 have been completed; and

(b) The purchaser either is personally known to the seller or presents clear evidence of identity.

(4) No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in or on any part of the premises where it can readily be seen from outside the premises.

(5) When a pistol or revolver is delivered it shall be unloaded and securely wrapped. [Amended by 1971 c.464 §1]

Note: See note under 166 410.

166.440 Unlicensed persons selling or advertising for sale concealable firearms. Any person who, without being licensed as provided in ORS 166.430, engages in the business of selling or otherwise transferring, or who advertises for sale or offers or exposes for sale or transfer, any pistol, revolver or other firearm capable of being concealed upon the person, is guilty of a misdemeanor.

Note: See note under 166.410

166.450 Obliteration or change of identification marks on firearms. Any person who changes, alters, removes or obliterates the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver, shall be punished upon conviction by imprisonment in the custody of the Department of Corrections for not more than five years. Possession of any such firearm upon which the same has been changed, altered, removed or obliterated, is presumptive evidence that the possessor has changed, altered, removed or obliterated the same. [Amended by 1987 c.320 §90]

Note: See note under 166.410

166.460 Antique firearms excepted. ORS 166.250 to 166.270, 166.280, 166.290, 166.410 to 166.450, and 166.470 do not apply to antique pistols or revolvers incapable of use as such. [Amended by 1979 c 779 §6]

Note: See note under 166.410

166.470 Limitations and conditions for sales of concealable firearms. No person shall sell, deliver or otherwise transfer any pistol, revolver or other firearm capable of being concealed upon the person to any person whom the person has cause to believe to be within any of the classes prohibited by ORS 166.270 from owning or possessing such firearms, nor to any minor under the age of 18 years. Such firearm shall not be delivered to the purchaser on the day of the application for its purchase, and when delivered it shall be securely wrapped and unloaded. When neither party to the transaction holds a dealers' license, the vendor shall not sell or otherwise transfer any such firearm to any other person within this state who is not personally known to the vendor. Violation of this section is a misdemeanor.

Note: See note under 166.410.

166.480 Sale or gift of explosives and firearms to children. Any person who sells, exchanges, barters or gives to any child, under the age of 14 years, any explosive article or substance, other than an ordinary firecracker containing 10 grains of gunpowder; or who sells, exchanges, barters or gives to any such child any firearms, or other device of a like kind, ordinarily used or ordinarily capable of being used in discharging gunpowder in a greater quantity than 10 grains; or who sells, exchanges, barters or gives to any such child, any instrument or apparatus, the chief

utility of which is the fact that it is used, or is ordinarily capable of being used, as an article or device to increase the force or intensity of any explosive, or to direct or control the discharge of any such explosive, is guilty of a misdemeanor.

Note: See note under 166.410.

166.490 Purchase of firearms in certain other states. (1) As used in this section, unless the context requires otherwise:

(a) "Contiguous state" means California, Idaho, Nevada or Washington.

(b) "Resident" includes an individual or a corporation or other business entity that maintains a place of business in this state.

(2) A resident of this state may purchase or otherwise obtain a rifle or shotgun in a contiguous state and receive in this state or transport into this state such rifle or shotgun, unless the purchase or transfer violates the law of this state, the state in which the purchase or transfer is made or the United States.

(3) This section does not apply to the purchase, receipt or transportation of rifles and shotguns by federally licensed firearms manufacturers, importers, dealers or collectors.

(4) This section expires and stands repealed upon the date that section 922(b) (3) of the Gun Control Act of 1968 (18 U.S.C. 922(b) (3)) and regulations pursuant thereto are repealed or rescinded. [1969 c 289 §§1, 2, 3, 4]

Note: See note under 166 410.

