

Ordinance Number 12.001.
Amended by Resolution No. 2005-361, dated September 16, 2005.

Adopted: 9/25/92
Subject: Criminal Code

CRIMINAL CODE
OFFENSES AND PUNISHMENTS
Siletz Tribal Code § 12.001

§ 12.001 DEFINITIONS

(a) **Dangerous Weapon.** Any instrument, article, or substance which under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious injury.

(b) **Deadly Weapon.** Any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury.

 Note: A firearm must be loaded (i.e., shell in the firing position or chamber, or in magazine while inside firearm) and be operable to be a deadly weapon.

(c) **Deadly Physical Force.** Physical force that under the circumstances in which it is used is readily capable of causing death or serious injury.

(d) **Peace Officer.** A tribal police officer, sheriff, constable, marshal, municipal police officer, and other persons as may be designated by law.

(e) **Person.** A human being, and where appropriate, a tribe, a public or private corporation, an unincorporated association, a partnership, a government or a government instrumentality.

(f) **Serious Physical Injury.** Physical injury which creates a substantial protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

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(g) Possess. To have physical possession or otherwise to exercise dominion or control over property.

(h) Public Place. A place to which the general public has access and includes but is not limited to hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residences and highways, streets, community centers, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

Justification

§ 12.002 JUSTIFICATION AS A DEFENSE

In any prosecution for an offense, justification is a defense which, if raised, the Siletz Indian Tribe must disprove beyond a reasonable doubt.

§ 12.003 USE OF PHYSICAL FORCE BY PEACE OFFICER IN MAKING AN ARREST OR IN PREVENTING AN ESCAPE

Except as provided in § 12.001(c), a peace officer is justified in using physical force upon another person only when and to the extent that he/she reasonably believes it necessary:

- (1) To make an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unlawful; or
- (2) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while preventing or attempting to prevent an escape.

§ 12.004 USE OF DEADLY PHYSICAL FORCE BY PEACE OFFICER IN MAKING AN ARREST OR IN PREVENTING AN ESCAPE

Notwithstanding the provision as set out in section 12.001(c), a peace officer may use deadly physical force only when he reasonably believes that:

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- (1) The crime committed by the person was an offense or attempt to commit an offense involving the use or threatened imminent use of physical force against a person, (e.g., murder, manslaughter, forcible sex offenses, robbery, or offense assault); or
- (2) The crime committed by the person was kidnapping, arson, escape in the first degree, or any attempt to commit such a crime; or
- (3) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the peace officer or another person from the use or threatened imminent use of deadly physical force; or
- (4) The crime committed by the person was a offense or an attempt to commit an offense and under the totality of the circumstances existing at the time and place, the use of such force is necessary; or
- (5) The officer=s life or personal safety is endangered in the particular circumstances involved.

Note #1: Nothing in subsection (1) of this section constitutes justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain in custody.

Note #2: Before deadly force may be used, if necessary to prevent escape, a peace officer must have probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer, or others, and where practical, some warning must be given.

Inchoate Crimes

§ 12.005 ATTEMPT

Penalty for attempting a crime is generally one degree lower than the penalty for the

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crime itself. An attempt to commit a crime is committed when a person intentionally engages in conduct which constitutes a substantial step toward the commission of a crime.

§ 12.006 SOLICITATION

Penalty for soliciting a person to commit a crime is generally one degree lower than the penalty for the crime itself. The crime of solicitation is committed when a person, with intent to cause another to commit a offense, or class A offense, commands or solicits such other person to engage in that conduct.

§ 12.007 CONSPIRACY

Penalty for conspiracy to commit a crime is the same as the penalty for the crime itself. A criminal conspiracy is committed when a person, with intent that a offense or class A offense, be performed, agrees with one or more persons to engage in or cause the performance of such a crime.

Offenses Against the Tribe, State and Public Justice

§ 12.008 BRIBE GIVING: CLASS A

Giving or offering to give a pecuniary benefit to a public servant with the intent to influence the public servant=s official action, decision, or exercise of discretion in an official capacity.

§ 12.009 BRIBE RECEIVING: CLASS A

A public servant who solicits, accepts, or agrees to accept a bribe.

§ 12.010 PERJURY: CLASS A

Making a false sworn statement in regard to a material issue, knowing it to be false.

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§ 12.011 FALSE SWEARING: CLASS B

Making a false sworn statement, knowing it to be false.

§ 12.012 UNSWORN FALSIFICATION: CLASS C

Knowingly making a false written statement to a public servant or tribal employee when applying for any benefit.

§ 12.013 THIRD DEGREE ESCAPE: CLASS A

Escaping from custody.

§ 12.014 SECOND DEGREE ESCAPE: CLASS A

Escaping from custody by:

- (1) Using or threatening physical force; or
- (2) Having been found guilty or convicted of an offense and escaping from custody imposed as a result thereof; or
- (3) escaping from a correctional facility; or
- (4) Departing from, absenting from, or failing to return to this state without authority while under the jurisdiction of the Psychiatric Security Review Board.

§ 12.015 FIRST DEGREE ESCAPE: CLASS A

(a) Aided by another person actually present, using or threatening to use physical force to escape from custody or a correctional facility; or

(b) Threatening to use or using a dangerous or deadly weapon to escape from custody or a correctional facility.

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§ 12.016 AIDING UNAUTHORIZED DEPARTURE: CLASS B

A person not being an inmate aiding a person confined to a juvenile facility to make or attempt to make an unauthorized departure.

§ 12.017 SUPPLYING CONTRABAND: CLASS A

(a) Knowingly introducing contraband into a juvenile facility, state hospital, or correctional facility; or

(b) Knowingly making obtaining, or possessing contraband when confined to a correctional or juvenile facility or state hospital.

§ 12.018 OBSTRUCTING GOVERNMENTAL ADMINISTRATION: CLASS B

Intentionally obstructing, impairing, or hindering the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle.

Note: This section does not apply to obstruction of unlawful governmental or judicial action or to interference with the making of an arrest.

§ 12.019 REFUSING TO ASSIST PEACE OFFICER: VIOLATION

(a) Unreasonably refusing or failing to assist a firefighter in firefighting operations when commanded to assist by a person known to be a firefighter; or

(b) Intentionally and unreasonably refusing to obey a firefighter=s or peace officer=s lawful order regarding his conduct when near a fire.

§ 12.020 RESISTING ARREST: CLASS B

Intentionally resisting a known peace officer when officer is making an arrest.

Note: AResist@ means the use or threatened use of violence, physical force, or any

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other means that creates a substantial risk of physical injury to any person.

§ 12.021 HINDERING PROSECUTION: CLASS A

With intent to hinder the apprehension, prosecution, conviction, or punishment of a offense suspect or the profit or benefit from the commission of a offense:

- (1) Harboring or concealing a person who has committed a offense; or
- (2) Warning such person of impending discovery or apprehension; or
- (3) Providing or aiding in providing such person with money, transportation, weapon, disguise, or other means of avoiding discovery or apprehension; or
- (4) Preventing or obstructing, by means of force, intimidation, or deception, anyone from performing an act which might aid in the discovery or apprehension of such person; or
- (5) Aiding such person in securing or protecting the proceeds of the crime.

§ 12.022 SIMULATING LEGAL PROCESS: CLASS C

Knowingly issuing or delivering any document that in form and substance falsely simulates civil or criminal process.

§ 12.023 CRIMINAL IMPERSONATION: CLASS B

Falsely impersonating a public servant by doing an act in such assumed character with the intent to obtain a benefit or to injure or defraud another.

