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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 213
OREGON CRIMINAL JUSTICE COMMISSION

FILED
04/27/2018 1:36 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amends Oregon Sentencing Guidelines and rules in light of 2017 and 2018 legislation

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/22/2018 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S):

Under ORS 137.667(1), the Criminal Justice Commission (the Commission) is required to review legislation creating new crimes and modifying existing crimes, and adopt any necessary changes to the sentencing guidelines. The Commission may also classify offenses as person felonies or person misdemeanors.

The 2017 Oregon Legislature enacted legislation creating new crimes and modifying existing felony crimes, including but not limited to Assault III, Operation of Unmanned Aircraft System and Arson Incident to the Manufacture of a Controlled Substance. The 2017 Oregon Legislature also created or modified misdemeanor crimes including but not limited to Assault IV, Vehicular Assault and Harassment. Additionally, in the 2017 legislative session the legislature created new crimes and modified existing crimes with regard to cannabis and controlled substances. The legislature also modified crimes in the 2018 legislative session.

With regard to these and other offenses, the Commission must decide whether to classify new and modified crimes as person crimes, and decide crime seriousness scale categorization (if any) for new and modified felony crimes for which it has not received an express legislative classification. These rule changes implement those classifications and categorizations. The rule changes also implement the Commission's categorizations and classifications with regard to 2017 and 2018 legislation for which it has received express legislative direction pertaining to crime seriousness classification or person crime categorization. For example, the legislature has mandated the crime seriousness scale of many of the cannabis related crimes and controlled substance offenses and the rules reflect those mandatory categorizations.

The rule changes also include technical corrections, updates and clarifications in rule language, rule numbering, and

statutory and rule titles and citations.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

SB 254 (2017); SB 257 (2017), SB 302 (2017); SB 323 (2017); SB 493 (2017); HB 2355 (2017); HB 2598 (2017); HB 2721 (2017); HB 2988 (2017); HB 3047 (2017); HB 3264 (2017); SB 1562 (2018) and HB 4055 (2018) are available on the legislature's website: https://www.oregonlegislature.gov/bills_laws

FISCAL AND ECONOMIC IMPACT:

Many classifications are the result of a legislative directive over which the Commission has no discretion and therefore the Commission's classification should have no fiscal impact on state agencies, units of local government, or the public. Any such fiscal impact would be caused by the legislature's policy choice with regard to the directive to classify the crimes in certain manners rather than by the Commission's implementation of the legislative directive. With regard to the classifications over which the Commission does have discretion, the legislature has created or modified the underlying crimes, and much of the fiscal and economic impact will be due to the legislative changes. The impact of the Commission's classification of these legislative changes into certain crime categories and as person misdemeanors or felonies may have some fiscal impact, but that impact cannot be measured at this time. Specifically, there may be a fiscal impact on state and local governments to prosecute, incarcerate or supervise persons convicted and sentenced under these rules. However, it is unknown at this time how many persons will commit these offenses, how they will be charged, whether they will be convicted, and how they will be sentenced, all of which have bearing on whether and to what extent additional (or lower) incarceration and supervision will be required such that state and local governments will be required to expend additional (or fewer) funds to prosecute, incarcerate, and supervise these offenders. Additionally, under the status quo without Commission action to classify these crimes, courts would be required by law to classify the offenses themselves. This would result in a lack of uniformity in sentencing, and it is unclear whether the courts would, without the Commission's categorizations as guidance, sentence the offenses in a way that would result in higher or lower costs to state and local governments. It is unclear the extent to which the Commission's categorization of an offense at a certain level would lead to greater or lesser incarceration at the Department of Corrections, since that depends on a number of factors outside of the Commission's control such as prosecutorial discretion in charging and offering pleas, how many offenders that do proceed to trial are convicted, and the trial court's decisions in sentencing those offenders that are convicted. Finally, as described above the rule changes include technical corrections and changes to legal citations in rules to reflect current law. There is no predicted fiscal impact occasioned by these changes.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The proposed rule modifications mandated by the legislature have no anticipated fiscal impact on state agencies, local governments, businesses or the general public. There should be no cost to state agencies, units of local government, or the public to comply with these rules. The rule changes over which the Commission has discretion require crimes to be categorized in certain ways for purposes of sentencing and do not impose additional requirements directly upon state agencies, units of local government, or the public. There may be an increased or possibly decreased cost to state and local governments to incarcerate or supervise persons convicted and sentenced under these rules, but for the reasons stated above including uncertainty about the number of cases charged, charging practices, number and type of convictions (felony v. misdemeanor), and length and type of sentence imposed (incarceration v. community supervision),

that cost cannot be quantified at this time.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

None.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

None.

c. Equipment, supplies, labor and increased administration required for compliance:

d. None.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Because many of these rules implement legislative directives and the Commission has no discretion with regard to those rule changes, an advisory committee would not be of substantive assistance in drafting this rule. With regard to the rule changes resulting from 2017 legislation over which the Commission does have discretion, those were considered at a public meeting of the Commission at which the public had opportunity to comment on November 20, 2017.

Additionally, the public had an opportunity to comment on the legislature's actions in SB 254 (2017) at public hearings held on March 8, 2017 and June 5, 2017; on the legislature's actions in SB 302 (2017) at a public hearing held on February 14, 2017; on the legislature's actions in SB 323 (2017) at public hearings held on February 16, 2017 and May 4, 2017; on the legislature's actions in SB 493 (2017) at public hearings held on February 16, 2017 and May 18, 2017; on the legislature's actions in HB 2355 (2017) at public hearings held on March 6, 2017 and June 14, 2017; on the legislature's actions in HB 2598 (2017) at public hearings held on March 7, 2017 and May 24, 2017; on the legislature's actions in HB 2721 (2017) at public hearings held on March 7, 2017 and June 12, 2017; on the legislature's actions in HB 2988 (2017) at public hearings held on March 23, 2017 and May 2, 2017; on the legislature's actions in HB 3047 (2017) at public hearings held on March 27, 2017 and May 25, 2017; on the legislature's actions in HB 3264 (2017) at public hearings held on April 12, 2017 and May 17, 2017; on the legislature's actions in SB 1562 (2018) at public hearings held on February 13, 2018 and February 26, 2018; and on the legislature's actions in HB 4055 (2018) at public hearings held on February 6, 2018 and February 22, 2018.

RULES PROPOSED:

213-003-0001, 213-017-0002, 213-017-0003, 213-017-0004, 213-017-0005, 213-017-0006, 213-017-0007, 213-017-0008, 213-017-0009, 213-017-0010, 213-017-0011, 213-018-0022, 213-018-0038, 213-018-0067, 213-018-0100, 213-018-0110, 213-019-0006, 213-019-0007, 213-019-0008, 213-019-0009, 213-019-0010, 213-019-0011, 213-019-0012, 213-019-0013, 213-019-0014, 213-019-0015, 213-021-0001, 213-021-0002, 213-021-0003, 213-021-0004, 213-021-0005, 213-021-0006, 213-021-0007, 213-021-0008, 213-021-0009, 213-021-0010

AMEND: 213-003-0001

RULE SUMMARY: The rule changes implement mandatory and discretionary classifications of offenses as person

crimes.

CHANGES TO RULE:

213-003-0001

Definitions ¶¶

As used in these rules:¶¶

- (1) "Bench probation" means a probationary sentence, which directs the probationer to remain under the supervision and control of the sentencing judge.¶¶
- (2) "Board" means the State Board of Parole and Post-Prison Supervision.¶¶
- (3) "Correctional supervision status" means any form of incarcerative or non-incarcerative supervision which is served by an offender as part of a sentence for a criminal conviction.¶¶
- (4) "Department" means the Department of Corrections.¶¶
- (5) "Departure" means a sentence, except an optional probationary sentence, which is inconsistent with the presumptive sentence for an offender.¶¶
- (6) "Dispositional departure" means a sentence which imposes probation when the presumptive sentence is prison or prison when the presumptive sentence is probation. An optional probationary sentence is not a dispositional departure.¶¶
- (7) "Dispositional line" means the solid black line on the Sentencing Guidelines Grid (Appendix 1) which separates the grid blocks in which the presumptive sentence is a term of imprisonment and post-prison supervision from the grid blocks in which the presumptive sentence is probation which may include local custodial sanctions. ~~Appendix not included. See ED. NOTE.~~¶¶
- (8) "Durational departure" means a sentence which is inconsistent with the presumptive sentence as to term of incarceration, term of supervised probation or number of sanction units which may be imposed as a condition of probation.¶¶
- (9) "Grid" means the Sentencing Guidelines Grid set forth as Appendix 1. ~~Appendix not included. See ED. NOTE.~~¶¶
- (10) "Grid block" means a box on the grid formed by the intersection of the crime seriousness ranking of a current crime of conviction and an offender's criminal history classification.¶¶
- (11) "Juvenile adjudication" means a formal adjudication or finding by a court that the juvenile has committed an act, which, if committed by an adult, would be punishable as a felony.¶¶
- (12) "Non-person felonies" are any felonies not defined as a person felony in section (14) of this rule.¶¶
- (13) "Optional probationary sentence" means any probationary sentence imposed pursuant to OAR 213-005-0006.¶¶
- (14) "Person felonies" are in numerical statutory order: ORS 97.981 Purchase or Sale of a Body Part for Transplantation or Therapy; ORS 97.982 Alteration of a Document of Gift; ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (OAR 213-018-0070(1) and (2)); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.149 Aggravated Vehicular Homicide; ORS 163.160(3) Felony Assault; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.187(4) Felony Strangulation; ORS 163.192 Endangering Person Protected by FAPA Order; ORS 163.196 Aggravated Driving While Suspended or Revoked; ORS 163.205 Criminal Mistreatment I; ORS 163.207 Female Genital Mutilation; ORS 163.208 Assaulting a Public Safety Officer; ORS 163.213 Use of Stun Gun, Tear Gas, Mace I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 163.263 Subjecting Another Person to Involuntary Servitude II; ORS 163.264 Subjecting Another Person to Involuntary Servitude I; ORS 163.266 Trafficking in Persons; ORS 163.275 Coercion as defined in Crime Category 7 (OAR 213-018-0035(1)); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.413 Purchasing Sex With a Minor; ORS 163.425 Sexual Abuse II; ORS 163.427 Sexual Abuse I; ORS 163.432 Online Sexual Corruption of a Child II; ORS 163.433 Online Sexual Corruption of a Child I; ORS 163.452 Custodial Sexual