166.510 [Amended by 1957 c.290 §1; 1973 c.746 §1; 1983 c 546 §2; repealed by 1985 c 709 §4]

166.515 [1973 c.746 §2; repealed by 1985 c 709 §4]

166.520 [Amended by 1973 c 746 §3; repealed by 1985 c.709 §4]

166.560 [1965 c.118 §1; repealed by 1971 c.743 §432]

166.610 [Repealed by 1971 c.743 §432]

166.620 [Repealed by 1963 c.94 §2]

DISCHARGING WEAPONS

166.630 Discharging weapon on or across highway, ocean shore recreation area or public utility facility. (1) Any person is guilty of a violation who discharges or attempts to discharge any bow and arrow, air rifle, rifle, gun, revolver or other firearm:

(a) Upon or across any highway, railroad right of way or other public road in this state, or upon or across the ocean shore within the state recreation area as defined in ORS 390.605.

(b) At any public or railroad sign or signal or an electric power, communication, petroleum or natural gas transmission or distribution facility of a public utility or railroad within range of the weapon.

(2) Any bow and arrow, air rifle, rifle, gun, revolver or other firearm in the possession of the person that was used in committing a violation of this section may be confiscated and forfeited to the State of Oregon. This section does not prevent the discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation.

(3) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty and forfeiture provided in subsections (1) and (2) of this section.

(4) As used in this section:

(a) "Public sign" includes all signs, signals and markings placed or erected by authority of a public body.

(b) "Public utility" has the meaning given that term in ORS 164.365 (2).

(c) "Railroad" has the meaning given that term in ORS 760.005. [Amended by 1963 c 94 §1, 1969 c.501 §2, 1969 c.511 §4; 1973 c.196 §1, 1973 c 723 §118; 1981 c 900 §1]

Note: The amendments to 166 630 by section 113, chapter 447, Oregon Laws 1987, take effect July 1, 1989 See section 143, chapter 447, Oregon Laws 1987. The text is set forth for the user's convenience.

166.630. (1) Any person is guilty of a violation who discharges or attempts to discharge any bow and arrow, air rifle, rifle, gun, revolver or other firearm

(a) Upon or across any highway, railroad right of way or other public road in this state, or upon or across the ocean shore within the state recreation area as defined in ORS 390.605

(b) At any public or railroad sign or signal or an electric power, communication, petroleum or natural gas transmission or distribution facility of a public utility, telecommunications utility or railroad within range of the weapon

(2) Any bow and arrow, air rifle, rifle, gun, revolver or other firearm in the possession of the person that was used in committing a violation of this section may be confiscated and forfeited to the State of Oregon This section does not prevent the discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation

(3) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty and forfeiture provided in subsections (1) and (2) of this section

(4) As used in this section:

(a) "Public sign" includes all signs, signals and markings placed or erected by authority of a public body.

(b) "Public utility" has the meaning given that term in ORS 164.365 (2)

(c) "Railroad" has the meaning given that term in ORS 760.005

166.635 Discharging weapon or throwing objects at trains. (1) A person shall not knowingly throw an object at, drop an object on, or discharge a bow and arrow, air rifle, rifle, gun, revolver or other firearm at a railroad train, a person on a railroad train or a commodity being transported on a railroad train. This subsection does not prevent a peace officer or a railroad employe from performing the duty of a peace officer or railroad employe.

(2) Violation of subsection (1) of this section is a misdemeanor. [1973 c.139 §4]

Note: 166 635, 166.638 and 166 645 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Criminal Code of 1971 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

166.638 Discharging weapon across airport operational surfaces. (1) Any person who knowingly or recklessly discharges any bow and arrow, gun, air gun or other firearm upon or across any airport operational surface commits a Class A misdemeanor. Any bow and arrow, gun, air gun or other firearm in the possession of the person that was used in committing a violation of this subsection may be confiscated and forfeited to the State of Oregon, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund.

(2) As used in subsection (1) of this section, "airport operational surface" means any surface of land or water developed, posted or marked so as to give an observer reasonable notice that the surface is developed for the purpose of storing, parking, taxiing or operating aircraft, or any surface of land or water when actually being used for such purpose.

(3) Subsection (1) of this section does not prohibit the discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation, or otherwise lawful hunting, wildlife control or other discharging of firearms done with the consent of the proprietor, manager or custodian of the airport operational surface.