§ 12.024 INITIATING A FALSE REPORT: CLASS B

Knowingly initiating a false alarm or report to a fire department, law enforcement agency, or other organizations that deal with emergencies involving danger to life or property (i.e., ambulance service).

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§ 12.025 GIVING FALSE INFORMATION TO POLICE OFFICER FOR A CITATION: CLASS B

Knowingly using or giving a false or fictitious name, address, or date of birth to any peace officer for the purpose of issuing or serving the person a citation.

Offenses Against Persons

§ 12.026 MURDER: CLASS A

(a) Intentionally causing the death of another human being while not under the influence of an extreme emotional disturbance. Murder is also charged if death to a non-suspect results when suspect is attempting or committing or during the immediate flight from any of the following crimes:

- (1) 1st degree arson; or
- (2) 1st degree criminal mischief (by means of explosive); or
- (3) 1st degree burglary; or
- (4) 1st degree escape; or
- (5) 1st and 2nd degree kidnapping; or
- (6) 1st degree robbery; or
- (7) any offense 1st degree sexual offense; or
- (8) compelling prostitution

§ 12.027 FIRST DEGREE MANSLAUGHTER: CLASS A

Recklessly causing death of another human being under circumstances manifesting extreme indifference to the value of human life and/or intentionally causing death of another human being while under the influence of an extreme emotional disturbance.

§ 12.028 SECOND DEGREE MANSLAUGHTER: CLASS A

Recklessly causing the death of another human being and/or intentionally causing or aiding another person to commit suicide.

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§ 12.029 CRIMINALLY NEGLIGENT HOMICIDE: CLASS A

With criminal negligence, causing the death of another human being.

§ 12.030 FOURTH DEGREE ASSAULT: CLASS B

Intentionally, knowingly, or recklessly causing physical injury to another and/or with criminal negligence, causing physical injury to another by means of a deadly weapon.

§ 12.031 THIRD DEGREE ASSAULT: Class A

Recklessly causing serious physical injury to another by means of deadly or dangerous weapon or recklessly causing serious physical injury to another by means of a deadly or dangerous weapon under circumstances manifesting extreme indifference to the value of human life.

§ 12.032 SECOND DEGREE ASSAULT: Class A

- (a) Intentionally or knowingly causing serious physical injury to another; or
- (b) Intentionally or knowingly causing physical injury to another by means of a deadly or dangerous weapon.
- (c) Recklessly causing serious physical injury to another by means of a deadly or dangerous weapon under circumstances manifesting extreme indifference to the value of human life.

§ 12.033 FIRST DEGREE ASSAULT: CLASS A

Intentionally causing serious physical injury to another by means of a deadly or dangerous weapon.

§ 12.034 MENACING: CLASS B

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By word or conduct, intentionally attempting to place another in fear of imminent serious physical injury.

§ 12.035 RECKLESSLY ENDANGERING ANOTHER PERSON: CLASS B

Recklessly engaging in conduct which creates a substantial risk of serious physical injury to another person.

§ 12.036 SECOND DEGREE CRIMINAL MISTREATMENT: CLASS B

With criminal negligence and in violation of a legal duty to provide care for another, with-holding necessary and adequate food, physical care, or medical attention from that person.

§ 12.037 FIRST DEGREE CRIMINAL MISTREATMENT: CLASS A

(a) Violating a legal duty to provide care for another person by intentionally or knowingly withholding necessary and adequate food, physical care, or medical attention from that person.

(b) Having assumed permanent or temporary care, custody, or responsibility for the supervision of a dependent person, intentionally or knowingly causing physical injury or injuries to the dependent person.

Note: ADependent Person@ means a person who, because of either age or physical or mental disability is dependent upon another to provide for the persons physical needs.

§ 12.038 ASSAULTING A PUBLIC SAFETY OFFICER: CLASS B

Intentionally or knowingly causing physical injury to a know peace officer, corrections officer, or fire fighter while acting in the course of official duties.

§ 12.039 SECOND DEGREE KIDNAPPING: CLASS A

(a) With intent to interfere substantially with another=s personal liberty, and without

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consent or legal authority:

- (1) Taking a person from one place to another place; or
- (2) Secretly confining another where he is not likely to be found.
Note: This section does not apply to child stealing by a relative when child is under 16 years of age and the sole purpose is to assume control of the child.

§ 12.040 FIRST DEGREE KIDNAPPING: CLASS A

- (a) Violating § 12.039 with purpose of:
 - (1) Compelling someone to pay a ransom; or
 - (2) Holding victim as shield or hostage; or
 - (3) Causing physical injury to victim; or
 - (4) Terrorizing victim or any other person.

§ 12.041 SECOND DEGREE CUSTODIAL INTERFERENCE: CLASS A

Knowing or with reason to know he has no right to do so, taking, enticing, or keeping or with reason from the person=s lawful custodian with intent to hold the person permanently or for a protracted period.

§ 12.042 FIRST DEGREE CUSTODIAL INTERFERENCE: CLASS A

- (a) Violating § 12.042, plus:
 - (1) Taking victim out of the state; or
 - (2) Exposing victim to substantial risk of illness or physical injury.

§ 12.043 COERCION: CLASS A

- (a) Compelling or inducing another person to engage in conduct he has a right to abstain from, or to abstain from conduct he has a right to engage in, by instilling in him a fear that if the demand is not complied with, someone in the future will:

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- (1) Unlawfully injure some person; or
- (2) Unlawfully damage property; or
- (3) Commit some other crime against victim or third person; or
- (4) Falsely accuse some person of a crime or cause criminal charges to be brought against the person.

§ 12.044 THIRD DEGREE RAPE: CLASS A

A person having sexual intercourse with a juvenile under 16 years of age.

§ 12.045 SECOND DEGREE RAPE: CLASS A

A person having sexual intercourse with a juvenile under 14 years of age or a person having sexual intercourse with a juvenile of any age who is incapable of consent because of mental defect, mental incapacitation, or physical helplessness.

§ 12.046 FIRST DEGREE RAPE: CLASS A

- (a) A person forcibly compelling a victim of any age to engage in sexual intercourse;
- or
- (b) A person having sexual intercourse with a juvenile under 12 years of age; or
- (c) A person having sexual intercourse with his/her sibling, of whole or half blood, a person=s children, or step-children if the victim is under 16 years of age.

§ 12.047 THIRD DEGREE SODOMY: CLASS A

Engaging in deviate sexual intercourse with a person under 16 years of age or causing that person to engage in deviate sexual intercourse.

§ 12.048 SECOND DEGREE SODOMY: CLASS A

Engaging in deviate sexual intercourse with a person under 14 years of age or causing

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that person to engage in deviate sexual intercourse and/or engaging in deviate sexual intercourse with a person of any age and the person cannot consent because of mental defect, mental incapacitation, physical helplessness, or causing that person to engage in deviate sexual intercourse.

§ 12.049 FIRST DEGREE SODOMY: CLASS A

(a) Forcibly compelling or causing a person of any age to engage in deviate sexual intercourse; or

(b) Engaging in deviate sexual intercourse with a person under 12 years of age or causing that person to engage in deviate sexual intercourse; or

(c) Engaging in deviate sexual intercourse with a brother or sister of whole or half-blood, or a son or daughter, or the spouse=s son or daughter if the victim is under 16 years of age, or causing such person to engage in deviate sexual intercourse.