Misconduct in the First Degree; ORS 163.465 Felony Public Indecency; ORS 163.472 Unlawful Dissemination of Intimate Image; ORS 163.479 Unlawful Contact with a Child; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.537 Buying/Selling Custody of a Minor; ORS 163.547 Child Neglect I; ORS 163.670 Using Child In Display of Sexual Conduct; ORS 163.684 Encouraging Child Sex Abuse I; ORS 163.686 Encouraging Child Sex Abuse II; ORS 163.688, Possession of Material Depicting Sexually Explicit Conduct of Child I; ORS 163.689, Possession of Material Depicting Sexually Explicit Conduct of Child II; ORS 163.701 Invasion of Personal Privacy I; ORS 163.732 Stalking; ORS 163.750 Violation of Court's Stalking Order; ORS 164.075 Extortion as defined in Crime Category 7 (OAR 213-018-0075(1)); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (OAR 213-018-0025(1) and (2)); ORS 164.325 Arson I; ORS 164.342 Arson Incident to the Manufacture of a Controlled Substance I; ORS 164.377(2)(c) Computer Crime-Theft of an Intimate Image; ORS 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 164.886(3) Tree Spiking (Injury); ORS 166.070 Aggravated Harassment; ORS 166.087 Abuse of Corpse I; ORS 166.165 Intimidation I; ORS 166.220 Unlawful Use of a Weapon; ORS 166.275 Inmate In Possession of Weapon; ORS 166.385(3) Felony Possession of a Hoax Destructive Device; ORS 166.643 Unlawful Possession of Soft Body Armor as defined in Crime Category 6 (OAR 213-018-0090(1)); ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; ORS 167.057 Luring a Minor; ORS 167.320(4) Felony Animal Abuse I; ORS 167.322 Aggravated Animal Abuse I; ORS 468.951 Environmental Endangerment; ORS 475.752(6)(a) Manufacturing or Delivering a Schedule IV Controlled Substance Thereby Causing Death to a Person; ORS 475.908 Causing Another to Ingest a Controlled Substance as defined in Crime Categories 8 and 9 (OAR 213-019-0007 and 0008); ORS 475.910 Unlawful Administration of a Controlled Substance as defined in Crime Categories 5, 8, and 9 (OAR 213-019-0007, -0008, and -0011); ORS 475B.359 Arson Incident to Manufacture of Cannabinoid Extract I; ORS 475B.367 Causing Another Person to Ingest Marijuana; ORS 475B.371 Administration to Another Person Under 18 Years of Age; ORS 609.990(3)(b) Maintaining Dangerous Dog; ORS 811.705 Hit and Run Vehicle (Injury); ORS 813.010(5) Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 830.475(2) Hit and Run Boat; ORS 837.365(2)(b) and (c) Unlawful Operation of Weaponized Unmanned Aircraft System; and attempts or solicitations to commit any Class A or Class B person felonies as defined herein.¶

(15) "Person Class A misdemeanors" are in numerical statutory order: ORS 162.315 Resisting Arrest; ORS 162.415(1)(b) Official Misconduct I; ORS 163.160 Assault IV; ORS 163.187 Strangulation; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.212 Use of Stun Gun, Tear Gas, Mace II; ORS 163.415 Sexual Abuse III; ORS 163.454 Custodial Sexual Misconduct in the Second Degree; ORS 163.465 Public Indecency; ORS 163.467 Private Indecency; ORS 163.472 Unlawful Dissemination of Intimate Image; ORS 163.476 Unlawfully Being in a Location Where Children Regularly Congregate; ORS 163.545 Child Neglect II; ORS 163.575 Endanger Welfare of Minor; ORS 163.687 Encouraging Child Sex Abuse III; ORS 163.700 Invasion of Personal Privacy II; ORS 163.709 Unlawfully Directing a Laser Pointer; ORS 163.732(1) Stalking; ORS 163.750(1) Violating Court's Stalking Order; ORS 165.572 Interfering with Making a Police Report; ORS 166.065(4) Harassment/Offensive Sexual Contact; ORS 166.155 Intimidation II; ORS 166.385(2) Misdemeanor Possession of a Hoax Destructive Device; ORS 167.054 Furnishing Sexually Explicit Material to a Child; ORS 475.910(1)(~~d~~) Unlawful Administration of a Controlled Substance; ORS 609.990(3)(a) Maintaining Dangerous Dog; ORS 811.060 Vehicular Assault; ORS 813.010, Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); SB 1567 (2016) Criminal Impersonation; and attempts or solicitations to commit any Class C person felonies as defined in section (14) of this rule.¶

(16) "Presumptive sentence" means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime seriousness ranking of the current crime of conviction and the offender's criminal history or a sentence designated as a presumptive sentence by statute.¶

(17) "Primary offense" means the offense of conviction with the highest crime seriousness ranking. If more than one offense of conviction is classified in the same crime category, the sentencing judge shall designate which offense is the primary offense.¶

(18) "Supervisory agent" means the local community corrections agency responsible for supervising the offender.¶

(19) "Supervisory authority" means the state and local corrections agency or official designated in each county by that county's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.¶

(20) "Straight jail" means a sentence of jail imposed instead of a presumptive probationary sentence that is not followed by a term of post-prison supervision defined in OAR 213-005-0002.¶

~~[ED. NOTE: Appendices referenced are available from the agency.]~~

Statutory/Other Authority: ORS 137.667, 475.986, 475.998, 2003 OL Ch. 453

Statutes/Other Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 387, 510, 635, 828, 857, 884 & 2003 OL Ch. 453, 577 & 2007 OL Ch. 681, 811, 867, 869, 876 & 2009 OL Ch. 774, 783, 876, 898, 2011 OL Ch. 3~~2~~1, 2011 OL Ch. 598, 2011 OL Ch 666, SB 6 (2013), SB 482 (2013), SB 673 (2013), HB 2334 (2013), HB 3194 (2013), SB 1567 (2016), HB 4082 (2016), HB 4128 (2016), SB 257 (2017), SB 302 (2017), SB 323 (2017), SB 493 (2017), HB 2355 (2017), HB 2598 (2017), HB 2988 (2017), HB 3047 (2017), SB 1562 (2018), HB 4055 (2018)

AMEND: 213-017-0002

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 10 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-017-0002

Crime Category 10 ¶¶

The following offenses are classified at crime category 10 on the Crime Seriousness Scale:¶¶

(1) CONTROLLED SUBSTANCE OFFENSES - See division 19.¶¶

(2) CANNABIS OFFENSES - See division 21.¶¶

(3) ORS 163.095 - AGGRAVATED MURDER - (U). (Attempt or Solicit)¶¶

(~~24~~) ORS 163.118 - MANSLAUGHTER I - (A).¶¶

(~~35~~) ORS 163.149 - AGGRAVATED VEHICULAR HOMICIDE - (A).¶¶

(~~46~~) ORS 163.185 - ASSAULT I - (A). (If victim did not substantially contribute to the commission of the offense by precipitating the attack; otherwise CC 9.)¶¶

(~~57~~) ORS 163.235 - KIDNAPPING I - (A).¶¶

(~~68~~) ORS 163.375 - RAPE I* - (A). (If aggravated by factors listed below; otherwise CC 9.)¶¶

(~~79~~) ORS 163.405 - SODOMY I* - (A). (If aggravated by factors listed below; otherwise CC 9.)¶¶

(~~810~~) ORS 163.411 - SEXUAL PENETRATION I* - (A). (If aggravated by factors listed below; otherwise CC 9.)¶¶

(~~911~~) ORS 164.325 - ARSON I - (A). (If offense represented threat of serious physical injury; otherwise CC 9, 8 or 7.)¶¶

(~~12~~) * Rape I, Sodomy I and Sexual Penetration with Foreign Object I shall be ranked at Crime Category 10 if one or more of the following factors were included in the commission of the offense:¶¶

(a) The offender used or threatened to use a weapon;¶¶

(b) The offender caused or threatened to cause serious physical injury;¶¶

(c) The victim was under the age of twelve; or¶¶

(d) The victim was incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.

Statutory/Other Authority: ORS 137.667, 2003 OL Ch. 453

Statutes/Other Implemented: ORS 137.667 - 137.669, 2007 OL Ch. 867, SB 323 (2017), SB 302 (2017)

AMEND: 213-017-0003

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 9 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-017-0003

Crime Category 9 ¶

The following offenses are classified at crime category 9 on the Crime Seriousness Scale:¶

(1) CONTROLLED SUBSTANCE AND AGGRAVATED DRUG OFFENSES See division 19.¶

(2) CANNABIS OFFENSES - See division 21.¶

(3) ORS 163.175 - ASSAULT II - (B).¶

(~~34~~) ORS 163.185 - ASSAULT I - (A).¶

If victim(s) substantially contributed to the commission of the offense by precipitating attack; otherwise CC 10.¶

(4~~5~~) ORS 163.225 - KIDNAPPING II - (B).¶

(5~~6~~) ORS 163.264 - SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE I - (B).¶

If offender caused or threatened to cause death or serious physical injury to a person; otherwise CC 6.¶

(6~~7~~) ORS 163.375 - RAPE I - (A). If not categorized at CC 10.¶

(7~~8~~) ORS 163.405 - SODOMY I - (A). If not categorized at CC 10.¶

(8~~9~~) ORS 163.411 - SEXUAL PENETRATION I - (A). If not categorized at CC 10.¶

(9~~10~~) ORS 164.225 - BURGLARY I - (A).¶

If offender was armed with a deadly weapon, or caused, threatened or attempted physical injury; otherwise CC 8 or 7.¶

(10~~1~~) ORS 164.325 - ARSON I - (A).¶

If offense did not represent a threat of serious physical injury (CC 10) and the economic loss is greater than \$50,000; otherwise CC 8 or 7.¶

(11~~2~~) ORS 164.405 ROBBERY II - (B).¶

(12~~3~~) ORS 164.415 ROBBERY I - (A).

Statutory/Other Authority: ORS 137.667, 475.986, 475.998 & 2003 OL Ch. 453, 815

Statutes/Other Implemented: ORS 137.667 - 137.669, 475.986, 475.998 & 2003 OL Ch. 815, 2007 OL Ch. 811, SB 302 (2017), SB 323 (2017)

AMEND: 213-017-0004

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 8 on the crime seriousness scale after 2017 and 2018 legislation.