(4) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty provided in subsection (1) of this section. [1981 c 901 §2; 1987 c.858 §2]

Note: See note under 166 635

166.640 [Repealed by 1971 c.743 §432]

MISCELLANEOUS

166.645 Hunting in cemeteries prohibited. (1) Hunting in cemeteries is prohibited.

(2) As used in subsection (1) of this section "hunting" has the meaning for that term provided in ORS 496.004.

(3) Violation of subsection (1) of this section is a misdemeanor. [1973 c 468 §2; 1987 c.158 §30]

Note: See note under 166 635

166.650 [Repealed by 1971 c 743 §432]

166.660 Unlawful paramilitary activity. (1) A person commits the crime of unlawful paramilitary activity if the person:

(a) Exhibits, displays or demonstrates to another person the use, application or making of any firearm, explosive or incendiary device or any technique capable of causing injury or death to persons and intends or knows that such firearm, explosive or incendiary device or technique will be unlawfully employed for use in a civil disorder; or

(b) Assembles with one or more other persons for the purpose of training with, practicing with or being instructed in the use of any firearm, explosive or incendiary device or technique capable of causing injury or death to persons with the intent to unlawfully employ such firearm, explosive or incendiary device or technique in a civil disorder.

(2)(a) Nothing in this section makes unlawful any act of any law enforcement officer performed in the otherwise lawful performance of the officer's official duties.

(b) Nothing in this section makes unlawful any activity of the State Department of Fish and Wildlife, or any activity intended to teach or practice self-defense or self-defense techniques, such as karate clubs or self-defense clinics, and similar lawful activity, or any facility, program or lawful activity related to firearms instruction and training intended to teach the safe handling and use of firearms, or any other lawful sports or activities related to the individual recreational use or possession of firearms, including but not limited to hunting activities, target shooting, self-defense, firearms collection or any organized activity including, but not limited to any hunting club, rifle club, rifle range or shooting range which does not include a conspiracy as defined in ORS 161.450 or the knowledge of or the intent to cause or further a civil disorder.

(3) Unlawful paramilitary activity is a Class C felony. In addition to any other penalty imposed pursuant to this section, the court may order forfeited to the State of Oregon for the benefit of the Common School Fund any firearm or explosive or incendiary device used in any activity in violation of this section.

(4) As used in this section:

(a) "Civil disorder" means acts of physical violence by assemblages of three or more persons which cause damage or injury, or immediate danger thereof, to the person or property of any other individual.

(b) "Firearm" means a weapon, by whatever name known, which is designed to expel a projectile by the action of black powder or smokeless black powder and which is readily capable of use as a weapon.

(c) "Explosive" means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined in ORS 480.110 (1), black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

(d) "Law enforcement officer" means any duly constituted police officer of the United States, any state, any political subdivision of a state or the District of Columbia, and also includes members of the military reserve forces or National Guard as defined in 10 U.S.C. 101 (9), members of the organized militia of any state or territory of the United States, the Commonwealth of Puerto Rico or the District of Columbia not included within the definition of National Guard as defined by 10 U.S.C. 101 (9), members of the Armed Forces of the United States and such persons as are defined in ORS 161.015 (4) when in the performance of official duties. [1983 c 792 §2; 1987 c.858 §3]

Note: 166 660 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative action See Preface to Oregon Revised Statutes for further explanation.

166.710 [1957 c.601 §1; repealed by 1971 c.743 §432]

RACKETEERING

166.715 Definitions for ORS 166.715 to 166.735. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

(1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust or other profit or nonprofit legal entity, and includes any union, association or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(3) "Investigative agency" means the Department of Justice or any district attorney.

(4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of racketeering activity.

(5) "Person" means any individual or entity capable of holding a legal or beneficial interest in real or personal property.