§ 12.050 SECOND DEGREE SEXUAL PENETRATION WITH A FOREIGN OBJECT: CLASS A

Penetration of the vagina, anus, or penis of another, with any object not part of the actor=s body, and victim cannot consent because of mental defect, mental incapacitation, or physical helplessness or victim is under 14 years of age.

§ 12.051 FIRST DEGREE SEXUAL PENETRATION WITH A FOREIGN OBJECT: CLASS A

(a) Penetration of the vagina, anus, or penis of another, with any object not part of the actor=s body, and victim is subjected to forcible compulsion or victim is under 12 years of age

Note: The two crimes immediately above do not apply to penetration which is part of a medically recognized treatment, diagnostic procedure, or penetration by a peace officer, or corrections officer, or by medical personnel at the request of such officer, in making a search for weapons, contraband, or evidence of a crime.

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§ 12.052 SECOND DEGREE SEXUAL ABUSE: CLASS B

(a) Subjecting another to sexual contact and victim does not consent or victim cannot consent because of being under 18 years of age, mental incapacity, mental defect, or physical helplessness.

Note: Affirmative defense for defendant to prove (a) - victim=s lack of consent due solely to being under 18 years of age, and (b) - victim was more than 14 years of age and (c) - defendant was less than 4 years older than victim.

§ 12.053 FIRST DEGREE SEXUAL ABUSE: CLASS A

(a) Subjecting another to sexual contact and:

- (1) Victim is under 12 years of age; or
- (2) Victim of any age is subjected to forcible compulsion; or
- (3) Subjecting another without consent to sexual intercourse, deviate sexual intercourse or penetration of the vagina, anus or penis of another with any object not part of the actor=s body.

§ 12.054 CONTRIBUTING TO SEXUAL DELINQUENCY OF MINOR: CLASS B

A person over 18 years of age having sexual intercourse with a individual under 18 years of age or any person over 18 years of age having deviate sexual intercourse with a person under 18 years of age.

§ 12.055 SEXUAL MISCONDUCT: CLASS B

Any person, regardless of age, having sexual intercourse or deviate sexual intercourse with a person under 18 years of age.

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§ 12.056 PUBLIC INDECENCY: CLASS B

- (a) Performing one of the following acts in or in view of a public place:
- (1) Sexual intercourse; or
 - (2) Deviate sexual intercourse; or
 - (3) Exposing one=s genitals with intent of sexually arousing himself or another person.

§ 12.057 BIGAMY: CLASS A

A person commits the crime of bigamy if the person knowingly marries or purports to marry another person at a time when either is lawfully married.

§ 12.058 INCEST: CLASS A

Marrying or having sexual intercourse or deviate sexual intercourse with an ancestor, descendent, or brother, or sister of the whole or half-blood, while knowing that they are so related, either legitimately or illegitimately so.

§ 12.059 ABANDONMENT OF CHILD: CLASS A

A parent, guardian, or other custodian who deserts, in any place, a child under 15 years of age with intent to abandon it.

§ 12.060 CHILD NEGLIGENCE: CLASS B

A parent or custodian who, with criminal negligence, leaves a child under 10 years of age unattended in, or in any place, for such period of time as may be likely to endanger the health or welfare of such child.

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§ 12.061 CRIMINAL NON-SUPPORT: CLASS A

A person commits the crime of criminal non support if, being the parent, lawful guardian, or other person lawfully charged with the support of a child under 18 years of age, born in or out of wedlock, the person refuses, or neglects without lawful excuse to provide support for such child.

§ 12.062 ENDANGERING WELFARE OF MINOR

(a) Knowingly inducing, causing or permitting an unmarried person under 18 to view an act of sexual conduct or sadomasochistic abuse;

(b) Knowingly permitting a person under 18 to enter or remain at a place where unlawful activity involving controlled substance is conducted or maintained; or

(c) Knowingly inducing, causing or permitting a person under 18 to participate in gambling; or

(d) Knowingly selling, or causing to be sold, tobacco in any form to a person under 18; or

(e) Knowingly selling to a person under 18 any device designed to be used for smoking tobacco, marijuana, cocaine, or any controlled substance, including pipes, carburetion tubes, bongs, cigarette rolling papers and machines, etc.

**§ 12.063 POSTING OF SIGNS CONCERNING SALE OF SMOKING DEVICES:
VIOLATION**

Failure by a person who sells any of the smoking devices listed in § 12.062, to display a sign clearly stating that the sale of such devices to persons under 18 is prohibited by law.

**§ 12.064 USING CHILD IN DISPLAY OF SEXUALLY EXPLICIT CONDUCT:
CLASS A**

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Employing, authorizing, permitting, compelling or inducing a child under 18 years of age to participate or engage in sexually explicit conduct, for any person to observe or to record in a photograph or other visual recording.

OFFENSES AGAINST PROPERTY

§ 12.065 ATHEFT@ DESCRIBED

(a) With intent to deprive another of property or to appropriate property to oneself or to a third person, theft may be committed in the following ways:

- (1) Taking, obtaining, appropriation, or withholding property of another; or
- (2) Wrongfully keeping property by that is lost, mislaid, or delivered by mistake; or
- (3) Threatening another with future harm so he gives up property because of fear of that future harm occurring; or
- (4) Deceiving another, by means of a false document, or fraudulent statement, to part with his property; or
- (5) Receiving, concealing, or disposing of stolen property.

§ 12.066 THIRD DEGREE THEFT: CLASS D

Theft is committed in any of the ways described in § 12.065 except (3) - by extortion, and the total value of the property in a single or aggregate transaction is under \$50.00.

§ 12.067 SECOND DEGREE THEFT: CLASS B

Theft is committed in any of the ways described in § 12.065, except (3) - by extortion, and the total value of the property in a single or aggregate transaction is under \$50.00 or more but is under \$200.00 in a case of theft by receiving and under \$500.00 in any other case.

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§ 12.068 FIRST DEGREE THEFT: CLASS A

(a) Theft is committed in any of the ways described in § 12.065, except (3) - by extortion, and the total value of the property in a single or aggregate transaction is \$200.00 or more in any case by receiving, and \$500.00 or more in any other case; or

- (1) Any theft committed during a riot, fire, explosion, catastrophe, or other emergency in a area affected thereby; or
- (2) Theft by receiving committed by buying, selling, borrowing, or lending on the security of any stolen property; or
- (3) Theft of a firearm or explosive; or
- (4) Theft of a livestock animal.

§ 12.069 AGGRAVATED FIRST DEGREE THEFT: CLASS A

The person violates § 12.068 - First Degree Theft - with respect to property, other than a motor vehicle used primarily for personal, rather than commercial transportation, and the value of the property in a single, or aggregate transaction is \$10,000.00 or more.

§ 12.070 THEFT OF LOST, MISLAID PROPERTY: CLASS B

With intent to deprive the owner of lost, mislaid, or mistakenly delivered property, failing to take reasonable measures to restore the property to the owner.

§ 12.071 THEFT BY EXTORTION: CLASS A

(a) Compelling another person to deliver, by instilling in him a fear that if the property is not delivered, someone in the future will:

- (1) Cause physical injury to some person; or

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- (2) Cause damage to property; or
- (3) Engage in other conduct constituting a crime; or
- (4) Accuse some person of a crime or cause criminal charges to be brought against the person.

§ 12.072 THEFT BY DECEPTION: CLASS B

- (a) With intent to defraud, obtaining property of another by:
 - (1) Creating or confirming another=s false impression of law, value, or intent while not believing it himself; or
 - (2) Failing to correct a false impression of another which he previously created or confirmed; or
 - (3) Preventing another from acquiring information pertinent to the involved property=s disposition; or
 - (4) Selling property without disclosing a lien or other adverse claim against it; or
 - (5) Promising performance he does not intend or knows will not be performed:
 - (A) Defendant=s intention or belief that a promise would not be performed cannot be established by or inferred from the fact alone that a such promise was not performed.
 - (B) Theft by deception can be committed by means of a bad check (i.e. account closed or NSF).