CHANGES TO RULE:

213-017-0004

Crime Category 8 ¶¶

The following offenses are classified at crime category 8 on the Crime Seriousness Scale:¶¶

(1) CONTROLLED SUBSTANCE AND AGGRAVATED DRUG OFFENSES (See division 19).¶¶

(2) CANNABIS OFFENSES - See division 21.¶¶

(3) ORS 163.125 - MANSLAUGHTER II - (B). (If not categorized at CC 9.)¶¶

(~~34~~) ORS 163.145 - NEGLIGENT HOMICIDE - (B). (If not categorized at CC 9.)¶¶

(45) ORS 163.165 - ASSAULT III - (B). If offense resulted from operation of a motor vehicle and defendant was the driver of the motor vehicle and was driving while under the influence of intoxicants; otherwise CC 6.¶¶

(56) ORS 163.207 - FEMALE GENITAL MUTILIATION - (B).¶¶

(67) ORS 163.365 - RAPE II - (B).¶¶

(78) ORS 163.395 - SODOMY II - (B).¶¶

(89) ORS 163.408 - SEXUAL PENETRATION II - (B).¶¶

(910) ORS 163.425(1)(a) - SEXUAL ABUSE II - (C). If victim incapable of consent because under age 18, offender is age 21 or older, and offender was victim's coach prior to offense; otherwise CC 7.¶¶

(101) ORS 163.427 - SEXUAL ABUSE I - (B).¶¶

(112) ORS 163.433 - ONLINE SEXUAL CORRUPTION OF A CHILD I - (B).¶¶

(123) ORS 163.537 - BUYING/SELLING THE CUSTODY OF A MINOR - (B). If the conduct is likely to endanger the health or welfare of the child, otherwise CC 5.¶¶

(134) ORS 163.670 - USING CHILD IN DISPLAY OF SEXUAL CONDUCT - (A).¶¶

(145) ORS 163.684 - ENCOURAGING CHILD SEX ABUSE I - (B).¶¶

(156) ORS 163.732 - STALKING - (C).¶¶

(167) ORS 163.750 - VIOLATE COURT STALKING ORDER - (C).¶¶

(178) ORS 164.225 - BURGLARY I - (A). If offender did not cause, threaten or attempt physical injury and was not armed with a deadly weapon (CC 9) but the offense was committed while the dwelling was occupied; otherwise CC 7.¶¶

(189) ORS 164.325 - ARSON I - (A). If the offense did not represent a threat of serious physical injury (CC 10) and economic loss is \$25,000 or more but less than \$50,000; otherwise CC 9 or CC 7.¶¶

(1920) ORS 164.877(3) - TREE SPIKING-INJURY - (B).¶¶

(201) ORS 166.275 - INMATE POSSESSION OF WEAPON - (A). If firearm, otherwise CC 7.¶¶

(212) ORS 167.012 - PROMOTING PROSTITUTION - (C).¶¶

(223) ORS 167.017 - COMPELLING PROSTITUTION - (B).¶¶

(234) ORS 167.262 - USING A MINOR IN CONTROLLED SUBSTANCE OFFENSE - (A). CC 4 if minor less than 3 yrs. younger than offender.¶¶

(245) ORS 811.705 - HIT & RUN VEHICLE (DEATH/SERIOUS INJURY) - (B). See OAR 213-018-0038(3).¶¶

(26) ORS 837.365(2)(c) - UNLAWFUL OPERATION OF WEAPONIZED UNMANNED AIRCRAFT SYSTEM - (B).

Statutory/Other Authority: ORS 137.667, 811.707, & 2003 OL Ch. 453, 2009 OL Ch. 660

Statutes/Other Implemented: ORS 137.667 - 137.669, 811.707 & 2003 OL Ch. 453, 815, & 2007 OL Ch. 876, 2009 OL Ch. 660, HB 2334 (2013), HB 3400 (2015), HB 4014 (2016), HB 4082 (2016), SB 302 (2017), SB 323, HB 2721 (2017), HB 3047 (2017), HB 4055 (2018)

AMEND: 213-017-0005

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 7 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-017-0005

Crime Category 7 ¶

The following offenses are classified at crime category 7 on the Crime Seriousness Scale:¶

(1) CONTROLLED SUBSTANCE OFFENSES - See division 19.¶

(2) CANNABIS OFFENSES - See division 21.¶

(3) ORS 162.165 - ESCAPE I - (B).¶

(24) ORS 162.185 - SUPPLYING CONTRABAND - (C). (If the contraband includes one or more firearms; otherwise CC 4, 5 or 6.)¶

(35) ORS 163.196 - AGGRAVATED DRIVING WHILE SUSPENDED OR REVOKED - (C).¶

(46) ORS 163.205 - CRIMINAL MISTREATMENT I - (C).¶

(57) ORS 163.275 - COERCION - (C). (If threat of physical injury; otherwise CC 6.)¶

(68) ORS 163.425 - SEXUAL ABUSE II - (C). (If not CC 8.)¶

(79) ORS 163.452 - CUSTODIAL SEXUAL MISCONDUCT I - (C).¶

(810) ORS 163.479 - UNLAWFUL CONTACT WITH A CHILD - (C).¶

(911) ORS 163.535 - ABANDON CHILD - (C). (If child is placed in immediate physical danger; otherwise CC 3.)¶

(102) ORS 164.075 - EXTORTION - (B). (If threat of physical injury; otherwise CC 2, 3, 4, 5 or 6.)¶

(113) ORS 164.225 - BURGLARY I - (A). (If the offense cannot be ranked at CC 8 or 9.)¶

(124) ORS 164.325 - ARSON I - (A). (If the offense cannot be ranked at CC 8, 9 or 10.)¶

(135) ORS 166.275 - INMATE IN POSSESSION OF WEAPON - (A). (If firearm CC 8)¶

(146) ORS 166.429 - FURNISHING FIREARM IN FURTHERANCE OF FELONY - (B).¶

(157) ORS 167.325 - ANIMAL NEGLECT II (FELONY) - (C). (If more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in ORS 167.325(3)(a) or (3)(c).)¶

(168) ORS 167.330 - ANIMAL NEGLECT I (FELONY) - (C). (If more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in ORS 167.330(3)(a) or (3)(c).)¶

(179) ORS 323.482 - UNLAWFUL DISTRIB. CIGARETTES - (B) < 120,000.¶

(1820) ORS 323.632 - UNLAWFUL DISTRIB. TOBACCO PRODUCTS - (B) < \$10,000.

Statutory/Other Authority: ORS 137.667, 2003 OL Ch. 453 & 804, Sec. 30, 58

Statutes/Other Implemented: ORS 137.667 - 137.669, 2003 OL Ch. 453 & 804, 2009 OL Ch. 783, 876, SB 6 (2013), HB 4128 (2016), SB 302 (2017), SB 323 (2017)

AMEND: 213-017-0006

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 6 on the crime seriousness scale after 2017 and 2018 legislation.

CHANGES TO RULE:

213-017-0006

Crime Category 6 ¶

The following offenses are classified at crime category 6 on the Crime Seriousness Scale:¶

- (1) Chapter 59 - BLUE SKY LAWS & SECURITIES LAWS* - (C).¶
- (2) CONTROLLED SUBSTANCE AND MAJOR DRUG OFFENSES (See division 19.)¶
- (3) CANNABIS OFFENSES - See division 21.¶
- (4) ORS 162.015 - BRIBERY - (B).¶
- (45) ORS 162.025 - BRIBE RECEIVING - (B).¶
- (56) ORS 162.065 - PERJURY - (C).¶
- (67) ORS 162.117 - PUBLIC INVESTMENT FRAUD - (B).¶
- (78) ORS 162.155 - ESCAPE II - (C).¶
- (89) ORS 162.185 - SUPPLYING CONTRABAND - (C). (The contraband involves a dangerous weapon not a firearm CC 7; Otherwise CC 4 or 5.)¶
- (910) ORS 162.265 - BRIBING A WITNESS - (C).¶
- (101) ORS 162.275 - BRIBE RECEIVING BY WITNESS - (C).¶
- (112) ORS 162.285 - TAMPERING W/ WITNESS - (C).¶
- (123) ORS 162.325 - HINDERING PROSECUTION - (C).¶
- (134) ORS 163.160(3) - ASSAULT IV (FELONY) - (C).¶
- (145) ORS 163.165 - ASSAULT III - (C). (If the offense cannot be ranked at CC 8).¶
- (156) ORS 163.187(4)(a) - (b) and (d) - (g) - STRANGULATION (FELONY) - (C). Effective January 1, 2018 as applied to the offense of Strangulation as set forth in SB 1562 (2018). ORS 163.187(4) - STRANGULATION (FELONY) - (C), through December 31, 2018.¶
- (167) ORS 163.208 - ASSAULT OF A PUBLIC SAFETY OFFICER - (C).¶
- (178) ORS 163.213 - USE OF A STUN GUN, TEAR GAS, MACE I - (C).¶
- (189) ORS 163.257 - CUSTODIAL INTERFERENCE I - (C).¶
- (1920) ORS 163.264 - SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE I - (B). (If offender physically restrained or threatened to physically restrain a person; otherwise CC 9.)¶
- (201) ORS 163.275 - COERCION - (C). (No threat of physical injury; otherwise CC 7.)¶
- (212) ORS 163.355 - RAPE III - (C).¶
- (223) ORS 163.385 - SODOMY III - (C).¶
- (234) ORS 163.432 - ONLINE SEXUAL CORRUPTION OF A CHILD II - (C).¶
- (245) ORS 163.465 - PUBLIC INDECENCY (FELONY) - (C).¶
- (256) ORS 163.472 - UNLAWFUL DISSEMINATION OF INTIMATE IMAGE - (C).¶
- (267) ORS 163.525 - INCEST - (C). (If one of the participants is under the age of 18; otherwise CC 1.)¶
- (278) ORS 163.547 - CHILD NEGLECT IN THE FIRST DEGREE - (B).¶
- (289) ORS 163.688 - POSSESSION OF MATERIAL DEPICTING SEX. EXPLICIT CONDUCT OF A CHILD I - (B).¶
- (2930) ORS 163.701 - INVASION OF PERSONAL PRIVACY I - (C).¶
- (301) ORS 164.055 - THEFT I* - (C).¶
- (312) ORS 164.057 - AGGRAVATED THEFT - (B). (Economic loss was greater than \$50,000; otherwise CC 5.)¶
- (323) ORS 164.065 - THEFT OF LOST/MISLAID PROPERTY * - (C).¶
- (334) ORS 164.075 - EXTORTION* - (B). (If not CC 7 and if not threat to report immigration status or suspected immigration status to law enforcement under ORS 164.075(1)(e).)¶
- (345) ORS 164.075(1)(e) - EXTORTION - (B). (If threat to report immigration status or suspected status to law

enforcement.)¶¶

(356) ORS 164.085 - THEFT BY DECEPTION* - (C).¶¶

(367) ORS 164.125 - THEFT OF SERVICES* - (C).¶¶

(378) ORS 164.135 - UNAUTHORIZED USE OF VEHICLE* - (C).¶¶

(389) ORS 164.138 - CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* - (C).¶¶

(3940) ORS 164.140(4) - POSSESSION OF RENTED PROPERTY* - (C).¶¶

(401) ORS 164.162 - MAIL THEFT OR RECEIPT OF STOLEN MAIL - (C). (For sentences imposed prior to February 15, 2010, and for sentences imposed for crimes committed on or after January 1, 2012; otherwise a Class A misdemeanor.)¶¶