(6) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(a) Any conduct which constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes:

(A) ORS chapter 59, relating to securities;

(B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

(C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing governmental administration;

(D) ORS 162.405 to 162.425, relating to abuse of public office;

(E) ORS 162.465, relating to interference with legislative operation;

(F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

(G) ORS 163.160 to 163.205, relating to assault and related offenses;

(H) ORS 163.225 and 163.235, relating to kidnapping;

(I) ORS 163.275, relating to coercion;

(J) ORS 163.670 to 163.680, relating to sexual conduct of children;

(K) ORS 164.015, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.125, 164.135, 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and related offenses;

(L) ORS 164.315 to 164.335, relating to arson and related offenses;

(M) ORS 164.345 to 164.365, relating to criminal mischief;

(N) ORS 164.395 to 164.415, relating to robbery;

(O) ORS 164.865 and 164.875, relating to unlawful recording;

(P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and related offenses;

(Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

(R) ORS 165.485 to 165.515, 165.540 and 165.555, relating to communication crimes;

(S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.440, 166.450 and 166.470, relating to firearms and other weapons;

(T) ORS 167.007 to 167.017, 167.062 to 167.080, 167.087, 167.090, 167.122 to 167.137, 167.147, 167.212, 167.355, 167.365 and 167.370, relating to prostitution, obscenity, gambling, animal fighting and related offenses;

(U) ORS 171.990, relating to legislative witnesses;

(V) ORS 260.542, 260.575 and 260.665, relating to election offenses;

(W) ORS 314.075, relating to income tax;

(X) ORS chapter 323, relating to cigarette taxes;

(Y) ORS 411.630, 411.690 and 411.840, relating to public assistance payments;

(Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

(AA) ORS 463.995, relating to boxing and wrestling, as defined in ORS 463.015;

(BB) ORS 471.205, 471.215 to 471.289, 471.305, 471.335 to 471.345, 471.360, 471.405, 471.415, 471.425, 471.445 to 471.455, 471.460, 471.465, 471.470, 471.485, 471.490, 471.675 and 472.310, relating to alcoholic liquor;

(CC) ORS 475.005 to 475.285, 475.940 to 475.965 and 475.991 to 475.995, relating to controlled substances;

(DD) ORS 480.070, 480.210 to 480.220 and 480.235 to 480.265, relating to explosives;

(EE) ORS 819.010, 819.020, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

(FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;

(GG) ORS chapter 706, relating to banking law administration;

(HH) ORS chapter 708, relating to banks and trusts;

(II) ORS chapter 714, relating to branch banking;

(JJ) ORS chapter 716, relating to mutual savings banks;

(KK) ORS chapter 723, relating to credit unions; or

(LL) ORS chapter 726, relating to pawnbrokers.

(b) Any conduct defined as "racketeering activity" under 18 U.S.C. 1961 (1)(B), (C) and (D).

(7) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

(A) ORS chapter 462, relating to racing;

(B) ORS 167.117 to 167.162 and 465.090, relating to gambling; or

(C) ORS chapter 82, relating to interest and usury.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under federal or state law. [1981 c.769 §2; 1983 c.338 §898; 1983 c.715 §1; 1985 c.176 §5; 1985 c.557 §8; 1987 c 158 §31; 1987 c.249 §7; 1987 c.789 §20; 1987 c.907 §12]

166.720 Racketeering activity unlawful; penalties. (1) It is unlawful for any person who has knowingly received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest or equity in, real property or in the establishment or operation of any enterprise.

(2) It is unlawful for any person, through a pattern of racketeering activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any real property or enterprise.

(3) It is unlawful for any person employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.

(4) It is unlawful for any person to conspire or endeavor to violate any of the provisions of subsections (1), (2) or (3) of this section.

(5)(a) Any person convicted of engaging in activity in violation of the provisions of subsections (1) to (4) of this section is guilty of a Class A felony.

(b) In lieu of a fine otherwise authorized by law, any person convicted of engaging in conduct in violation of the provisions of subsections (1) to (4) of this section, through which the person derived a pecuniary value, or by which the person caused personal injury or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is greater, plus court costs and the costs of investigation and prosecution, reasonably incurred.