§ 12.073 THEFT BY RECEIVING: CLASS B

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(a) Receiving, retaining, concealing or disposing of property of another while knowing or having good reason to know the property was stolen.

Note: Actual knowledge or belief that the property was stolen is required to be proven, not merely good reason to know.

§ 12.074 THEFT OF SERVICES: CLASS A, B or C

(a) With intent to avoid payment therefore, a person obtains services that are available only for compensation, by force, threat, deception, or other means to avoid payment for the services. Theft of Services is:

- (1) A Class D offense, if the aggregate total value of services that are the subject of the theft is under \$50.00;
- (2) A Class B offense if the aggregate total value of services that are subject of the theft is \$50.00 or more, but is under \$500.00.
- (3) A Class A offense if the aggregate total value of services that are the subject of the theft is \$500.00 or more; and
- (4) A Class A offense if the aggregate total value of services that are the subject of the theft is \$10,000.00 or more.

Note: AServices@ includes labor, professional services, transportation, communication services, (which includes use of telephone, computer and cable television systems), entertainment, the supplying of food, lodging, or other accommodations in hotels, restaurants, or elsewhere, the supplying of equipment for use, and the supplying of public utility commodities such as gas, electricity, steam and water.

**§ 12.075 UNLAWFUL DISTRIBUTION OF CABLE TELEVISION EQUIPMENT:
CLASS D**

Knowingly manufacturing, importing into the Siletz Indian Reservation, distributing,

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selling, offering the sale, rental or use, possessing for sale, rental or use, any device designed to make available the unauthorized reception of cable television signals.

§ 12.076 CRIMINAL POSSESSION OF RENTED OR LEASED PERSONAL PROPERTY: CLASS A or B

- (a) Knowingly failing to return rented or leased equipment after written demand; if
 - (1) The aggregate total value of equipment not returned is under \$500.00, it is a Class B offense; or
 - (2) The aggregate total value of equipment not returned is \$500.00 or more, it is a Class A offense.

§ 12.077 SECOND DEGREE BURGLARY: CLASS A

Entering or remaining, unlawfully, in a building with the intent to commit a crime therein.

§ 12.078 FIRST DEGREE BURGLARY: CLASS A

- (a) Violation of § 12.077, and the building is a dwelling or if in effecting entry or while in a building, or in immediate flight therefrom the person:
 - (1) Is armed with a burglar=s tool or a deadly weapon; or
 - (2) Causes or attempts to cause physical injury to any person; or
 - (3) Uses or threatens to use a dangerous weapon.

§ 12.079 POSSESSION OF BURGLAR=S TOOLS: CLASS B

Possessing a burglar tool with intent to use it or knowing someone else who intends to use it to commit or facilitate a forcible entry into premises or a theft by physical taking.

§ 12.080 SECOND DEGREE CRIMINAL TRESPASS: CLASS D

Entering or remaining in or upon premises without permission. This crime also includes

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a person who without written permission drives, or rides in a vehicle upon private premises which have been posted. However, emergency or law enforcement vehicles are not prevented from entering onto posted premises.

Note: This crime includes a guest or anyone with the guest, who intentionally remains unlawfully in a transient lodging (e.g., hotel, inn, or rented condominium), after the departure date of the guest=s reservation without approval.

§ 12.081 FIRST DEGREE CRIMINAL TRESPASS: CLASS B

Entering or remaining unlawfully in a dwelling.

**§ 12.082 CRIMINAL TRESPASS WHILE IN POSSESSION OF A FIREARM:
CLASS B**

Entering or remaining unlawfully in or upon premises while in possession of a firearm.

§ 12.083 FIRST DEGREE ARSON: CLASS A

Intentionally damaging another=s protected property by starting a fire or causing an explosion or intentionally damaging any property, including his/her own, or another=s by fire or explosion, and such acts recklessly places another person in danger of physical injury or protected property of another in danger of damage.

§ 12.084 RECKLESS BURNING: CLASS B

Recklessly damaging another=s property by fire or explosion.

§ 12.085 THIRD DEGREE CRIMINAL MISCHIEF: CLASS D

Tampering or interfering with another=s property, when he has no right to do so, nor reasonable ground to believe that he has such right, with intent to cause substantial inconvenience to owner or to another person.

§ 12.086 SECOND DEGREE CRIMINAL MISCHIEF: CLASS A

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- (a) Intentionally damaging or destroying another=s property, while having not right to do so, nor reasonable ground to believe he has such right:
- (1) In an amount over \$500.00; or
 - (2) By means of an explosion; or
 - (3) The property is a livestock animal; or
 - (4) The property belongs to a public utility, railroad, or public transportation facility used in direct service to the public.

§ 12.087 TAMPERING WITH CABLE TELEVISION EQUIPMENT: CLASS C

Knowingly tampering or otherwise interfering with or connecting to by any means any cable, wire, or other device used for the distribution of cable television service, without authority of the provider of such service or knowingly permitting another person to tamper or otherwise interfere with, or connect to by any means any cable, wire, or other device used for the distribution of cable television service, such tampering, interfering, or connecting being upon premises under the control of such first person or intended for the benefit of such first person, without authority of the provider of such service.

§ 12.088 COMPUTER CRIME: CLASS A or B

Any person who knowingly and without authorization alters, damages or destroys any computer system, computer network, or any computer software, program documentation or data contained in such computer, computer system or computer network, commits computer crime or any person who knowingly and without authorization uses, access or attempts to access any computer, computer system or computer network, commits computer crime.

§ 12.089 THIRD DEGREE ROBBERY: CLASS A

(a) In the course of committing or attempting to commit theft, using or threatening the immediate use of physical force upon another person with intent to:

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- (1) Prevent or overcome resistance to his unlawful taking of property; or
- (2) Prevent or overcome resistance to his keeping property immediately after the unlawful taking; or
- (3) Compel another to deliver property or to engage in some other conduct which might aid the theft.

§ 12.090 SECOND DEGREE ROBBERY: CLASS A

Violating § 12.089, plus representing by work or conduct that he is armed with what purports to be a deadly or dangerous weapon or is aided by another person actually present.

§ 12.091 FIRST DEGREE ROBBERY: CLASS A

Violating § 12.089, plus is armed with a deadly weapon or uses or attempts to use a dangerous weapon, or causes, or attempts to cause, serious physical injury to any person.

§ 12.092 OFFENSIVE LITTERING: CLASS D

A person commits the crime of offensive littering if the person intentionally creates an objectionable stench or degrades the beauty or appearance of property or detracts from the natural cleanliness or safety of property.

§ 12.093 ENDANGERING AIRCRAFT: CLASS A

- (a) Knowingly throwing object at or dropping object on aircraft; or
- (b) Knowingly discharging bow and arrow, gun, airgun, or firearm at or toward aircraft; or
- (c) Knowingly tampering with aircraft, aircraft equipment, or parts so as to impair safety or operation without consent; or

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(d) Knowingly placing or causing to be discharged any spring gun or explosive with intent to damage or discourage operation of any aircraft.

OFFENSES INVOLVING FRAUD OR DECEPTION

§ 12.094 SECOND DEGREE FORGERY: CLASS B

- (a) With intent to injure or defraud:
- (1) Falsely making, completing or altering a written instrument; or
 - (2) Uttering a written instrument known to be forged.