(412) ORS 164.215 - BURGLARY II* - (C).¶¶

(423) ORS 164.315 - ARSON II* - (C).¶¶

(434) ORS 164.365 - CRIMINAL MISCHIEF I* - (C).¶¶

(445) ORS 164.377 - COMPUTER FRAUD (LOTTERY)* - (C).¶¶

(456) ORS 164.377(3) - COMPUTER CRIME* - (C).¶¶

(467) ORS 164.868 - UNLAWFUL LABEL SOUND RECORDING* - (C).¶¶

(478) ORS 164.869 - UNLAWFUL RECORD LIVE PERFORMANCE* - (C).¶¶

(489) ORS 164.872 - UNLAWFUL LABEL VIDEOTAPE* - (C).¶¶

(4950) ORS 164.877(1) - TREE-SPIKING - (C).¶¶

(501) ORS 164.889 - INTERFERE W/ AGRICULTURAL RESEARCH* - (C).¶¶

(512) ORS 165.013 - FORGERY I* - (C).¶¶

(523) ORS 165.022 - CRIMINAL POSSESSION OF FORGED INSTRUMENT I* - (C).¶¶

(534) ORS 165.055(3)(A) - CREDIT CARD FRAUD* - (C).¶¶

(545) ORS 165.065 - NEGOTIATING BAD CHECKS* - (C).¶¶

(556) ORS 165.074 - UNLAWFUL FACTORING PAYMENT CARD* - (C).¶¶

(567) ORS 165.692 - FILING A FALSE CLAIM FOR HEALTH CARE PAYMENT - (C).¶¶

(578) ORS 165.800 - IDENTITY THEFT* - (C).¶¶

(589) ORS 166.015 - RIOT - (C).¶¶

(5960) ORS 166.070 - AGGRAVATED HARRASSMENT - (C).¶¶

(601) ORS 166.165 - INTIMIDATION I - (C).¶¶

(612) ORS 166.220 - UNLAWFUL USE OF WEAPON - (C).¶¶

(623) ORS 166.270 - EX-CON IN POSSESSION OF FIREARM - (C).¶¶

(634) ORS 166.272 - UNLAWFUL POSSESSION OF FIREARM - (B).¶¶

(645) ORS 166.370(1) - INTENT POSS. FIREARM OR DANG. WEAP. IN PUBLIC BUILDING; (2)(a)(C) - INTENT POSS. FIREARM IN LOCAL COURT FACILITY CONTRARY TO ORDER; and (5)(a) - DISCHARGE FIREARM IN SCHOOL - (C).¶¶

(656) ORS 166.382 - POSSESSION OF DESTRUCTIVE DEVICE - (C).¶¶

(667) ORS 166.384 - UNLAWFUL MANUFACTURE OF DESTRUCTIVE DEVICE - (C).¶¶

(678) ORS 166.410 - ILLEGAL MANUFACTURE, IMPORTATION OR TRANSFER OF FIREARMS - (B).¶¶

(689) ORS 166.643 - UNLAWFUL POSSESS SOFT BODY ARMOR - (B). (If offender committed or was attempting to commit a person felony or misdemeanor involving violence, otherwise CC 4.)¶¶

(6970) ORS 167.057 - LURING A MINOR - (C).¶¶

(701) ORS 167.320 - ANIMAL ABUSE I (FELONY) - (C).¶¶

(712) ORS 167.322 - AGGRAVATED ANIMAL ABUSE I - (C).¶¶

(723) ORS 167.325 - ANIMAL NEGLECT II (FELONY) - (C). (If 11 to 40 animals were the subject of the neglect).¶¶

(734) ORS 167.330 - ANIMAL NEGLECT I (FELONY) - (C). (If 10 to 40 animals were the subject of the neglect).¶¶

(745) ORS 167.333 - SEXUAL ASSAULT OF AN ANIMAL - (C).¶¶

(756) ORS 167.339 - ASSAULT OF A LAW ENFORCEMENT ANIMAL - (C).¶¶

(767) ORS 167.388 - INTERFERE LIVESTOCK PRODUCTION* - (C).¶¶

(778) ORS 305.091 - UNAUTHORIZED USE OR DISCLOSURE BY STATE OFFICER OR EMPLOYEE OF

INFORMATION PERTAINING TO DELINQUENT DEBTOR TRANSMITTED TO OR FROM DEPARTMENT OF REVENUE THROUGH DATA MATCH SYSTEM- (C). (If offender knowingly causes economic loss of \$50,000 or more.)¶¶

(79) ORS 647.145 - TRADEMARK COUNTERFEITING II* - (C).¶¶

(780) ORS 647.150 - TRADEMARK COUNTERFEITING I* - (B).¶¶

(7981) ORS 811.182 - DRIVING WHILE SUSPENDED/REVOKED (FELONY) - (C). (If the suspension or revocation resulted from (a) any degree of murder, manslaughter, criminally negligent homicide, or an assault that caused serious physical injury, resulting from the operation of a motor vehicle, or (b) aggravated vehicular homicide or aggravated driving while suspended or revoked).¶¶

(802) ORS 811.705 - HIT & RUN VEHICLE (INJURY) - (C).¶¶

See OAR 213-018-0038(3). (843) ORS 813.010(5) - DRIVING UNDER THE INFLUENCE (FELONY) - (C).¶¶

(824) ORS 819.300 - POSSESSION OF STOLEN VEHICLE* - (C).¶¶

(835) ORS 819.310 - TRAFFICKING IN STOLEN VEHICLES - (C). (If part of an organized operation or if value of property taken from one or more victims was greater than \$50,000; otherwise CC 5.)¶¶

(846) ORS 830.475 - HIT AND RUN BOAT - (C).¶¶

(87) ORS 837.365(2)(b) - UNLAWFUL OPERATION OF WEAPONIZED UNMANNED AIRCRAFT SYSTEM - (C).¶¶

(88) * Property offenses marked with an asterisk shall be ranked at Crime Category 6 if the value of the property stolen or destroyed was \$50,000 or more, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

Statutory/Other Authority: ORS 137.667, 2003 OL Ch. 453, 2009 OL Ch. 660

Statutes/Other Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 147, 635, 828 2003 2001 OL Ch. 383, 453, 543, 2005 OL Ch. 708, 2007 OL Ch. 684, 811, 869, 876, SB 1087 (2008), Ballot Measure 57 (2008), 2009 OL Ch. 660, HB 3508 (2009), 2009 OL Ch. 783, 2011 OL Ch. 3 Sec. 1, 2011 OL Ch. 598, 2011 OL Ch. 666, SB 6 (2013), HB 3194 (2013), HB 4128 (2016), SB 254 (2017), SB 302 (2017), SB 323 (2017), HB 2721 (2017), HB 3047 (2017), SB 1562 (2018), HB 4055

AMEND: 213-017-0007

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 5 on the crime seriousness scale after 2017 legislation and clarifies property offense language to be consistent with language in other rules.

CHANGES TO RULE:

213-017-0007

Crime Category 5 ¶¶

The following offenses are classified at crime category 5 on the Crime Seriousness Scale:¶¶

- (1) Chapter 59 - BLUE SKY LAWS & SECURITIES LAWS* - (C).¶¶
- (2) DRUG-RELATED OFFENSES. (See division 19).¶¶
- (3) CANNABIS OFFENSES - See division 21.¶¶
- (4) ORS 97.981 - PURCHASE OR SALE OF A BODY PART FOR TRANSPLANTATION OR THERAPY - (C).¶¶
- (45) ORS 162.185 - SUPPLYING CONTRABAND - (C).¶¶
(If contraband includes a controlled substance but no firearms (CC 7) or dangerous weapons (CC 6); otherwise CC 4.)¶¶
- (56) ORS 163.187(4)(c) - STRANGULATION (FELONY) - (C), effective January 1, 2019 as applied to the offense of Strangulation as set forth in SB 1562 (2018).¶¶
- (7) ORS 163.263 - SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE II - (C).¶¶
- (68) ORS 163.537 - BUYING OR SELLING THE CUSTODY OF A MINOR - (B). (If cannot be ranked at CC 8.)¶¶
- (79) ORS 163.686 - ENCOURAGING CHILD SEX ABUSE II - (C).¶¶
- (810) ORS 164.055 - THEFT I* - (C).¶¶
- (911) ORS 164.057 - AGGRAVATED THEFT - (B).¶¶
(If not categorized at CC 6.)¶¶
- (102) ORS 164.065 - THEFT OF LOST/MISLAID PROPERTY* - (C).¶¶
- (113) ORS 164.075 - THEFT BY EXTORTION* - (B).¶¶
- (124) ORS 164.085 - THEFT BY DECEPTION* - (C).¶¶
- (135) ORS 164.095 - THEFT BY RECEIVING - (C).¶¶
(If part of an organized operation; otherwise CC 3.)¶¶
- (146) ORS 164.125 - THEFT OF SERVICES* - (C).¶¶
- (157) ORS 164.135 - UNAUTHORIZED USE OF VEHICLE * - (C).¶¶
- (168) ORS 164.138 - CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* - (C).¶¶
- (179) ORS 164.140(4) - POSSESSION OF RENTED PROPERTY * - (C).¶¶
- (1820) ORS 164.215 - BURGLARY II* - (C).¶¶
- (219) ORS 164.315 - ARSON II* - (C).¶¶
- (202) ORS 164.365 - CRIMINAL MISCHIEF I* - (C).¶¶
- (213) ORS 164.377(2)(c) - COMPUTER CRIME - (C).¶¶
(If theft of an intimate image.)¶¶
- (224) ORS 164.377(5) - COMPUTER FRAUD (LOTTERY) * - (C).¶¶
- (235) ORS 164.377(5) - COMPUTER CRIME* - (C).¶¶
(If not theft of an intimate image under ORS 164.377(2)(c).)¶¶
- (246) ORS 164.395 - ROBBERY III - (C).¶¶
- (257) ORS 164.868 - UNLAWFUL LABEL SOUND RECORDING* - (C).¶¶
- (268) ORS 164.869 - UNLAWFUL RECORD LIVE PERFORMANCE* - (C).¶¶
- (279) ORS 164.872 - UNLAWFUL LABEL VIDEOTAPE* - (C).¶¶
- (2830) ORS 164.889 - INTERFERE W/ AGRICULTURAL RESEARCH* - (C).¶¶
- (2931) ORS 165.013 - FORGERY I* - (C).¶¶
- (302) ORS 165.022 - CRIMINAL POSSESSION OF FORGED INSTRUMENT I* - (C).¶¶