(c) The court shall hold a hearing to determine the amount of the fine authorized by paragraph (b) of this subsection.

(d) For the purposes of paragraph (b) of this subsection, "pecuniary value" means:

(A) Anything of value in the form of money, a negotiable instrument, a commercial interest or anything else the primary significance of which is economic advantage; or

(B) Any other property or service that has a value in excess of $100. [1981 c.769 §§3, 4]

166.725 Remedies for violation of ORS 166.720; time limitation. (1) Any circuit court may, after making due provision for the rights of innocent persons, enjoin violations of the provisions of ORS 166.720 (1) to (4) by issuing appropriate orders and judgments, including, but not limited to:

(a) Ordering a divestiture by the defendant of any interest in any enterprise, including real property.

(b) Imposing reasonable restrictions upon the future activities or investments of any defendant, including, but not limited to, prohibiting any defendant from engaging in the same type of endeavor as the enterprise in which the defendant was engaged in violation of the provisions of ORS 166.720 (1) to (4).

(c) Ordering the dissolution or reorganization of any enterprise.

(d) Ordering the suspension or revocation of a license, permit or prior approval granted to any enterprise by any agency of the state.

(e) Ordering the forfeiture of the charter of a corporation organized under the laws of this state, or the revocation of a certificate of authority authorizing a foreign corporation to conduct business within this state, upon finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or engaged in conduct in violation of ORS 166.720 (1) to (4) and that, for the prevention of future criminal activity, the public interest requires the charter of the corporation forfeited and the corporation dissolved or the certificate of authority revoked.

(2) All property, real or personal, including money, used in the course of, derived from or realized through conduct in violation of a provision of ORS 166.715 to 166.735 is subject to civil forfeiture to the state. The state shall dispose of all forfeited property as soon as commercially feasible. If property is not exercisable or transferable for value by the state, it shall expire. All forfeitures or dispositions under this section shall be made with due provision for the rights of innocent persons. Forfeited property shall be distributed as follows:

(a)(A) All moneys and the clear proceeds of all other property forfeited shall be deposited with the State Treasurer to the credit of the Common School Fund.

(B) For purposes of subparagraph (A) of this paragraph, "clear proceeds" means proceeds of forfeited property less costs of maintaining and preserving property pending its sale or other disposition, less costs of sale or disposition and, if the Department of Justice has not otherwise recovered its costs and expenses of the investigation and prosecution leading to the forfeiture, less 30 percent of the remaining proceeds of the property which is awarded to the department as reasonable reimbursement for costs of such investigation and prosecution.

(b) Any amounts awarded to the Department of Justice pursuant to paragraph (a) of this subsection shall be deposited in the Criminal Justice Revolving Account in the State Treasury.

(3) Property subject to forfeiture under this section may be seized by a police officer, as defined in ORS 133.525 (2), upon court process. Seizure without process may be made if:

(a) The seizure is incident to a lawful arrest or search or an inspection under an administrative inspection warrant; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(4) In the event of a seizure under subsection (3) of this section, a forfeiture proceeding shall be

instituted promptly. Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the police officer making the seizure, subject only to the order of the court. When property is seized under this section, pending forfeiture and final disposition, the police officer may:

(a) Place the property under seal;

(b) Remove the property to a place designated by the court; or

(c) Require another agency authorized by law to take custody of the property and remove it to an appropriate location.

(5) The Attorney General, any district attorney or any state agency having jurisdiction over conduct in violation of a provision of ORS 166.715 to 166.735 may institute civil proceedings under this section. In any action brought under this section, the circuit court shall give priority to the hearing and determination. Pending final determination, the circuit court may at any time enter such injunctions, prohibitions or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper. The Attorney General, district attorney or state agency bringing an action under this section shall be entitled to recover, upon entry of a final judgment or decree in favor of the state, attorney fees and costs of investigation and litigation, reasonably incurred. Amounts recovered may include costs and expenses of state and local governmental departments and agencies incurred in connection with the investigation or litigation.