§ 12.095 FIRST DEGREE FORGERY: CLASS A

- (a) Violating (§ 12.094(1) & (2), and the instrument is one of the following:
- (1) Money, stamps, or other valuable instruments issued by the government;
or
 - (2) Stocks, bonds; or
 - (3) Deeds, wills, credit card invoices, or checks, or other commercial
instruments; or
 - (4) Public records.

**§ 12.096 FIRST DEGREE CRIMINAL POSSESSION OF FORGED INSTRUMENT:
CLASS B**

Possessing a known forged instrument as described in § 12.094(1), while intending to utter it.

§ 12.097 CRIMINAL POSSESSION OF A FORGERY DEVICE: CLASS B

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Making or possessing with knowledge of its character any plate, die or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or forging written instruments or with intent to use for purposes of forgery, making or possessing any device, apparatus, equipment or article capable of or adaptable to such forgery use.

§ 12.098 CRIMINAL SIMULATION: CLASS B

With intent to defraud, making or altering any object in such a manner that it appears to have antiquity, rarity, source or authorship that it does not in fact possess or with knowledge of its true character and with intent to defraud, uttering or possessing an object so simulated.

§ 12.099 FRAUDULENTLY OBTAINING A SIGNATURE: CLASS B

Obtaining the signature of a person to a written instrument by knowingly misrepresenting any fact, with intent to defraud or injure another.

§ 12.100 UNLAWFULLY USING SLUGS: CLASS C

With intent to defraud the supplier of property or a service sold or offered by means of a coin machine, inserting, depositing, or otherwise using a slug in such machine or making, possessing, offering for sale or disposing of a slug with intent to enable a person to use it fraudulently in a coin machine.

§ 12.101 FRAUDULENT USE OF CREDIT CARD: CLASS A or B

(a) Using a credit card, (which includes a credit card number), for the purpose of obtaining property or services with the intent to injure or defraud with knowledge that:

- (1) The card is stolen or forged; or
- (2) The card has been revoked or canceled; or
- (3) For any other reason the use of the card is unauthorized by either the issuer or the person to whom the credit card is issued.

§ 12.102 NEGOTIATING A BAD CHECK: CLASS A or B

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(a) Making or uttering a bad check knowing it will not be honored by the drawee bank, (i.e., account closed, or NSF, etc.) It is not necessary that money or property be received. Making or presenting the check is sufficient. No proof of an intent is required.

(1) Penalty: Class B, except as noted below

Note: Class A - If person has been convicted in this state within preceding 5 years of negotiating bad check, or theft by deception by means of a bad check.

§ 12.103 MISREPRESENTATION OF AGE BY A MINOR: CLASS D

Being less than a certain, specified age, one knowingly purports to be of any age other than his true age with the intent of securing a right, benefit, or privilege which by law is denied to persons under that certain, specified age or being unmarried, one knowingly represents that he is married with the intent of securing a right, benefit, or privilege which by law I denied to unmarried persons.

§ 12.104 RIOT: CLASS A

Participating with five or more other persons in tumultuous and violent conduct and thereby intentionally or recklessly creating a grave risk of causing public alarm.

§ 12.105 DISORDERLY CONDUCT: CLASS C

(a) With intent to cause public inconvenience, annoyance or alarm, or recklessly creating risk of such by:

- (1) Fighting, or violent, tumultuous or threatening behavior; or
- (2) Making unreasonable noise; or
- (3) Disturbing any lawful assembly of persons without lawful authority; or
- (4) Obstructing vehicular or pedestrian traffic on a public way; or

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- (5) Refusing to obey lawful order of the police to disperse from gathering with other persons in a public place; or

§ 12.106 HARASSMENT: CLASS C

- (a) Intentionally harassing or annoying another person by:

- (1) Subjecting such other person to offensive physical conduct; or
- (2) Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response; or
- (3) Subjecting another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or
- (4) Subjecting another to alarm by conveying a telephone or written threat to inflict property of that person or any member of that person=s family, which threat reasonably would be expected to cause alarm.
Note: A person who knowingly permits a telephone under his control to be used in the ways described in §12.106(3), also commits harassment.

§ 12.107 ABUSE OF VENERATED OBJECTS: CLASS D

Intentionally abusing a public monument, structure, a place of worship, or burial, or a tribal national or state flag, or other historical, tribal or religious objects.

§ 12.108 ABUSE OF CORPSE: CLASS D

Intentionally abusing a corpse, or disinterring, removing, or carrying away a corpse.

§ 12.109 TELEPHONIC HARASSMENT: CLASS C

- (a) Intentionally harassing or annoying another person by:

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- (1) Causing the telephone of the other person to ring, such caller having no communicative purpose; or
- (2) Causing such other person=s telephone to ring and causing such other person=s to answer it, knowing that the caller has been forbidden from doing so by a person exercising lawful authority over the receiving telephone.

§ 12.110 MISCONDUCT WITH EMERGENCY TELEPHONE CALLS: CLASS C

Intentionally refusing to relinquish a party line or public pay telephone after being informed that it is needed for an emergency call or requesting another to relinquish a party-line or public pay telephone to place an emergency call with knowledge that no such emergency exists.

§ 12.111 INTERFERING WITH PUBLIC TRANSPORTATION: CLASS B

With intent to harass, annoy or alarm, subjecting the operator of any bus to offensive physical contact when the bus is operated by or under contract to any public body in order to provide public transportation.

§ 12.112 SECOND DEGREE INTIMIDATION: CLASS B

- (a) Because of another person=s race, color, religion, or national origin:
 - (1) Tampering or interfering with such other person=s property, having no right to do so, nor reasonable ground to believe that he has such right, with the intent to cause substantial inconvenience to the other person; or
 - (2) Intentionally subjecting such other person to offensive physical contact; or
 - (3) Intentionally subjecting such other person or member of his family to alarm by threatening:

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(A) To inflict serious physical injury upon such other person, or a member of the person=s family; or

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

§ 12.113 FIRST DEGREE INTIMIDATION: CLASS A

(a) Because of another person=s race, color, religion, or national origin, two or more persons acting together:

(1) Intentionally, knowingly, or recklessly causing physical injury to such other person; or

(2) With criminal negligence causing physical injury to such other person by means of a deadly weapon; or

(3) Intentionally placing such other person in fear of imminent serious physical injury; or

(4) Commit such acts as would violate §12.112, if done by one person acting alone.

§ 12.114 NEGLIGENTLY WOUNDING ANOTHER: UNCLASSIFIED OFFENSE

Wounding another person with a bullet or shot from any firearm or with an arrow from any bow, which results from defendant=s failure to use ordinary care under the circumstances.

§ 12.115 POINTING FIREARM AT ANOTHER: UNCLASSIFIED OFFENSE

Being over the age of 12 years, purposely pointing or aiming any loaded or empty firearm at or toward any person within range of the firearm.

§ 12.116 DEFINITIONS FOR FIREARM LAWS

(a) AFirearm@ means a weapon by whatever name known, which is designed to expel

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a projectile by the action of black powder, or smokeless powder, and which is readily capable of use as a weapon.

- (b) APistol,@ Arevolver,@ and Afirearms capable of being concealed upon the person,@

apply to and include all firearms having a barrel less than 12 inches in length.

(c) AMachine gun@ means a weapon of any description by whatever name known, loaded or unloaded, from which two or more shots may be fired by a single pressure on the trigger device.