- (~~313~~) ORS 165.055(3)(A) - CREDIT CARD FRAUD* - (C).¶
- (~~324~~) ORS 165.065 - NEGOTIATING BAD CHECKS* - (C).¶
- (~~335~~) ORS 165.074 - UNLAWFUL FACTORING PAYMENT CARD * - (C).¶
- (~~346~~) ORS 165.800 - IDENTITY THEFT* - (C).¶
- (~~357~~) ORS 165.803 - AGGRAVATED IDENTITY THEFT - (B).¶
- (~~368~~) ORS 166.087 - ABUSE OF CORPSE I - (B).¶
- (~~379~~) ORS 166.385(3) - FELONY POSSESSION OF A HOAX DESTRUCTIVE DEVICE - (C).¶
- (~~3840~~) ORS 167.388 - INTERFERE LIVESTOCK PRODUCTION* - (C).¶
- (~~3941~~) ORS 305.091 - UNAUTHORIZED USE OR DISCLOSURE BY STATE OFFICER OR EMPLOYEE OF INFORMATION PERTAINING TO DELINQUENT DEBTOR TRANSMITTED TO OR FROM DEPARTMENT OF REVENUE THROUGH DATA MATCH SYSTEM - (C). (If offender knowingly causes economic loss of \$10,000 or more but less than \$50,000.)¶
- (~~42~~) ORS 323.482 - UNLAWFUL DISTRIB. CIGARETTES - (C) <120,000.¶
- (~~403~~) ORS 323.632 - UNLAWFUL DISTRIB. TOBACCO PRODUCTS - (C).¶
- (~~414~~) ORS 609.990(3)(b) - MAINTAINING A DANGEROUS DOG - (C).¶
- (~~425~~) ORS 647.145 - TRADEMARK COUNTERFEITING II* - (C).¶
- (~~436~~) ORS 647.150 - TRADEMARK COUNTERFEITING I* - (B).¶
- (~~447~~) ORS 819.300 - POSSESSION OF STOLEN VEHICLE* - (C).¶
- (~~458~~) ORS 819.310 - TRAFFICKING IN STOLEN VEHICLES - (C). (If not categorized at CC 6.)¶
- (~~49~~) * Property offenses marked with an asterisk shall be ranked at Crime Category 5 if the value of the property stolen or destroyed was \$10,000 or more but less than \$50,000, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.
- Statutory/Other Authority: ORS 137.667
- Statutes/Other Implemented: ORS 137.667 - 137.669, 164.889, 166.643 & 2003 OL Ch. 383, 453, 543, 632, 2005 OL Ch. 708, 2007 OL Ch. 584, 681, 684, 811, SB 254 (2017), SB 302 (2017), SB 323 (2017), SB 1562 (2018)

AMEND: 213-017-0008

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 4 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-017-0008

Crime Category 4 ¶

The following offenses are classified at crime category 4 on the Crime Seriousness Scale:¶

- (1) Chapter 59 - BLUE SKY LAWS & SECURITIES LAWS* - (C).¶
- (2) DRUG OFFENSES (See division 19.).¶
- (3) CANNABIS OFFENSES - See division 21.¶
- (4) ORS 97.982 - ALTERATION OF A DOCUMENT OF GIFT - (C).¶
- (45) ORS 162.185 - SUPPLYING CONTRABAND - (C). (If offense cannot be ranked at CC 5, 6 or 7.)¶
- (56) ORS 162.205 - FAILURE TO APPEAR I - (C).¶
- (67) ORS 163.192 - ENDANGERING PERSON PROTECTED BY FAPA RESTRAINING ORDER - (C).¶
- (78) ORS 163.245 - CUSTODIAL INTERFERENCE II - (C).¶
- (89) ORS 163.689 - POSSESSION OF MATERIAL DEPICTING SEX. EXPLICIT CONDUCT OF CHILD II - (C).¶
- (910) ORS 164.055 - THEFT I * - (C).¶
- (101) ORS 164.065 - THEFT OF LOST/MISLAID PROPERTY* - (C).¶
- (112) ORS 164.075 - THEFT BY EXTORTION* - (B).¶
- (123) ORS 164.085 - THEFT BY DECEPTION* - (C).¶
- (134) ORS 164.098 - ORGANIZED RETAIL THEFT - (B).¶
- (145) ORS 164.125 - THEFT OF SERVICES* - (C).¶
- (156) ORS 164.135 - UNAUTHORIZED USE OF VEHICLE* - (C).¶
- (167) ORS 164.138 - CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* - (C).¶
- (178) ORS 164.140(4) - POSSESSION OF RENTED PROPERTY* - (C).¶
- (189) ORS 164.215 - BURGLARY II* - (C).¶
- (1920) ORS 164.315 - ARSON II* - (C).¶
- (201) ORS 164.365 - CRIMINAL MISCHIEF I* - (C). (Except ORS 164.365(1)(e).)¶
- (212) ORS 164.377(5) - COMPUTER FRAUD (LOTTERY)* - (C).¶
- (223) ORS 164.377(5) - COMPUTER CRIME* - (C).¶
- (234) ORS 164.868 - UNLAWFUL LABEL SOUND RECORDING* - (C).¶
- (245) ORS 164.869 - UNLAWFUL RECORD LIVE PERFORMANCE* - (C).¶
- (256) ORS 164.872 - UNLAWFUL LABEL VIDEOTAPE* - (C).¶
- (267) ORS 165.013 - FORGERY I* - (C).¶
- (278) ORS 165.022 - CRIMINAL POSSESSION OF FORGED INSTRUMENT I* - (C).¶
- (289) ORS 165.032 - CRIMINAL POSSESSION OF FORGERY DEVICE - (C).¶
- (2930) ORS 165.055(3)(A) - CREDIT CARD FRAUD* - (C).¶
- (301) ORS 165.065 - NEGOTIATING BAD CHECKS * - (C).¶
- (312) ORS 165.074 - UNLAWFUL FACTORING PAYMENT CARD * - (C).¶
- (323) ORS 165.581 - CELLULAR COUNTERFEITING I - (B).¶
- (334) ORS 165.800 - IDENTITY THEFT* - (C).¶
- (345) ORS 165.810 - UNLAWFUL POSSESSION PERSONAL ID DEVICE. - (C).¶
- (356) ORS 166.023 - DISORDERLY CONDUCT I - (C).¶
- (367) ORS 166.643 - UNLAWFUL POSSESS SOFT BODY ARMOR - (B). (If not categorized at CC 6)¶
- (378) ORS 167.262 - USING A MINOR IN CONTROLLED SUBSTANCE OFFENSE - (A).¶
(CC 8 if minor 3 or more yrs. Younger than offender.)¶
- (389) ORS 167.388 - INTERFERE LIVESTOCK PRODUCTION* - (C).¶

~~(3940)~~ ORS 181.599 - FAIL/REPORT SEX OFFENDER - (C).¶

~~(401)~~ ORS 305.091 - UNAUTHORIZED USE OR DISCLOSURE BY STATE OFFICER OR EMPLOYEE OF INFORMATION PERTAINING TO DELINQUENT DEBTOR TRANSMITTED TO OR FROM DEPARTMENT OF REVENUE THROUGH DATA MATCH SYSTEM - (C). (If offender knowingly causes economic loss of \$5,000 or more but less than \$10,000.)¶

~~(42)~~ ORS 647.145 - TRADEMARK COUNTERFEITING II* - (C).¶

~~(413)~~ ORS 647.150 - TRADEMARK COUNTERFEITING I* - (B).¶

~~(424)~~ ORS 811.182 - DRIVING WHILE SUSPENDED/REVOKED (FELONY) - (C).¶

(If the offense cannot be ranked at CC 6.)¶

~~(435)~~ ORS 813.011 - DRIVING UNDER THE INFLUENCE (FELONY) - (C).¶

~~(446)~~ ORS 819.300 - POSSESSION OF STOLEN VEHICLE* - (C).¶

~~(47)~~ *Property offenses marked with an asterisk shall be ranked at Crime Category 4 if either of the following factors was included in the commission of the offense:¶

(a) The value of the property stolen or destroyed was \$5,000 or more but less than \$10,000; or¶

(b) The property stolen was a vehicle valued at \$10,000 or more and used primarily for personal rather than commercial transportation.

Statutory/Other Authority: ORS 137.667, 2003 OL Ch. 453

Statutes/Other Implemented: ORS 137.667 - 137.669, 164.889, 166.643 & 2003 OL Ch. 383, 453, 543, 632, 2005 OL Ch. 708, 2007 OL Ch. 498, 681, 684, 2011 OL Ch. 3 ~~¶~~1, 2011 OL Ch. 598, HB 3194 (2013), HB 3400 (2015), HB 4014 (2016), SB 254 (2017), SB 302 (2017), SB 323 (2017)

AMEND: 213-017-0009

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 3 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-017-0009

Crime Category 3 ¶

The following offenses are classified at crime category 3 on the Crime Seriousness Scale:¶

- (1) ORS Chapter 59 - BLUE SKY LAWS & SECURITIES LAWS* - (C).¶
- (2) CONTROLLED SUBSTANCE OFFENSES - See division 19.¶
- (3) CANNABIS OFFENSES - See division 21.¶
- (4) ORS 162.305(2)(b) - TAMPER LOTTERY RECORDS - (C).¶
- (35) ORS 162.355 - SIMULATING LEGAL PROCESS - (C).¶
- (46) ORS 162.365(3)(b) - CRIMINAL IMPERSONATION OF PEACE OFFICER, JUDGE OR JUSTICE OF THE PEACE - (C).¶
- (57) ORS 162.367 - FALSE LAW ENFORCEMENT ID - (C).¶
- (68) ORS 163.535 - ABANDON CHILD - (C). (If not ranked at CC 7.)¶
- (79) ORS 163.555 - CRIMINAL NONSUPPORT - (C).¶
- (810) ORS 164.055 - THEFT I* - (C).¶
- (911) ORS 164.065 - THEFT OF LOST/MISLAID PROPERTY* - (C).¶
- (102) ORS 164.075 - THEFT BY EXTORTION* - (B).¶
- (113) ORS 164.085 - THEFT BY DECEPTION* - (C).¶
- (124) ORS 164.095 - THEFT BY RECEIVING - (C). (If not ranked at CC 5.)¶
- (135) ORS 164.125 - THEFT OF SERVICES* - (C).¶
- (146) ORS 164.135 - UNAUTHORIZED USE OF VEHICLE * - (C).¶
- (157) ORS 164.138 - CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* - (C).¶
- (168) ORS 164.140(4) - POSSESSION OF RENTED PROPERTY * - (C).¶
- (179) ORS 164.215 - BURGLARY II* - (C).¶
- (1820) ORS 164.315 - ARSON II* - (C).¶
- (219) ORS 164.365 - CRIMINAL MISCHIEF I* - (C).¶
- (202) ORS 164.377(5) - COMPUTER FRAUD (LOTTERY)* - (C).¶
- (213) ORS 164.377(5) - COMPUTER CRIME* - (C).¶
- (224) ORS 164.868 - UNLAWFUL LABEL SOUND RECORDING* - (C).¶
- (235) ORS 164.869 - UNLAWFUL RECORD LIVE PERFORMANCE* - (C).¶
- (246) ORS 164.872 - UNLAWFUL LABEL VIDEOTAPE* - (C).¶
- (257) ORS 164.889 - INTERFERE W/ AGRICULTURAL RESEARCH* - (C).¶
- (268) ORS 165.013 - FORGERY I* - (C).¶
- (279) ORS 165.022 - CRIMINAL POSSESSION OF FORGED INSTRUMENT I* - (C).¶
- (2830) ORS 165.055(4)(B) - CREDIT CARD FRAUD* - (C).¶
- (2931) ORS 165.065 - NEGOTIATING BAD CHECKS* - (C).¶
- (302) ORS 165.070 - POSSESSION OF FAKE COMMUNICATIONS DEVICE - (C).¶
- (313) ORS 165.074 - UNLAWFUL FACTORING PAYMENT CARD * - (C).¶
- (324) ORS 165.800 - IDENTITY THEFT* - (C).¶
- (335) ORS 166.085 - ABUSE OF CORPSE II - (C).¶
- (346) ORS 167.062(4) - PROMOTING LIVE SEX SHOW - (C).¶
- (357) ORS 167.137 - UNLAWFUL GAMBLING I - (C).¶
- (368) ORS 167.137 - POSSESSION OF GAMBLING RECORDS I - (C).¶
- (379) ORS 167.388 - INTERFERE LIVESTOCK PRODUCTION* - (C).¶

