

House Bill 2510

Sponsored by Representative BROWN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands types of written instruments to which crime of forgery in first degree applies and types of forged instruments to which crime of criminal possession of forged instrument in first degree applies to include retail sales receipts, Universal Product Code labels and EAN-8 and EAN-13 labels.

Creates crime of aggravated criminal possession of forged instrument or forgery device. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both.

A BILL FOR AN ACT

1
2 Relating to forgery; creating new provisions; and amending ORS 137.717 and 165.013 and section 19,
3 chapter 666, Oregon Laws 2001.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 165.013 is amended to read:

6 165.013. (1) A person commits the crime of forgery in the first degree if the person violates ORS
7 165.007 and the written instrument is or purports to be any of the following:

8 (a) Part of an issue of money, securities, postage or revenue stamps, or other valuable instru-
9 ments issued by a government or governmental agency; *[or]*

10 (b) Part of an issue of stock, bonds or other instruments representing interests in or claims
11 against any property or person; *[or]*

12 (c) A deed, will, codicil, contract or assignment; *[or]*

13 (d) A check for \$750 or more, a credit card purchase slip for \$750 or more, or a combination
14 of checks and credit card purchase slips that, in the aggregate, total \$750 or more, or any other
15 commercial instrument or other document that does or may evidence, create, transfer, alter, termi-
16 nate or otherwise affect a legal right, interest, obligation or status; *[or]*

17 (e) A public record; **or**

18 (f) **A retail sales receipt, a Universal Product Code label, an EAN-8 label or an EAN-13**
19 **label.**

20 (2) The value of single check or credit card transactions may be added together under sub-
21 section (1)(d) of this section if the transactions were committed:

22 (a) Against multiple victims within a 30-day period; or

23 (b) Against the same victim within a 180-day period.

24 (3) Forgery in the first degree is a Class C felony.

25 **SECTION 2. Section 3 of this 2005 Act is added to and made a part of ORS 165.032 to**
26 **165.042.**

27 **SECTION 3. (1) A person commits the crime of aggravated criminal possession of a**
28 **forged instrument or forgery device if:**

29 (a) **With the intent to injure or defraud, the person possesses 15 or more forged instru-**
30 **ments that are or purport to be retail sales receipts, Universal Product Code labels, EAN-8**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **labels or EAN-13 labels; or**

2 **(b) The person violates ORS 165.032 and the purpose of the forgery device is to**
 3 **counterfeit or forge retail sales receipts, universal product code labels, EAN-8 labels or**
 4 **EAN-13 labels.**

5 **(2) Aggravated criminal possession of a forged instrument or forgery device is a Class B**
 6 **felony.**

7 **SECTION 4.** Section 19, chapter 666, Oregon Laws 2001, as amended by section 5, chapter 696,
 8 Oregon Laws 2001, section 52, chapter 14, Oregon Laws 2003, section 4, chapter 383, Oregon Laws
 9 2003, section 11, chapter 577, Oregon Laws 2003, and section 16, chapter 801, Oregon Laws 2003, is
 10 amended to read:

11 **Sec. 19.** The crimes to which section 1 (11)(b), chapter 666, Oregon Laws 2001, applies are:

- 12 (1) Bribe giving, as defined in ORS 162.015.
- 13 (2) Bribe receiving, as defined in ORS 162.025.
- 14 (3) Public investment fraud, as defined in ORS 162.117.
- 15 (4) Bribing a witness, as defined in ORS 162.265.
- 16 (5) Bribe receiving by a witness, as defined in ORS 162.275.
- 17 (6) Simulating legal process, as defined in ORS 162.355.
- 18 (7) Official misconduct in the first degree, as defined in ORS 162.415.
- 19 (8) Custodial interference in the second degree, as defined in ORS 163.245.
- 20 (9) Custodial interference in the first degree, as defined in ORS 163.257.
- 21 (10) Buying or selling a person under 18 years of age, as defined in ORS 163.537.
- 22 (11) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.
- 23 (12) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.
- 24 (13) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.
- 25 (14) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.
- 26 (15) Possession of materials depicting sexually explicit conduct of a child in the first degree, as
 27 defined in ORS 163.688.
- 28 (16) Possession of materials depicting sexually explicit conduct of a child in the second degree,
 29 as defined in ORS 163.689.
- 30 (17) Theft in the second degree, as defined in ORS 164.045.
- 31 (18) Theft in the first degree, as defined in ORS 164.055.
- 32 (19) Aggravated theft in the first degree, as defined in ORS 164.057.
- 33 (20) Theft by extortion, as defined in ORS 164.075.
- 34 (21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- 35 (22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
- 36 (23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- 37 (24) Unauthorized use of a vehicle, as defined in ORS 164.135.
- 38 (25) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- 39 (26) Laundering a monetary instrument, as defined in ORS 164.170.
- 40 (27) Engaging in a financial transaction in property derived from unlawful activity, as defined
 41 in ORS 164.172.
- 42 (28) Burglary in the second degree, as defined in ORS 164.215.
- 43 (29) Burglary in the first degree, as defined in ORS 164.225.
- 44 (30) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- 45 (31) Unlawful entry into a motor vehicle, as defined in ORS 164.272.

- 1 (32) Arson in the second degree, as defined in ORS 164.315.
- 2 (33) Arson in the first degree, as defined in ORS 164.325.
- 3 (34) Computer crime, as defined in ORS 164.377.
- 4 (35) Robbery in the third degree, as defined in ORS 164.395.
- 5 (36) Robbery in the second degree, as defined in ORS 164.405.
- 6 (37) Robbery in the first degree, as defined in ORS 164.415.
- 7 (38) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 8 (39) Unlawful recording of a live performance, as defined in ORS 164.869.
- 9 (40) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 10 (41) A violation of ORS 164.877.
- 11 (42) Endangering aircraft, as defined in ORS 164.885.
- 12 (43) Interference with agricultural operations, as defined in ORS 164.887.
- 13 (44) Forgery in the second degree, as defined in ORS 165.007.
- 14 (45) Forgery in the first degree, as defined in ORS 165.013.
- 15 (46) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 16 (47) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 17 (48) Criminal possession of a forgery device, as defined in ORS 165.032.
- 18 (49) Criminal simulation, as defined in ORS 165.037.
- 19 (50) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 20 (51) Fraudulent use of a credit card, as defined in ORS 165.055.
- 21 (52) Negotiating a bad check, as defined in ORS 165.065.
- 22 (53) Possessing a fraudulent communications device, as defined in ORS 165.070.
- 23 (54) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 24 (55) Falsifying business records, as defined in ORS 165.080.
- 25 (56) Sports bribery, as defined in ORS 165.085.
- 26 (57) Sports bribe receiving, as defined in ORS 165.090.
- 27 (58) Misapplication of entrusted property, as defined in ORS 165.095.
- 28 (59) Issuing a false financial statement, as defined in ORS 165.100.
- 29 (60) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 30 (61) A violation of ORS 165.543.
- 31 (62) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 32 (63) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- 33 (64) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 34 (65) Identity theft, as defined in ORS 165.800.
- 35 (66) A violation of ORS 166.190.
- 36 (67) Unlawful use of a weapon, as defined in ORS 166.220.
- 37 (68) A violation of ORS 166.240.
- 38 (69) Unlawful possession of a firearm, as defined in ORS 166.250.
- 39 (70) A violation of ORS 166.270.
- 40 (71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or
- 41 firearms silencer, as defined in ORS 166.272.
- 42 (72) A violation of ORS 166.275.
- 43 (73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 44 (74) A violation of ORS 166.370.
- 45 (75) Unlawful possession of a destructive device, as defined in ORS 166.382.