§ 12.117 ATTEMPTING TO USE DANGEROUS WEAPON; CARRYING DANGEROUS WEAPON WITH INTENT TO USE IT: CLASS A

Attempting to use unlawfully against another person, or carrying or possessing with intent to use unlawfully against another, any dangerous or deadly weapon.

§ 12.118 CARRYING CONCEALED WEAPON: CLASS C

Carrying concealed upon the person any knife, having a blade that projects or swings into position by force of a spring or by centrifugal force and commonly known as a switchblade knife, any dirk, dagger, ice pick, sling shot, metal knuckles, or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person.

Note: This statute does not apply to any peace officer whose duty it is to serve process or make arrests.

§ 12.119 UNLAWFUL POSSESSION OF FIREARMS: CLASS B

- (a) Knowingly possessing any machine gun not registered as required under federal law; or
- (b) Knowingly carrying any firearm concealed upon the person, without having a license to carry a concealed firearm; or
- (c) Knowingly carrying concealed and readily accessible about the person within any

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vehicle which is under the person=s control or direction any firearm capable of being concealed upon the person, without having a license to carry such firearm.

§ 12.120 EX-CONVICT IN POSSESSION OF FIREARMS: CLASS B

Prohibits any person convicted of a offense under the laws of Oregon, any other state, or the United States, from owning, possessing, or having less than 18 inches in length, any other firearm having a barrel less than 16 inches in length, any firearm having a total length of less than 26 inches, any firearm designed to be fired other than from the shoulder, or any machine gun.

§ 12.121 EX-CONVICT IN POSSESSION OF A RESTRICTED WEAPON: CLASS A

(a) Prohibits any person convicted of a offense under the laws of Oregon, any other state, or the United States, from owning, possessing, or having custody of or control over any instrument or weapon having a blade that projects or swings into position by force of a spring or centrifugal force and commonly known as a switchblade knife, or an instrument or weapon commonly known as blackjack, sling shot, sandclub, sandbag, sap glove, or metal knuckles; or

Note: This statute does not apply if:

- (1) At the time of conviction the offense was made offense by the type or manner of sentence actually imposed; or
- (2) The offense was for possession of marijuana; or
- (3) The person was convicted of only one offense which did not involve the possession of use of firearms, or switchblade knives, and the person has been discharged from imprisonment, parole, or probation for a period of 15 years prior to the date of the alleged violation of this statute.

§ 12.122 UNLAWFUL POSSESSION OF ARMOR PIERCING AMMUNITION: CLASS B

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Making or selling, buying or possessing any handgun ammunition, the bullet or projectile or which is coated with Teflon or any chemical compound with properties similar to Teflon and which is intended to penetrate soft body armor, while having the intent that the ammunition be used in the commission of a offense or carrying any ammunition described above while committing any offense during which the person or accomplice of the person is armed with a firearm.

§ 12.123 POSSESSION OF DESTRUCTIVE DEVICE OR LOADED FIREARM IN OR ON PUBLIC BUILDING: UNCLASSIFIED OFFENSE

Prohibits possession of a destructive device or loaded or unloaded firearm on the person in or on a public building.

§ 12.124 DISCHARGING WEAPON ON OR ACROSS HIGHWAY, OCEAN SHORE RECREATION AREA OR PUBLIC UTILITY FACILITY: VIOLATION

Discharging or attempting to discharge a bow and arrow, air rifle, or any firearm upon or across any highway, public road, or ocean shore or at any public or railroad sign, or any power transmission line, etc. Status does not apply to peace officers on duty or to military personnel on military reservation.

§ 12.125 THROWING OR SHOOTING AT TRAINS: CLASS B

Knowingly throwing an object at or dropping an object on, or discharging a bow and arrow, air rifle or other firearm at a railroad train or a person or commodity being transported on a train.

§ 12.126 DISCHARGING WEAPON ON OR ACROSS AIRPORT OPERATIONAL SURFACE: CLASS B

Knowingly or recklessly discharging a bow and arrow, gun, air gun, or any firearm upon or across any airport operational surface.

§ 12.127 UNLAWFUL PARAMILITARY ACTIVITY: CLASS A

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(a) With intent or knowledge that a firearm, explosive, or incendiary device or technique capable of causing injury or death will be unlawfully used in a civil disorder:

- (1) Exhibiting, displaying, or demonstrating the use or making of such firearm, explosive, incendiary, or technique; or
- (2) Assembling with one or more persons for purpose of training with or practicing with such firearm, etc.

§ 12.128 PROSTITUTION: CLASS B

Engaging in, or offering or agreeing to engage in, sexual conduct or sexual contact in return for a fee or paying or offering or agreeing to pay a fee to engage in sexual conduct or sexual contact.

§ 12.129 PROMOTING PROSTITUTION: CLASS A

- (a) With intent to promote prostitution, one knowingly:
- (1) Owns, controls, manages, supervises, or otherwise maintains a place of prostitution, or a prostitution enterprise; or
 - (2) Induces or causes a person to engage in prostitution or to remain in a place of prostitution; or
 - (3) Receives or agrees to receive money or other property from a prostitution enterprise; or
 - (4) Institutes, aids, or facilitates an act or enterprise of prostitution.

§ 12.130 COMPELLING PROSTITUTION: CLASS A

- (a) A person knowingly:

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- (1) Uses force or intimidation to compel another to engage in prostitution; or
- (2) Induces or causes one under 18 to become a prostitute; or
- (3) Induces or cause spouse, child, or stepchild to engage in prostitution.

§ 12.131 SECOND DEGREE PROMOTING GAMBLING: CLASS B

Knowingly promoting or profiting from unlawful gambling.

§ 12.132 FIRST DEGREE PROMOTING GAMBLING: CLASS A

- (a) Violates § 12.131 to the extent that:
 - (1) One receives in any one day more than five bets totaling more than \$500.00; or
 - (2) One receives from a lottery or numbers scheme money or written records from a person other than a player, or receives more than \$500.00 in one day of money played in the scheme.

§ 12.133 SECOND DEGREE POSSESSION OF GAMBLING RECORDS: CLASS B

- (a) Knowingly possessing any writing, paper, or article:
 - (1) Of a kind commonly used in a bookmaking scheme; or
 - (2) Of a kind commonly used in a lottery or numbers scheme.

§ 12.134 FIRST DEGREE POSSESSION OF GAMBLING RECORDS: CLASS A

- (a) Knowingly possessing any writing, paper, or article of a kind commonly used:
 - (1) In a bookmaking operation, and representing more than five bets totaling

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more than \$500.00; or

- (2) In the operation of a lottery, and representing more than 500 plays of chance.

§ 12.135 POSSESSION OF A GAMBLING DEVICE: CLASS B

(a) Knowingly manufacturing, selling, transporting, placing, or possessing or conducting or negotiating a transaction affecting or designed to affect ownership, custody, or use of:

- (1) A slot machine; or
- (2) Any other gambling device, believing that the device is to be used in promoting unlawful gambling activity.

Note: It is a defense to this charge if the slot machine or gambling device was manufactured prior to 1958, and was not operated for purposes of unlawful gambling.

Note: Sections 12.133 through 12.135 do not pertain to any Siletz Tribal gaming operation.

§ 12.1 36 ANIMAL ABUSE IN THE SECOND DEGREE: CLASS C

Except as otherwise authorized by law, a person intentionally, knowingly, or recklessly causes physical injury to an animal.

Note: Any practice of good animal husbandry is not a violation of this statute.