(3840) ORS 305.091 - UNAUTHORIZED USE OR DISCLOSURE BY STATE OFFICER OR EMPLOYEE OF INFORMATION PERTAINING TO DELINQUENT DEBTOR TRANSMITTED TO OR FROM DEPARTMENT OF REVENUE THROUGH DATA MATCH SYSTEM - (C). (If offender knowingly causes economic loss of \$1,000 or more but less than \$5,000.)¶¶

(41) ORS 647.145 - TRADEMARK COUNTERFEITING II* - (C).¶¶

(3942) ORS 647.150 - TRADEMARK COUNTERFEITING I* - (B).¶¶

(403) ORS 819.300 - POSSESSION OF STOLEN VEHICLE* - (C).¶¶

(414) ORS 323.482 - UNLAWFUL DISTRIB. CIGARETTES - (C) < 60,000.¶¶

(425) ORS 323.632 - UNLAWFUL DISTRIB. TOBACCO PRODUCTS - (C) < \$5,000¶¶

(46) * Property offenses marked with an asterisk shall be ranked at Crime Category 3 if either of the following factors was included in the commission of the offense:¶¶

(a) The value of the property stolen or destroyed was \$1,000 or more but less than \$5,000; or¶¶

(b) The property stolen was a vehicle valued at more than \$1,000 but less than \$10,000 and used primarily for personal rather than commercial transportation.

Statutory/Other Authority: ORS 137.667, 2003 OL Ch. 453

Statutes/Other Implemented: ORS 137.667 - 137.669, 164.889, 166.642, 2003 OL Ch. 383, 453, 550, 632, 633, 2007 OL Ch. 684, SB 6 (2013), SB 141 (2013), SB 254 (2017), SB 302 (2017), SB 302 (2017), SB 323 (2017)

AMEND: 213-017-0010

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 2 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-017-0010

Crime Category 2 ¶

The following offenses are classified at crime category 2 on the Crime Seriousness Scale:¶

(1) CONTROLLED SUBSTANCE OFFENSES - See division 19.¶

(2) CANNABIS OFFENSES - See division 21.¶

(3) ORS Chapter 59 - BLUE SKY LAWS & SECURITIES LAWS* - (C).¶

(24) ORS 164.055 - THEFT I* - (C).¶

(35) ORS 164.065 - THEFT OF LOST/MISLAID PROPERTY * - (C).¶

(46) ORS 164.075 - THEFT BY EXTORTION* - (B).¶

(57) ORS 164.085 - THEFT BY DECEPTION* - (C).¶

(68) ORS 164.125 - THEFT OF SERVICES* - (C).¶

(79) ORS 164.135 - UNAUTHORIZED USE OF VEHICLE* - (C).¶

(810) ORS 164.140(4) - POSSESSION OF RENTED PROPERTY* - (C).¶

(911) ORS 164.215 - BURGLARY II* - (C).¶

(102) ORS 164.315 - ARSON II* - (C).¶

(113) ORS 164.365 - CRIMINAL MISCHIEF I* - (C).¶

(124) ORS 164.377(5) - COMPUTER FRAUD (LOTTERY)* - (C).¶

(135) ORS 164.377(5) - COMPUTER CRIME* - (C).¶

(146) ORS 164.868 - UNLAWFUL LABEL SOUND RECORDING* - (C).¶

(157) ORS 164.869 - UNLAWFUL RECORD LIVE PERFORMANCE* - (C).¶

(168) ORS 164.872 - UNLAWFUL LABEL VIDEOTAPE* - (C).¶

(179) ORS 164.889 - INTERFERE W/AGRICULTURAL RESEARCH* - (C).¶

(1820) ORS 165.013 - FORGERY I - (C).¶

(219) ORS 165.022 - CRIMINAL POSSESSION FORGED INSTRUMENT I* - (C).¶

(202) ORS 165.055(3)(A) - CREDIT CARD FRAUD* - (C).¶

(213) ORS 165.065 - NEGOTIATING BAD CHECKS* - (C).¶

(224) ORS 165.074 - UNLAWFUL FACTORING PAYMENT CARD * - (C).¶

(235) ORS 165.085 - SPORTS BRIBERY - (C).¶

(246) ORS 165.090 - RECEIVING SPORTS BRIBE - (C).¶

(257) ORS 165.579 - CELLULAR COUNTERFEIT II - (C).¶

(268) ORS 165.800 - IDENTITY THEFT* - (C).¶

(279) ORS 166.642 - FELON POSSESS SOFT BODY ARMOR - (C).¶

(2830) ORS 167.164 - POSSESS GRAY MACHINE - (C).¶

(2931) ORS 167.167 - CHEATING AT GAMBLING - (C).¶

(302) ORS 167.388 - INTERFERE LIVESTOCK PRODUCTION* - (C).¶

(313) ORS 305.091 - UNAUTHORIZED USE OR DISCLOSURE BY STATE OFFICER OR EMPLOYEE OF INFORMATION PERTAINING TO DELINQUENT DEBTOR TRANSMITTED TO OR FROM DEPARTMENT OF REVENUE THROUGH DATA MATCH SYSTEM - (C). (If offender knowingly causes economic loss of less than \$1,000.)¶

(34) ORS 411.630 - OBTAINING PUBLIC ASSISTANCE UNLAWFULLY - (C).¶

(325) ORS 411.840 - OBTAIN/USE FOOD STAMPS UNLAWFULLY - (C).¶

(336) ORS 496.992(3) - VIOLATION OF WILDLIFE LAWS - (C).¶

(347) ORS 647.145 - TRADEMARK COUNTERFEITING II* - (C).¶

(358) ORS 647.150 - TRADEMARK COUNTERFEITING I* - (B).¶¶
(369) ORS 811.540 - FELONY ATTEMPTING TO ELUDE (in a vehicle) - (C).¶¶
(3740) ORS 819.300 - POSSESSION OF STOLEN VEHICLE* - (C).¶¶
(3841) 2003 Oregon Laws Ch 550 - ORGANIZE SPEED RACING EVENT - (C).¶¶
(3942) 2003 Oregon Laws Ch 632 - UNLAWFUL POSSESSION FICTITIOUS ID - (C).¶¶
(403) 2003 Oregon Laws Ch 633 - UNLAWFUL PRODUCTION ODOT ID CARDS - (C).¶¶
(414) 2007 Oregon Laws Ch 684 - CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* - (C).¶¶
(45) * Property offenses marked with an asterisk shall be ranked at Crime Category 2 if the value of the property stolen or destroyed was less than \$1,000.
Statutory/Other Authority: ORS 137.667, 2003 OL Ch. 453
Statutes/Other Implemented: ORS 137.667 - 137.669, 164.889, 166.642, 2003 OL Ch. 383, 453, 550, 632, 633, 2007 OL Ch. 684, SB 254 (2017), SB 302 (2017), SB 323 (2017)

AMEND: 213-017-0011

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 1 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-017-0011

Crime Category 1 ¶

The following offenses are classified at crime category 1 on the Crime Seriousness Scale:¶

- (1) DRUG POSSESSION/PERSONAL USE (See division 19.)¶
- (2) CANNABIS OFFENSES - See division 21.¶
- (3) ORS 163.515 - BIGAMY - (C).¶
- (~~34~~) ORS 163.525 - INCEST - (C). (If the incestuous relationship is between adults; otherwise CC 6.)¶
- (45) ORS 166.450 - ALTERING FIREARM ID. - (C).¶
- (56) ORS 166.651 - THROW OBJECT OFF OVERPASS - (C).¶
- (67) ORS 166.660 - UNLAWFUL PARAMILITARY ACTIVITY - (C).¶
- (78) ORS 167.212 - TAMPERING W/ DRUG RECORDS - (C).¶
- (89) ORS 332.480(2) - DISTRIBUTE CIGARETTES W/OUT LICENSE - (C).¶
- (~~910~~) ORS 332.480(3) - FALSE REPORT/CIGARETTE TAX - (C).¶
- (101) ORS 332.480(4) - UNLAWFUL TRANSPORT UNTAXED CIGARETTES - (C)¶
- (112) ORS 432.993 - UNLAWFUL USE OF A VITAL RECORD OR REPORT - (C).¶
- (123) ORS 468.953 - SUPPLY FALSE INFO TO AGENCY (ENVIRONMENTAL) - (C).¶
- (134) ORS 475.993(2)(a) - FAILURE TO MAINTAIN RECORDS OF CONTROLLED SUBSTANCES - (C).¶
- (145) ORS 702.032 - INDUCING AN ATHLETE/CONTRACT - (C).¶
- (156) ORS 702.042 - ATHLETIC AGENT NOTICE REQUIREMENT - (C).¶
- (167) ORS 717.905(2) - FALSE STATEMENT MONEY TRANSMISSION - (C).¶
- (178) ORS 717.905(3) - ENGAGE MONEY TRANSMISSION W/OUT LICENSE - (C).¶
- (189) ORS 803.080 - UNLAWFULLY PUBLISHING CERTIFICATE OF TITLE - (C).¶
- (~~1920~~) ORS 803.230 - FORGE/ALTER VEHICLE TITLE/REG. - (C).¶
- (201) ORS 822.605 - FALSE SWEARING VEHICLE BUSINESS - (C).¶
- (212) 2003 Oregon Laws Ch 484 - FORCIBLE RECOVERY OF FIGHTING BIRD - (C).¶
- (223) 2003 Oregon Laws Ch 804 - FALSE RECEIPT/INVOICE CIGARETTE SALES - (C).¶
- (234) 2003 Oregon Laws Ch 804 - DISTRIBUTE TOBACCO PRODUCTS W/OUT - (C).¶
- (245) 2003 Oregon Laws Ch 804 - LICENSE FALSE REPORT/TOBACCO PRODUCTS TAX - (C).¶
- (256) 2003 Oregon Laws Ch 804 - UNLAWFUL TRANSPORT UNTAXED - (C).¶
- (267) 2003 Oregon Laws Ch 804 - TOBACCO PRODUCTS FALSE RECEIPT/INVOICE TOBACCO - (C).¶
- (278) 2003 Oregon Laws Ch 804 - PRODUCTS SALES UNLAWFUL TOBACCO DELIVERY SALES - (U).

Statutory/Other Authority: ORS 137.667, 2003 OL Ch. 453

Statutes/Other Implemented: ORS 137.667 - 137.669, 332.480 & 2003 OL Ch. 453, 484, 804, HB 3400 (2015), HB 4014 (2016), SB 302 (2017), HB 2355 (2017)

AMEND: 213-018-0022

RULE SUMMARY: The rule change implements crime categorizations for Assault III after 2017 legislation.