(6) Any aggrieved person may institute a proceeding under subsection (1) of this section. In such proceeding, relief shall be granted in conformity with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, except that no showing of special or irreparable damage to the person shall have to be made. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any such action before a final determination on the merits.

(7)(a) Any person who is injured by reason of any violation of the provisions of ORS 166.720 (1) to (4) shall have a cause of action for threefold the actual damages sustained and, when appropriate, punitive damages. Such person shall also recover attorney fees in the trial and appellate courts and costs of investigation and litigation, reasonably incurred.

(b) The defendant or any injured person may demand a trial by jury in any civil action brought pursuant to this section.

(c) Any injured person shall have a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim the state has in the same property or proceeds.

(8) An investigative agency may bring an action for civil penalties for any violation of ORS 166.720 (1) to (4). Upon proof of any such violation, the court shall impose a civil penalty of not more than $250,000.

(9) A final judgment or decree rendered in favor of the state in any criminal proceeding under ORS 166.715 to 166.735 shall estop the defendant in any subsequent civil action or proceeding brought by the state or any other person as to all matters as to which such judgment or decree would be an estoppel as between the state and the defendant.

(10) The Attorney General may, upon timely application, intervene in any civil action or proceeding brought under subsection (6) or subsection (7) of this section if the Attorney General certifies that, in the opinion of the Attorney General, the action or proceeding is of general public importance. In such action or proceeding, the state shall be entitled to the same relief as if the Attorney General instituted the action or proceeding.

(11) Notwithstanding any other provision of law, a criminal or civil action or proceeding under ORS 166.715 to 166.735 may be commenced at any time within five years after the conduct in violation of a provision of ORS 166.715 to 166.735 terminates or the cause of action accrues. If a criminal prosecution or civil action or other proceeding is brought, or intervened in, to punish, prevent or restrain any violation of the provisions of ORS 166.715 to 166.735, the running of the period of limitations prescribed by this section with respect to any cause of action arising under subsection (6) or subsection (7) of this section which is based in whole or in part upon any matter complained of in any such prosecution, action or proceeding shall be suspended during the pendency of such prosecution, action or proceeding and for two years following its termination.

(12) The application of one civil remedy under any provision of ORS 166.715 to 166.735 shall not preclude the application of any other remedy, civil or criminal, under ORS 166.715 to 166.735 or any other provision of law. Civil remedies under ORS 166.715 to 166.735 are supplemental and not mutually exclusive. [1981 c.769 §5; 1983 c.715 §2]

166.730 Authority of investigative agency; compelling compliance with subpena. (1) If, pursuant to the civil enforcement provisions of ORS 166.725, an investigative agency has reason to believe that a person or other enterprise has engaged in, or is engaging in, activity in violation of ORS 166.715 to 166.735, the investigative agency may administer oaths or affirmations, subpena witnesses or documents or other material, and collect evidence pursuant to the Oregon Rules of Civil Procedure.

(2) If matter that the investigative agency seeks to obtain by the subpena is located outside the state, the person or enterprise subpenaed may make such matter available to the investigative agency or its representative for examination at the place where such matter is located. The investigative agency may designate representatives, including officials of the jurisdiction in which the matter is located, to inspect the matter on its behalf and may respond to similar requests from officials of other jurisdictions.

(3) Upon failure of a person or enterprise, without lawful excuse, to obey a subpena, and after reasonable notice to such person or enterprise, the investigative agency may apply to the circuit court for the judicial district in which such person or enterprise resides, is found or transacts business for an order compelling compliance. [1981 c.769 §6, 1983 c.715 §3]

166.735 Short title; construction. (1) ORS 166.715 to 166.735 may be cited as the Oregon Racketeer Influenced and Corrupt Organization Act.

(2) The provisions of ORS 166.715 to 166.735 shall be liberally construed to effectuate its remedial purposes. [1981 c.769 §§1, 7; 1983 c.715 §4]