§ 12.137 ANIMAL ABUSE IN THE FIRST DEGREE: CLASS B

- (a) Except as otherwise authorized by law, a person intentionally, knowingly,

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recklessly:

- (1) Causes serious physical injury to an animal; or
- (2) Cruelly causes the death of an animal.

§ 12.138 ANIMAL NEGLECT IN THE SECOND DEGREE: CLASS C

Except as otherwise authorized by law, a person intentionally, knowingly, recklessly, or with criminal negligence, fails to provide minimum care for an animal in such person=s custody or control.

§ 12.139 ANIMAL NEGLECT IN THE FIRST DEGREE: CLASS B

(a) Except as otherwise authorized by law, a person intentionally, knowingly, recklessly, or with criminal negligence:

- (1) Fails to provide minimum care for an animal in such person=s custody or control; or
- (2) Such failure to provide care results in serious physical injury or death to the animal.

§ 12.140 ANIMAL ABANDONMENT: CLASS D

Intentionally, knowingly, recklessly, or with criminal negligence leaving a domesticated animal at a location without providing for the animal=s continued care.

§ 12.141 INVOLVEMENT IN ANIMAL FIGHTING: CLASS B

(a) A person commits the crime of involvement in animal fighting if the person:

- (1) Owns or trains an animal with the intention that the animal engage in an exhibition of fighting; or

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- (2) Promote, conducts, participates in or is present as a spectator at an exhibition of fighting or preparations thereto: or
- (3) Keeps or uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of an exhibition of fighting; or
- (4) Knowingly suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of fighting.

Note: For the purposes of this section:

- (a) AAnimal@ means any bird, reptile, amphibian, fish, or non-human mammal, other than a dog.
- (b) AExhibition of Fighting@ means a public or private display of combat between two or more animals in which the fighting, killing, maiming, or injuring of animals is a significant feature. AExhibition of Fighting@ does not include demonstrations of the hunting or tracking skills of an animal or the lawful use of animals for hunting, tracking, or self protection.
- (c) Nothing in this section applies to or prohibits any customary practice of breeding or rearing game cocks even though those cocks may be subsequently used in cock fighting exhibitions outside the territorial jurisdiction of the Siletz Tribe.

§ 12.142 DOGFIGHTING: CLASS A

- (a) A person commits the crime of dogfighting if the person knowingly does any of the following:

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- (1) Owns, possesses, keeps, breeds, trains, buys, sells, or offers to sell a fighting dog, including but not limited to, any advertisement by the person to sell such a dog.
- (2) Promotes, conducts, or participates in, or performs any service in the furtherance of, an exhibition of dogfighting, including but not limited to, refereeing of a dogfight, handling of dogs at a dogfight, advertising a dogfight, providing or serving as a stakes holder for any money wagered on a fight.
- (3) Keeps, uses, or manages, or accepts payment of admission to, any place kept or used for the purpose of dogfighting.

§ 12.143 PARTICIPATION IN DOGFIGHTING: CLASS B

(a) A person commits the crime of participation in dogfighting if the person knowingly:

- (1) Attends or has paid admission at any place for the purpose of viewing or betting upon a dogfight.
- (2) Advertises or otherwise offers to sell equipment for the training and handling of a fighting dog.

§ 12.144 PROVIDING LIQUOR TO PERSON UNDER 21 OR TO INTOXICATED PERSON: CLASS B

(a) Selling, giving, or otherwise making available any alcoholic liquor to any person who is visibly intoxicated, (i.e., drunk).

(b) Selling, giving, or otherwise making available any alcoholic liquor to a person under the age of 21 years, when not that person=s parent or guardian; or

(c) Selling, giving or otherwise making available any alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate §

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12.144(a), of this statute.

**§ 12.145 PURCHASE OR POSSESSION OF LIQUOR BY PERSON UNDER 21;
ENTRY OF LICENSED PREMISES BY PERSON UNDER 21;
VIOLATION**

Attempting to purchase, purchasing, or acquiring alcoholic liquor by a person under the age of 21 years or having personal possession of alcoholic liquor when under the age of 21 years, unless such minor, is in a private residence accompanied by his parent or guardian, and with such parent=s or guardian=s consent.

§ 12.146 DEFINITIONS

(a) AControlled Substance@ means a drug (or immediate precursor), classified in Schedules I-V, under the Federal Controlled Substance Act. AImmediate Precursor@ means the substance from which the second substance is formed.

(b) ACounterfeit Substance@ means a controlled substance or its container or labeling, which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, delivered, or dispensed the substance.

(c) ADeliver or Delivery@ means the actual, constructive, or attempted transfer, other than by administering or dispensing, from one person to another of a controlled substance.

(d) AManufacture@ means the production, preparation, propagation, compounding, or processing of a controlled substance, either by extraction or by a combination of extraction and chemical synthesis. It includes a packaging or repackaging of the substance or labeling or relabeling of its container, except that his term does not include the preparation or compounding of a controlled substance by a physician, pharmacist, dentist, or veterinarian in their professional practice or research.

(e) AMarijuana@ means all parts of the plant Cannabis, family Moraceae, whether

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growing or not; the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(f) AProduction@ includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

§ 12.147 SCHEDULES FOR CONTROLLED SUBSTANCES

(a) There are five schedules for controlled substances, based on periodic revisions by the State Board of Pharmacy, which currently reflect the following:

- (1) Schedule I for substances with very high hazard potential:
 - (A) Opiates.
 - (B) Opium derivatives, including heroin.
 - (C) Hallucinogenic substances, including LSD marijuana, mescaline, peyote, and psilocybin.
 - (D) Depressants, including methaqualone.
 - (E) Stimulants, including fenethylamine
- (2) Schedule II for substances with high hazard potential:
 - (A) Substances of vegetable origin or chemical synthesis; including opium, codeine, hydrocodone, hydromorphone, morphine, oxycodone.
 - (B) Opium poppy and poppy straw.

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- (C) Cocaine, cocoa leaves and derivatives.
- (D) Opiates, including methadone, and pethidine (meperidine)
- (E) Stimulants, including amphetamine, methamphetamine, and methylphenidate.
- (F) Depressants, including amobarbital, pentobarbital, phencyclidine (PCP), and secobarbital.
- (3) Schedule III for substances with intermediate hazard potential:
 - (A) Other stimulants, (see schedule for specific listing).
 - (B) Depressants, including any compound or mixture containing amobarbital, secobarbital, or pentobarbital.
 - (C) Narcotic drugs, including any compound or mixture containing limited amounts of codeine, or morphine combined with various narcotics or non-narcotics.
- (4) Schedule IV for substances with low hazard potential; Depressants, Stimulants, and other substances, including barbital, diazepam, ethchlorvynol, flurazepam, meprobamate, phenobarbital, and phetermine.
- (5) Schedule V for substances with very low hazard potential: Narcotic drugs containing non-narcotic active medicinal ingredients, including preparations with small amounts of codeine, or opium and with ingredients with valuable medicinal qualities other than those of the narcotic alone, primarily cough syrups.

Note: Updates in these schedules by the, State Board of Pharmacy may occur at any time and must be published within 30 days following revision of any classification or reclassification of a controlled substance.

§ 12.148 UNLAWFUL DELIVERY OF AN IMITATION CONTROLLED

Adopted 9/25/92

Amended: 9/16/05

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SUBSTANCE: CLASS B

Knowing delivery, other than by administering or dispensing, or a substance that is not a controlled substance is a controlled substance; or knowing delivery of a substance that is not a controlled substance upon the express or implied false representation that because of its nature or appearance, it can be distributed by the recipient as a controlled substance.