- 1 (76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 2 (77) Possession of a hoax destructive device, as defined in ORS 166.385.
- 3 (78) A violation of ORS 166.410.
- 4 (79) Providing false information in connection with a transfer of a firearm, as defined in ORS
- 5 166.416.
- 6 (80) Improperly transferring a firearm, as defined in ORS 166.418.
- 7 (81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 8 (82) A violation of ORS 166.429.
- 9 (83) A violation of ORS 166.470.
- 10 (84) A violation of ORS 166.480.
- 11 (85) A violation of ORS 166.635.
- 12 (86) A violation of ORS 166.638.
- 13 (87) Unlawful paramilitary activity, as defined in ORS 166.660.
- 14 (88) A violation of ORS 166.720.
- 15 (89) Prostitution, as defined in ORS 167.007.
- 16 (90) Promoting prostitution, as defined in ORS 167.012.
- 17 (91) Compelling prostitution, as defined in ORS 167.017.
- 18 (92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 19 (93) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 20 (94) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 21 (95) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 22 (96) Possession of gambling records in the first degree, as defined in ORS 167.137.
- 23 (97) Possession of a gambling device, as defined in ORS 167.147.
- 24 (98) Possession of a gray machine, as defined in ORS 167.164.
- 25 (99) Cheating, as defined in ORS 167.167.
- 26 (100) Tampering with drug records, as defined in ORS 167.212.
- 27 (101) A violation of ORS 167.262.
- 28 (102) Research and animal interference, as defined in ORS 167.312.
- 29 (103) Animal abuse in the first degree, as defined in ORS 167.320.
- 30 (104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- 31 (105) Animal neglect in the first degree, as defined in ORS 167.330.
- 32 (106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS
- 33 167.352.
- 34 (107) Involvement in animal fighting, as defined in ORS 167.355.
- 35 (108) Dogfighting, as defined in ORS 167.365.
- 36 (109) Participation in dogfighting, as defined in ORS 167.370.
- 37 (110) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- 38 (111) Interference with livestock production, as defined in ORS 167.388.
- 39 (112) A violation of ORS 167.390.
- 40 (113) A violation of ORS 471.410.
- 41 (114) Failure to report missing precursor substances, as defined in ORS 475.955.
- 42 (115) Illegally selling drug equipment, as defined in ORS 475.960.
- 43 (116) Providing false information on a precursor substances report, as defined in ORS 475.965.
- 44 (117) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.991.
- 45 (118) A violation of ORS 475.992, if it is a felony or a Class A misdemeanor.

1 (119) A violation of ORS 475.993, if it is a felony or a Class A misdemeanor.

2 (120) A violation of ORS 475.994.

3 (121) A violation of ORS 475.995, if it is a felony or a Class A misdemeanor.

4 (122) A violation of ORS 475.999 (1)(a).

5 (123) Misuse of an identification card, as defined in ORS 807.430.

6 (124) Unlawful production of identification cards, licenses, permits, forms or camera cards, as
7 defined in ORS 807.500.

8 (125) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.

9 (126) Using an invalid license, as defined in ORS 807.580.

10 (127) Permitting misuse of a license, as defined in ORS 807.590.

11 (128) Using another's license, as defined in ORS 807.600.

12 (129) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is a fel-
13 ony.

14 (130) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a
15 felony.

16 (131) Unlawful distribution of cigarettes, as defined in ORS 323.482.

17 (132) A violation of ORS 180.440 (2).

18 **(133) Aggravated criminal possession of a forged instrument or forgery device, as defined**
19 **in section 3 of this 2005 Act.**

20 ~~[(133)]~~ (134) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to
21 ~~[(132)]~~ (133) of this section if the attempt, conspiracy or solicitation is a felony or a Class A
22 misdemeanor.

