

CRIMINAL LAW
Professor Alexander

Required Readings:

Dressler, Ch. 27 (to p. 376, then pp. 386-90); MPC § 5.01

Problem Set 17

1. Adam intends to have sexual intercourse with Scarlett, who is, unbeknownst to Adam, under 16 years of age. They are in a motel, undressed and about to get into bed, when the motel manager, sensing that Scarlett is under age, knocks on the door and disrupts, permanently, the affair. Adam is reported to the police by the manager, and, after a police investigation, is charged with “attempted statutory rape.” The jurisdiction has adopted the MPC’s definition of “attempts.” Its statutory rape statute has been interpreted to make the age of the girl a strict liability element. What result? Would it make any difference that there was another, less serious crime, “sexual intercourse with someone under 18 years of age,” that Adam was aware that he was attempting to commit? (One page)
2. Driving with defective brakes is a strict liability offense in State X, which has adopted the MPC’s definition of “attempts.” D attempts to start his car, which, unbeknownst to him, has defective brakes. Has he committed the crime of “attempted driving with defective brakes”? (One-half page)
3. Carla knows that driving while intoxicated is a crime in itself. She also knows that it can constitute the separate crime of “reckless operation of a motor vehicle.” She also knows that killing someone as a result of drunken driving can constitute the crime of “reckless homicide.”

Carla is attending a party, where she intends to get “roaring drunk,” and after which she intends to drive to the beach. She downs 10 Margueritas in a row in just a few minutes, then hops in her car and begins to drive. She expects the Margueritas to “kick in” at any moment. It turns out, however, that the liquor had been left out of them, and that Carla has consumed only 10 glasses of nonalcoholic Marguerita mix.

Has Carla committed the offense of attempted drunk driving, attempted reckless operation of a motor vehicle, or attempted reckless homicide? (One page)

4. Dan unreasonably believes Victor is about to shoot him. Dan draws his gun and fires at Victor, believing that if the bullet hits Victor where Dan is aiming, there is a high probability that Victor will die. Dan’s marksmanship is poor, however, and the bullet misses Victor. Has Dan committed any crime? (One-half page)

5. For some time State X has deemed purchasing burglar tools with the intention to burglarize “attempted burglary.” It now enacts a new statute making such a purchase the separate crime of “purchase of burglar tools with intention to burglarize.”

Suppose Fred is planning a burglary and goes into the hardware store intending to purchase burglar tools. Can he be punished for attempting to violate the new statute? Can the state make what he has done a separate crime and then punish some still more preliminary act as an attempt? (One page)