**§ 12.149 FAILURE TO REPORT A PRECURSOR SUBSTANCE TRANSACTION:
CLASS B**

(a) A person commits the crime of failure to report a precursor substances transaction if the person sells, transfers, or otherwise furnishes, receives any precursor substance and does not submit a report that meets reporting requirements of tribal, state, or federal law.

- (1) This section does not apply to any of the following:
 - (A) Any pharmacist or other authorized person who sells, or furnishes a controlled substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.
 - (B) Any practitioner who administers or furnishes a controlled substance to patients upon prescription.
 - (C) Any person licensed by the Board of Pharmacy who sells, transfers, or otherwise furnishes a controlled substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian for distribution to patients upon prescription.
 - (D) Any patient of a practitioner, who obtains a controlled substance from a licensed pharmacist, physician, dentist, podiatrist, or veterinarian pursuant to a prescription.

§ 12.150 FAILURE TO REPORT MISSING PRECURSOR SUBSTANCES

Adopted 9/25/92

Amended: 9/16/05

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TRANSACTION: CLASS B

(a) A person commits the offense of failure to report missing precursor substances if the person:

- (1) Is a licensee or other person regulated by the provisions of § 12.148; and
- (2) There is any difference between the quantity received and the quantity shipped; or
- (3) Discovers any theft or loss of any precursor substance; and within three days after discovery of the theft or loss or actual knowledge of the discrepancy, does not report the theft, loss, or discrepancy to the Siletz Tribal Police.

§ 12.151 THE FOLLOWING ARE PRECURSOR SUBSTANCES

- (a) Phenyl-2-propanone, Phenylacetone.
- (b) Methylamine in either gas or water solution.
- (c) D-lysergic acid.
- (d) Ergotamine tartrate.
- (e) Diethyl Malonate.
- (f) Malonic acid.
- (g) Ethyl Malnate.
- (h) Barbituric acid.
- (i) Piperidine.
- (j) N-acetylanthranilic acid

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- (k) Ethylamine.
- (l) Pyrolidine.
- (m) Phenylacetic acid
- (n) Antranilic Acid.
- (o) Morpholine.
- (p) L-Ephedrine.
- (q) DL-Ephedrine.
- (r) Any substance established as a precursor substance.

§ 12.152 ILLEGALLY SELLING DRUG EQUIPMENT: CLASS B

A person commits the offense of illegally selling drug equipment if the person sells any substance, article, apparatus, or device with knowledge that the substance, article, apparatus, or device will be used to manufacture, compound, convert, process or prepare a controlled substance for unlawful sale or distribution.

§ 12.153 PROVIDING FALSE INFORMATION ON PRECURSOR SUBSTANCE REPORT: CLASS B

A person commits the offense of providing false information on a precursor substances report if the person knowingly provides false information in any report required under Tribal Law.

§ 12.154 PENALTIES

- (a) A person who without authorization, manufactures or delivers:

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- (1) A controlled substance in Schedule I, is guilty of a Class A offense.
- (2) A controlled substance in Schedule II, is guilty of Class A offense.
- (3) A controlled substance in Schedule III, is guilty of a Class A offense.
- (4) A controlled substance in Schedule IV, is guilty of a Class C offense.
- (5) A controlled substance in Schedule V, is guilty of a class D offense.

§ 12.155

POSSESSION WITHOUT PRESCRIPTION

- (a) A person, who without valid prescription, knowingly or intentionally possesses:
 - (1) A controlled substance in Schedule I, is guilty of a Class A offense.
 - (2) A controlled substance in Schedule II, is guilty of a Class A offense.
 - (3) A controlled substance in Schedule III, is guilty of a Class B offense.
 - (4) A controlled substance in Schedule IV, is guilty of a class D offense.
 - (5) A controlled substance in Schedule V, is guilty of a violation.

§ 12.156

DELIVERY OF MARIJUANA

(a) In any amount for consideration is a Class A offense. For no consideration of less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae is a Class B offense; except that

- (1) For no consideration of less than five grams of the dried leaves, stems and flowers of the plant Cannabis, family Moraceae is a violation, punishable by a fine of not more than \$100.00

§ 12.157

POSSESSION OF MARIJUANA

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Possession of one or more than one avoirdupois ounce of marijuana is a Class A offense. A person, who knowingly or intentionally possesses less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant cannabis, family Moraceae is guilty of a violation, punishable by a fine of not more than \$100.00.

§ 12.158 CREATION OR DELIVERY OF COUNTERFEIT SUBSTANCE

- (a) A person who creates or delivers a:
- (1) Counterfeit substance in Schedule I, is guilty of a Class A offense.
 - (2) Counterfeit substance in Schedule II, is guilty of a Class A offense.
 - (3) Counterfeit substance in Schedule III, is guilty of a Class A offense.
 - (4) Counterfeit substance in Schedule IV, is guilty of a Class D offense.
 - (5) Counterfeit substance in Schedule V, is guilty of a Class D offense.

§ 12.159 PROHIBITED ACTS INVOLVING RECORDS AND FRAUD: CLASS B

To knowingly or intentionally acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

§ 12.160 PENALTIES FOR DISTRIBUTION TO MINORS

- (a) Unlawful delivery of a controlled substance to a person under 18 years of age is punishable as:
- (1) A Class A offense if the controlled substance is in Schedule I or II.
 - (2) A Class A offense if the controlled substance is in Schedule III.
 - (3) A Class B offense if the substance is in Schedule IV.

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- (4) A Class C offense if the substance is in Schedule V.

§ 12.161 TAMPERING WITH DRUG RECORDS: CLASS A

- (a) If a person knowingly:
- (1) Alters, defaces, or removes a controlled substance label affixed by a manufacturer, wholesaler, or apothecary unless an apothecary removes or defaces such a label to fill prescription; or
 - (2) Affixes a false or forged label to package or receptacle containing controlled substances; or
 - (3) Makes or utters a false or forged prescription or false or forged official written order for controlled substances; or
 - (4) Makes a false statement in any controlled substance prescription, order, report, or record.

§ 12.162 FREQUENTING A PLACE WHERE CONTROLLED SUBSTANCES ARE USED

(a) A person keeps, maintains, frequents or remains at a place, while knowingly permitting persons to use controlled substances in such place or to keep or sell them in violation of the Uniform Controlled Substances Act.

(b) Frequenting a place where controlled substances are used is a Class B offense unless the conviction is for knowingly maintaining, frequenting or remaining at a place where one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae is found at the time of an arrest under this section, and then it is a violation punishable by a fine of not more than \$100.00.

Note #1: As used in this section, Afrequents@ means repeatedly or habitually visits, goes to or resorts to.

Note #2: The term Apermitting@ requires that the suspect must have

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authority to forbid the illegal drug activity involved.

**§ 12.163 MAXIMUM SENTENCES FOR CLASS A, B, C, D, UNCLASSIFIED
OFFENSES, & VIOLATIONS**

- (a) Class A offense: One year imprisonment and/or a fine, not exceeding \$5,000.00.

- (b) Class B offense: Six months imprisonment and/or a fine not exceeding \$1,000.00.

- (c) Class C offense: Ninety days imprisonment and/or a fine not exceeding \$500.00.

- (d) Class D offense: Thirty days imprisonment and/or a fine not to exceed \$250.00.

- (e) Unclassified offense: A sentence to pay a fine for an unclassified offense shall be a sentence to pay an amount, to be fixed by the court, as provided in the code defining the offense.

- (f) Violation: A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the court, not exceeding \$250.00.