23 **SECTION 5. The amendments to section 19, chapter 666, Oregon Laws 2001, by section 4**
24 **of this 2005 Act apply to property seized for criminal forfeiture on or after the effective date**
25 **of this 2005 Act.**

26 **SECTION 6.** ORS 137.717 is amended to read:

27 137.717. (1) When a court sentences a person convicted of:

28 (a) Aggravated theft in the first degree under ORS 164.057, ~~[or]~~ burglary in the first degree un-
29 der ORS 164.225 **or aggravated criminal possession of a forged instrument or forgery device**
30 **under section 3 of this 2005 Act**, the presumptive sentence is 19 months of incarceration, unless
31 the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the
32 person has:

33 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary
34 in the first degree under ORS 164.225, robbery in the second degree under ORS 164.405, ~~[or]~~ robbery
35 in the first degree under ORS 164.415 **or aggravated criminal possession of a forged instrument**
36 **or forgery device under section 3 of this 2005 Act**; or

37 (B) Four previous convictions for any combination of the other crimes listed in subsection (2)
38 of this section.

39 (b) Theft in the first degree under ORS 164.055, unauthorized use of a vehicle under ORS
40 164.135, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under
41 ORS 164.365, computer crime under ORS 164.377, forgery in the first degree under ORS 165.013,
42 identity theft under ORS 165.800, possession of a stolen vehicle under ORS 819.300 or trafficking in
43 stolen vehicles under ORS 819.310, the presumptive sentence is 13 months of incarceration, unless
44 the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the
45 person has:

1 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unau-
 2 thorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery
 3 in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, **aggravated**
 4 **criminal possession of a forged instrument or forgery device under section 3 of this 2005 Act**,
 5 possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310;
 6 or

7 (B) Four previous convictions for any combination of the other crimes listed in subsection (2)
 8 of this section.

9 (2) The crimes to which subsection (1) of this section applies are:

- 10 (a) Theft in the second degree under ORS 164.045;
- 11 (b) Theft in the first degree under ORS 164.055;
- 12 (c) Aggravated theft in the first degree under ORS 164.057;
- 13 (d) Unauthorized use of a vehicle under ORS 164.135;
- 14 (e) Burglary in the second degree under ORS 164.215;
- 15 (f) Burglary in the first degree under ORS 164.225;
- 16 (g) Criminal mischief in the second degree under ORS 164.354;
- 17 (h) Criminal mischief in the first degree under ORS 164.365;
- 18 (i) Computer crime under ORS 164.377;
- 19 (j) Forgery in the second degree under ORS 165.007;
- 20 (k) Forgery in the first degree under ORS 165.013;
- 21 (L) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- 22 (m) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- 23 **(n) Aggravated criminal possession of a forged instrument or forgery device under sec-**
 24 **tion 3 of this 2005 Act;**

25 [(n)] (o) Fraudulent use of a credit card under ORS 165.055;

26 [(o)] (p) Identity theft under ORS 165.800;

27 [(p)] (q) Possession of a stolen vehicle under ORS 819.300; and

28 [(q)] (r) Trafficking in stolen vehicles under ORS 819.310.

29 (3) The court may impose a sentence other than the sentence provided by subsection (1) of this
 30 section if the court imposes:

31 (a) A longer term of incarceration that is otherwise required or authorized by law; or

32 (b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission
 33 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon
 34 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-
 35 lowed for a person sentenced under this subsection is double the presumptive sentence provided in
 36 subsection (1) of this section.

37 (4) As used in this section, "previous conviction" includes:

38 (a) Convictions occurring before, on or after July 1, 2003; and

39 (b) Convictions entered in any other state or federal court for comparable offenses.

40 (5)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have
 41 occurred upon the pronouncement of sentence in open court. However, when sentences are imposed
 42 for two or more convictions arising out of the same conduct or criminal episode, none of the con-
 43 victions is considered to have occurred prior to any of the other convictions arising out of the same
 44 conduct or criminal episode.

45 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-

1 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open
2 court of the suspended imposition of a sentence.

3 (6) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

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