CHANGES TO RULE:

213-018-0022

Assault III (ORS 163.165) ¶

(1) CRIME CATEGORY 8: Assault III shall be ranked at Crime Category 8 if the assault resulted from the operation of a motor vehicle and defendant was the driver of the motor vehicle and was driving while under the influence of intoxicants.¶

(2) CRIME CATEGORY 6: Assault III shall be ranked at Crime Category 6 if it cannot be ranked at Crime Category 8.

Statutory/Other Authority: ORS 137.667, 2009 OL Ch. 660

Statutes/Other Implemented: ORS 137.667 - 137.669, 2009 OL Ch. 660, HB 2721 (2017)

AMEND: 213-018-0038

RULE SUMMARY: The rule change implements crime categorizations for Hit and Run (Vehicle) after 2018 legislation.

CHANGES TO RULE:

213-018-0038

HIT AND RUN (VEHICLE) (ORS 811.705) ¶¶

(1) CRIME CATEGORY 8: Hit and Run shall be ranked at Crime Category 8 if a person suffers serious physical injury or dies as a result of the ~~accident~~collision.¶¶

(2) CRIME CATEGORY 6: Hit and Run shall be ranked at Crime Category 6 if it cannot be ranked at Crime Category 8.¶¶

(3) The crime categories above as applied to the offense of Hit and Run (Vehicle) as set forth in HB 4055 (2018) are effective January 1, 2019.

Statutory/Other Authority: ORS 137.667, 811.707, 2003 OL Ch. 453, HB 4055 (2018)

Statutes/Other Implemented: ORS 137.667 - 137.669, 811.707, 2003 OL Ch. 453, HB 4055 (2018)

ADOPT: 213-018-0067

RULE SUMMARY: The new rule implements crime categorizations for Strangulation after 2018 legislation.

CHANGES TO RULE:

213-018-0067

Strangulation (Felony) (ORS 163.187)

(1) CRIME CATEGORY 6: Felony Strangulation shall be ranked at Crime Category 6 unless the victim is a family or household member of the offender.¶

(2) CRIME CATEGORY 5: Felony Strangulation shall be ranked at Crime Category 5 if the victim is a family or household member of the offender.¶

(3) The crime categories above as applied to the offense of Strangulation as set forth in SB 1562 (2018) are effective January 1, 2019.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 1562 (2018)

ADOPT: 213-018-0100

RULE SUMMARY: The new rule implements crime categorizations for Unauthorized Use or Disclosure by State Officer or Employee of Information Relating to a Delinquent Debtor Transmitted to or From Department of Revenue Through Data Match System after 2017 legislation.

CHANGES TO RULE:

213-018-0100

Unauthorized Use or Disclosure by State Officer or Employee of Information Relating to a Delinquent Debtor Transmitted to or From Department of Revenue Through Data Match System (ORS 305.091)

Unauthorized Use or Disclosure by State Officer or Employee of Information Relating to a Delinquent Debtor Transmitted to or From Department of Revenue Through Data Match System shall be ranked as follows:¶

(1) CRIME CATEGORY 6: If offender knowingly causes economic loss of \$50,000 or more.¶

(2) CRIME CATEGORY 5: If offender knowingly causes economic loss of \$10,000 or more but less than \$50,000.¶

(3) CRIME CATEGORY 4: If offender knowingly causes economic loss of \$5,000 or more but less than \$10,000.¶

(4) CRIME CATEGORY 3: If offender knowingly causes economic loss of \$1,000 or more but less than \$5,000.¶

(5) CRIME CATEGORY 2: If offender knowingly causes economic loss of less than \$1,000.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 254 (2017)

ADOPT: 213-018-0110

RULE SUMMARY: The new rule implements crime categorizations for Unlawful Operation of Weaponized Unmanned Aircraft System after 2017 legislation.

CHANGES TO RULE:

213-018-0110

Unlawful Operation of Weaponized Unmanned Aircraft System (ORS 837.365(2))

Unlawful Operation of Weaponized Unmanned Aircraft System shall be ranked as follows:

(1) CRIME CATEGORY 8: If offender intentionally, knowingly, or recklessly operated an unmanned aircraft system in a manner that caused the system to function as a dangerous weapon and the operation caused serious physical injury to another.

(2) CRIME CATEGORY 6: If offender intentionally, knowingly, or recklessly operates an unmanned aircraft system:

(a) To fire a bullet or projectile; or

(b) In a manner that causes the system to function as a dangerous weapon.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, HB 3047 (2017)

ADOPT: 213-019-0006

RULE SUMMARY: The new rule implements the categorization of a criminal offense as Crime Category 10 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-019-0006

Crime Category 10 - Controlled Substance Offenses

ORS 164.342 - ARSON INCIDENT TO THE MANUFACTURE OF A CONTROLLED SUBSTANCE I - (A): If offense represented threat of serious physical injury; otherwise CC 9, 8 or 7.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 323 (2017)

AMEND: 213-019-0007

RULE SUMMARY: The rule change implements the categorization of criminal offenses as Crime Category 9 on the crime seriousness scale after 2017 legislation, and updates citations and rule title.

CHANGES TO RULE:

213-019-0007

Crime Category 9 - Controlled Substance and Aggravated Drug Offenses^{¶¶}

(1) ORS 164.342 - ARSON INCIDENT TO THE MANUFACTURE OF A CONTROLLED SUBSTANCE I - (A): If offense did not represent a threat of serious physical injury (CC 10) and the economic loss is greater than \$50,000; otherwise CC 8 or 7.^{¶¶}

(2) ORS 475.908(2) CAUSING ANOTHER TO INGEST A CONTROLLED SUBSTANCE: Causing Another to Ingest a Controlled Substance shall be ranked at Crime Category 9 if the act is done with the intent to commit or facilitate a crime of violence.^{¶¶}

(23) ORS 475.910(1)(a) UNLAWFUL ADMINISTRATION OF A CONTROLLED SUBSTANCE (A): Unlawful Administration of a Controlled Substance shall be ranked at Crime Category 9 when the substance is a Schedule I or II controlled substance.

Statutory/Other Authority: ORS 137.667, 475.986, 475.998, 2003 OL Ch. 453

Statutes/Other Implemented: ORS 137.667 - 137.669, 475.986, 475.998, 2003 OL Ch. 453, SB 302 (2017), SB 323 (2017)

AMEND: 213-019-0008

RULE SUMMARY: The rule change implements the categorization of criminal offenses as Crime Category 7 on the crime seriousness scale after 2017 legislation; and updates rule title, citations, offense names, and rule language regarding mandatory classifications.

CHANGES TO RULE:

213-019-0008

Crime Category 8 - Controlled Substance and Aggravated Drug Offenses¶¶

(1) ORS 164.342 - ARSON INCIDENT TO THE MANUFACTURE OF A CONTROLLED SUBSTANCE I - (A): If the offense did not represent a threat of serious physical injury (CC 10) and economic loss is \$25,000 or more but less than \$50,000; otherwise CC 9 or CC 7.¶

(2) MANUFACTURE OR DELIVERY OF CONTROLLED SUBSTANCE WITHIN 1000 FEET OF SCHOOL - As specified in ORS 475.900(1)(c).¶

(23) DELIVERY TO MINORS - ORS 475.906(1) or (2) - As specified in ORS 475.900(1)(e).¶

(34) ORS 167.262 USING A MINOR IN A CONTROLLED SUBSTANCE OR MARIJUANA ITEM OFFENSE: Using a minor in a drug offense shall be ranked in Crime Category 8 unless the minor is less than three (3) years younger than the offender, in which case the offense will be ranked in Crime Category 4.¶

(45) MANUFACTURE AND DELIVERY OF A CONTROLLED SUBSTANCE - SUBSTANTIAL QUANTITIES: As specified in ORS 475.900(1)(a).¶

(56) COMMERCIAL DRUG OFFENSE: As specified in ORS 475.900(1)(b).¶

(67) CAUSING ANOTHER TO INGEST A CONTROLLED SUBSTANCE: ~~ORS 475.902(1) is incorporated herein by reference~~As specified in ORS 475.902(1).¶

(78) UNLAWFUL ADMINISTRATION OF A CONTROLLED SUBSTANCE: ~~ORS 475.910(1)(b) is incorporated herein by reference~~As specified in ORS 475.910(2).¶

(89) MANUFACTURE OF METHAMPHETAMINE: ORS 475.900(1)(d) is incorporated herein by reference.¶

(910) DISTRIBUTION OF EQUIPMENT, SOLVENT, REAGENT, OR PRECURSOR SUBSTANCE WITH THE INTENT TO FACILITATE THE MANUFACTURE OF A CONTROLLED SUBSTANCE: Violation of ORS 475.962 shall be classified at Crime Category 8.

Statutory/Other Authority: ORS 137.667, 475.986, 475.998 & 2003 OL, Ch. 453, HB 3194 (2013)

Statutes/Other Implemented: ORS 137.667 - 137.669, 475.986, 475.998, 2003 OL, Ch. 453, 2005 OL, Ch. 706 (HB 2485), 2005 OL, Ch. 708 (SB 907), HB 3194 (2013), HB 3400 (2015), HB 4014 (2016), SB 302 (2017), SB 323 (2017), HB 2355 (2017)

ADOPT: 213-019-0009

RULE SUMMARY: The new rule implements the categorization of a criminal offense as Crime Category 7 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-019-0009

Crime Category 7 - Controlled Substance Offenses

ORS 164.342 - ARSON INCIDENT TO THE MANUFACTURE OF A CONTROLLED SUBSTANCE I - (A): If the offense cannot be ranked at CC 8, 9 or 10.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 323 (2017)

AMEND: 213-019-0010

RULE SUMMARY: The rule change implements the categorization of criminal offenses as Crime Category 6 on the crime seriousness scale after 2017 legislation and updates rule title.

CHANGES TO RULE:

213-019-0010

Crime Category 6 - Controlled Substance and Major Drug Offenses ¶

(1) ORS 164.338 - ARSON INCIDENT TO THE MANUFACTURE OF A CONTROLLED SUBSTANCE II - (C): If the value of the property destroyed was \$50,000 or more.¶

(2) DELIVERY OF A CONTROLLED SUBSTANCE FOR CONSIDERATION: ORS 475.900(2)(a) is incorporated herein by reference.¶

(23) POSSESSION OF SUBSTANTIAL QUANTITY OF CONTROLLED SUBSTANCE: As specified in ORS 475.900(2)(b).¶

(34) ORS 475.967 POSSESSION OF A PRECURSOR WITH THE INTENT TO MANUFACTURE: Possession of a Precursor Substance with the Intent to Manufacture a Controlled Substance shall be ranked at Crime Category 6. Statutory/Other Authority: ORS 137.667, 475.986, 475.998 & 2003 OL, Ch. 453, 2005 OL, Ch. 708 (SB 907), HB 3194 (2013)

Statutes/Other Implemented: ORS 137.667 - 137.669, 475.967, 475.996 & 2003 OL, Ch. 453, HB 3194 (2013), SB 302 (2017), SB 323 (2017), HB 2355 (2017)

AMEND: 213-019-0011

RULE SUMMARY: The rule change implements the categorization of criminal offenses as Crime Category 5 on the crime seriousness scale after 2017 legislation, and updates citations.

