



Nathan Vasquez, Multnomah County District Attorney

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March 26, 2025

Re: Testimony in Support of SB 275

Members of the Senate Judiciary Committee:

As a Senior Deputy District Attorney for Multnomah County for almost 27 years, I represent this office. We are in full support of SB 275. I have prosecuted several thousand property crimes in my career. I specifically will address Section 3 that proposes two amendments to the Computer Crime statute ORS 164.377.

Many Oregonians are victimized by various theft schemes where fraudulent entries are made in a computer system in order to defraud or steal money. If the criminal makes these entries themselves, they are committing Computer Crime. Until 2017, it was also a Computer Crime if the criminal had another person make the entry. But in 2017, the Oregon Court of Appeals held in *State v. Tecle*, 285 Or App 384 (2017), that if the criminal has **another** person make the fraudulent entries, and those computer entries would typically be legitimately made in the normal business duties of this other person, that is **not** computer crime. For example, if a criminal fraudulently opens a new bank account on-line in the victim's name, the criminal would be committing computer crime. But if the criminal goes inside the bank and has the teller make the entries into the computer system with the fraudulent information that the criminal provided (the facts in *Tecle*), the criminal is **NOT** committing computer crime.

The proposed amendment in bold below at Section 3, ORS 164.377 (1) (a) will address this:

To 'access' means to instruct, communicate with, store data in, retrieve data from, **cause in any manner an entry to be made in, including an entry made by another**, or otherwise make use of any resources of a computer, computer system or computer network.

Many sophisticated criminals use computers to list and sell stolen items. This is typically done on otherwise legitimate websites such as eBay, OfferUp, and craigslist. Besides allowing anonymity, such process allows the criminal higher values since the stolen items are listed on legitimate websites where identical non-stolen items are also listed. Potential buyers do not know the item is stolen. Criminals can screen buyers and conduct transactions without ever meeting the buyers. The websites also frequently take credit cards on behalf of the criminal (as compared to normal fencing which is in cash). Until 2024, a criminal knowingly selling stolen items on a website was



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committing Computer Crime under ORS 164.377. In *State v. Azar*, 372 Or 163 (2024), a divided Supreme Court held that the act of using a computer or the internet in an attempt to facilitate a sale is **not** computer crime.

The proposed amendment in bold below at Section 3, ORS 164.377 (2) (d) will address this:

Any person commits computer crime who knowingly accesses, attempts to access or uses, or attempts to use, any computer, computer system, computer network or any part thereof for the purpose of:

- (a) Devising or executing any scheme or artifice to defraud;
- (b) Obtaining money, property or services by means of false or fraudulent pretenses, representations or promises;
- (c) Committing theft, including, but not limited to, theft of proprietary information or theft of an intimate image; **or**
- (d) Buying or selling stolen items.**

These two changes to the Computer Crime statute will appropriately allow criminals to be held accountable once again for using computers to facilitate victimization of Oregonians. I respectfully ask for your support of SB 275 and the amendment to the Computer Crime statute ORS 164.377.

Respectfully,

A handwritten signature in blue ink that reads "Kevin Demer". The signature is fluid and cursive.

Kevin Demer OSB 970473
Senior Deputy District Attorney
Multnomah County, Oregon