CHANGES TO RULE:

213-019-0011

Crime Category 5 - Drug Offenses ¶

(1) ORS 164.338 - ARSON INCIDENT TO THE MANUFACTURE OF A CONTROLLED SUBSTANCE II - (C): If the value of the property destroyed was \$10,000 or more but less than \$50,000.¶

(2) ORS 475.910(1)(c) Unlawful Administration of a Controlled Substance. Unlawful Administration of a Controlled Substance shall be ranked at Crime Category 5 when the substance is a Schedule IV controlled substance.

Statutory/Other Authority: ORS 137.667, 2003 OL Ch. 453

Statutes/Other Implemented: ORS 137.667 - 137.669, 475.986, 2003 OL Ch. 453, SB 302 (2017), SB 323 (2017)

AMEND: 213-019-0012

RULE SUMMARY: The rule change implements the categorization of criminal offenses as Crime Category 4 on the crime seriousness scale after 2017 legislation, updates offense names and clarifies rule language by deleting a superfluous phrase.

CHANGES TO RULE:

213-019-0012

Crime Category 4 - Drug Offenses ¶

~~(1) ORS 164.338 - ARSON INCIDENT TO THE MANUFACTURE OF A CONTROLLED SUBSTANCE II - (C): If the value of the property destroyed was \$5,000 or more but less than \$10,000.~~ (2) DELIVERY OR MANUFACTURE OF CONTROLLED SUBSTANCE: As specified in ORS 475.900(3)(a). ¶

~~(23) ORS 167.262 USING A MINOR IN A DRUG OFFENSE: Using a minor in a drug offense shall be ranked at Crime Category 4.~~ CONTROLLED SUBSTANCE OR MARIJUANA ITEM OFFENSE: If the minor is less than three (3) years younger than the offender. In all other cases this offense shall be ranked in Crime Category 8. ¶

~~(34) POSSESSION OR DISPOSAL OF METHAMPHETAMINE MANUFACTURING WASTE: Violation of ORS 475.977 shall be ranked at Crime Category 4.~~ ¶

~~(4) ORS 475B.185(3)(a)(A) UNLAWFUL IMPORT OR EXPORT OF MARIJUANA ITEMS FOR CONSIDERATION BY LICENSEE: Violation of ORS 475B.185(3)(a)(A) shall be ranked at Crime Category 4.~~

Statutory/Other Authority: ORS 137.667 & 475.900, HB 3194 (2013)

Statutes/Other Implemented: ORS 137.667 - 137.669, 475.967, 475.996 & 2005 OL Ch. 706, 2005 OL Ch. 708, HB 3194 (2013), HB 3400 (2015), HB 4014 (2016), SB 302 (2017), SB 323 (2017), HB 2355 (2017)

ADOPT: 213-019-0013

RULE SUMMARY: The new rule implements the categorization of a criminal offense as Crime Category 3 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-019-0013

Crime Category 3 - Controlled Substance Offenses

ORS 164.338 - ARSON INCIDENT TO MANUFACTURE OF A CONTROLLED SUBSTANCE II - (C): The value of the property stolen or destroyed was \$1,000 or more but less than \$5,000.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 323 (2017)

ADOPT: 213-019-0014

RULE SUMMARY: The new rule implements the categorization of a criminal offense as Crime Category 2 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-019-0014

Crime Category 2 - Controlled Substance Offenses

ORS 164.338 - ARSON INCIDENT TO THE MANUFACTURE OF A CONTROLLED SUBSTANCE II - (C): If the value of the property destroyed was less than \$1,000.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 323 (2017)

AMEND: 213-019-0015

RULE SUMMARY: The rule change implements the categorization of a criminal offense as Crime Category 1 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-019-0015

Crime Category 1 - Drug Offenses ¶

POSSESSION OF CONTROLLED SUBSTANCE: As specified in ORS 475.900(3)(b).

Statutory/Other Authority: ORS 137.667, 2005 OL, Ch. 708 (SB 907) & ORS 475.900, HB 3194 (2013)

Statutes/Other Implemented: ORS 137.667 - 137.669, HB 3194 (2013), HB 3400 (2015), HB 4014 (2016), SB 302 (2017), HB 2355 (2017)

ADOPT: 213-021-0001

RULE SUMMARY: The new rule implements the categorization of a criminal offense as Crime Category 10 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-021-0001

Crime Category 10

ORS 475B.359 - ARSON INCIDENT TO THE MANUFACTURE OF A CANNABINOID EXTRACT I - (A): If offense represented threat of serious physical injury; otherwise CC 9, 8 or 7.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 302 (2017)

ADOPT: 213-021-0002

RULE SUMMARY: The new rule implements the categorization of criminal offenses as Crime Category 9 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-021-0002

Crime Category 9

(1) ORS 475B.359 - ARSON INCIDENT TO THE MANUFACTURE OF A CANNABINOID EXTRACT I - (A): If offense did not represent a threat of serious physical injury (CC 10) and the economic loss is greater than \$50,000; otherwise CC 8 or 7.

(2) ORS 475B.367 - CAUSING ANOTHER PERSON TO INGEST MARIJUANA - (A): As specified in ORS 475B.367.

(3) ORS 475B.371 - ADMINISTRATION TO ANOTHER PERSON UNDER 18 YEARS OF AGE - (A).

Statutory/Other Authority: ORS 137.667, ORS 475B.367, ORS 475B.371

Statutes/Other Implemented: ORS 137.667, SB 302 (2017)

ADOPT: 213-021-0003

RULE SUMMARY: The new rule implements the categorization of criminal offenses as Crime Category 8 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-021-0003

Crime Category 8

(1) ORS 167.262 - USE OF MINOR IN CONTROLLED SUBSTANCE OR MARIJUANA ITEM OFFENSE - (A): Unless the minor is less than three (3) years younger than the offender, in which case the offense will be ranked in Crime Category 4.

(2) ORS 475B.337 - UNLAWFUL POSSESSION BY PERSON 21 YEARS OF AGE OR OLDER - (C): As specified in ORS 475B.354.

(3) ORS 475B.341 - UNLAWFUL POSSESSION BY PERSON UNDER 21 YEARS OF AGE - (C): As specified in ORS 475B.354.

(4) ORS 475B.346 - UNLAWFUL DELIVERY OF MARIJUANA ITEM - (C): As specified in ORS 475B.354.

(5) ORS 475B.349 - UNLAWFUL MANUFACTURE OF MARIJUANA ITEM - (C): As specified in ORS 475B.354.

(6) ORS 475B.359 - ARSON INCIDENT TO THE MANUFACTURE OF A CANNABINOID EXTRACT I - (A): If the offense did not represent a threat of serious physical injury (CC 10) and economic loss is \$25,000 or more but less than \$50,000; otherwise CC 9 or CC 7.

(7) ORS 475B.367 - CAUSING ANOTHER PERSON TO INGEST MARIJUANA - (B): As specified in ORS 475B.367.

Statutory/Other Authority: ORS 137.667, ORS 475B.354, ORS 475B.367

Statutes/Other Implemented: ORS 137.667, SB 302 (2017)

ADOPT: 213-021-0004

RULE SUMMARY: The new rule implements the categorization of a criminal offense as Crime Category 7 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-021-0004

Crime Category 7

ORS 475B.359 - ARSON INCIDENT TO MANUFACTURE OF A CANNABINOID EXTRACT I - (A): If the offense cannot be ranked at CC 8, 9 or 10.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 302 (2017)

ADOPT: 213-021-0005

RULE SUMMARY: The new rule implements the categorization of a criminal offense as Crime Category 6 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-021-0005

Crime Category 6

ORS 475B.363 - ARSON INCIDENT TO MANUFACTURE OF A CANNABINOID EXTRACT II - (C): If the value of the property destroyed was \$50,000 or more.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 302 (2017)

ADOPT: 213-021-0006

RULE SUMMARY: The new rule implements the categorization of a criminal offense as Crime Category 5 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-021-0006

Crime Category 5

ORS 475B.363 - ARSON INCIDENT TO MANUFACTURE OF A CANNABINOID EXTRACT II - (C): If the value of the property destroyed was \$10,000 or more but less than \$50,000.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 302 (2017)

ADOPT: 213-021-0007

RULE SUMMARY: The new rule implements the categorization of criminal offenses as Crime Category 4 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-021-0007

Crime Category 4

(1) ORS 167.262 - USE OF MINOR IN CONTROLLED SUBSTANCE OR MARIJUANA ITEM OFFENSE: If the minor is less than three (3) years younger than the offender. In all other cases this offense shall be ranked in Crime Category 8.¶

(2) ORS 475B.346 - UNLAWFUL DELIVERY OF MARIJUANA ITEM - (C): As specified in ORS 475B.354.¶

(3) ORS 475B.349 - UNLAWFUL MANUFACTURE OF MARIJUANA ITEM - (C): As specified in ORS 475B.354.¶

(4) ORS 475B.363 - ARSON INCIDENT TO MANUFACTURE OF A CANNABINOID EXTRACT II - (C): If the value of the property destroyed was \$5,000 or more but less than \$10,000.

Statutory/Other Authority: ORS 137.667, ORS 475B.354

Statutes/Other Implemented: ORS 137.667, ORS 475B.354, SB 302 (2017)

ADOPT: 213-021-0008

RULE SUMMARY: The new rule implements the categorization of a criminal offense as Crime Category 3 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-021-0008

Crime Category 3

ORS 475B.363 - ARSON INCIDENT TO MANUFACTURE OF A CANNABINOID EXTRACT II - (C): The value of the property stolen or destroyed was \$1,000 or more but less than \$5,000.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 302 (2017)

ADOPT: 213-021-0009

RULE SUMMARY: The new rule implements the categorization of a criminal offense as Crime Category 2 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-021-0009

Crime Category 2

ORS 475B.363 - ARSON INCIDENT TO MANUFACTURE OF A CANNABINOID EXTRACT II - (C): If the value of the property destroyed was less than \$1,000.

Statutory/Other Authority: ORS 137.667

Statutes/Other Implemented: ORS 137.667, SB 302 (2017)

ADOPT: 213-021-0010

RULE SUMMARY: The new rule implements the categorization of criminal offenses as Crime Category 1 on the crime seriousness scale after 2017 legislation.

CHANGES TO RULE:

213-021-0010

Crime Category 1

(1) ORS 475B.337 - UNLAWFUL POSSESSION BY PERSON 21 YEARS OF AGE OR OLDER - (C): As specified in ORS 475B.354.¶

(2) ORS 475B.341 - UNLAWFUL POSSESSION BY PERSON UNDER 21 YEARS OF AGE - (C): As specified in ORS 475B.354.

Statutory/Other Authority: ORS 137.667, ORS 475B.354

Statutes/Other Implemented: ORS 137.667, SB 302 (2017)