

ENROLLED
CS/CS/HB 729

2012 Legislature

1
2 An act relating to hiring, leasing, or obtaining
3 personal property or equipment with the intent to
4 defraud; amending s. 812.155, F.S.; providing that in
5 a prosecution, the failure to redeliver property or
6 equipment within a specified time after receiving a
7 demand for return delivered by a courier service with
8 tracking capability or by certified mail, return
9 receipt requested, or within a specified time after
10 delivery by the courier service or return receipt from
11 the certified mailing of the demand for return, is
12 prima facie evidence of abandonment or refusal to
13 redeliver the property or equipment; providing that
14 notice sent by delivery by courier with tracking
15 capability to the address given by the renter at the
16 time of the rental is sufficient and equivalent to
17 notice having been received by the renter, if the
18 notice is returned undelivered; providing that in a
19 prosecution for failing to pay any amount due which is
20 incurred as the result of the failure to redeliver
21 property or equipment after the rental period expires,
22 and after the demand for return is made, is prima
23 facie evidence of abandonment or refusal to redeliver
24 the property or equipment; providing that a demand for
25 return of overdue property or equipment and for
26 payment of amounts due may be made by courier service
27 with tracking capability; providing that possession of
28 personal property or equipment by a third party does

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29 | not alleviate the lessee of his or her obligation to
 30 | return the personal property or equipment according to
 31 | the terms stated in the contract; providing an
 32 | exception when the personal property or equipment was
 33 | obtained without the lessee's consent; providing that
 34 | a lessor of a vehicle that is not returned at the
 35 | conclusion of a lease is entitled to report the
 36 | vehicle as stolen to a law enforcement agency and have
 37 | the vehicle listed as stolen on any local or national
 38 | registry of such vehicles; providing an effective
 39 | date.

40 |

41 | Be It Enacted by the Legislature of the State of Florida:

42 |

43 | Section 1. Section 812.155, Florida Statutes, is amended
 44 | to read:

45 | 812.155 Hiring, leasing, or obtaining personal property or
 46 | equipment with the intent to defraud; failing to return hired or
 47 | leased personal property or equipment; rules of evidence.—

48 | (1) OBTAINING BY TRICK, FALSE REPRESENTATION, ETC.—

49 | Whoever, with the intent to defraud the owner or any person
 50 | lawfully possessing any personal property or equipment, obtains
 51 | the custody of the ~~such~~ personal property or equipment by trick,
 52 | deceit, or fraudulent or willful false representation commits
 53 | ~~shall be guilty of~~ a misdemeanor of the second degree,
 54 | punishable as provided in s. 775.082 or s. 775.083, unless the
 55 | value of the personal property or equipment is of a value of
 56 | \$300 or more; in that case event the person commits violation

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57 ~~constitutes~~ a felony of the third degree, punishable as provided
58 in s. 775.082, s. 775.083, or s. 775.084.

59 (2) HIRING OR LEASING WITH THE INTENT TO DEFRAUD.—Whoever,
60 with intent to defraud the owner or any person lawfully
61 possessing ~~any~~ personal property or equipment of the rental
62 thereof, hires or leases the personal property or equipment from
63 the owner or the owner's agents or any person in lawful
64 possession thereof commits ~~shall, upon conviction, be guilty of~~
65 a misdemeanor of the second degree, punishable as provided in s.
66 775.082 or s. 775.083, unless the value of the personal property
67 or equipment is of a value of \$300 or more; in that case event
68 the person commits ~~violation constitutes~~ a felony of the third
69 degree, punishable as provided in s. 775.082, s. 775.083, or s.
70 775.084.

71 (3) FAILURE TO RETURN ~~REDELIVER~~ HIRED OR LEASED PERSONAL
72 PROPERTY.—Whoever, after hiring or leasing ~~any~~ personal property
73 or equipment under an agreement to return ~~redeliver~~ the personal
74 property ~~same~~ to the person letting the ~~such~~ personal property
75 or equipment or his or her agent at the termination of the
76 period for which it was let, shall, without the consent of the
77 ~~such~~ person or persons knowingly abandon or refuse to return
78 ~~redeliver~~ the personal property or equipment as agreed, commits
79 ~~shall, upon conviction, be guilty of~~ a misdemeanor of the second
80 degree, punishable as provided in s. 775.082 or s. 775.083,
81 unless the value of the personal property or equipment is of a
82 value of \$300 or more; in that case event the person commits
83 ~~violation constitutes~~ a felony of the third degree, punishable
84 as provided in s. 775.082, s. 775.083, or s. 775.084.

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85 (4) EVIDENCE.—

86 (a) In a prosecution ~~prosecutions~~ under this section,
87 obtaining the property or equipment under false pretenses;
88 absconding without payment; or removing or attempting to remove
89 the property or equipment from the county without the express
90 written consent of the lessor, is evidence of fraudulent intent.

91 (b) In a prosecution under subsection (3), failure to
92 redeliver the property or equipment within 5 days after
93 receiving the demand for return from a courier service with
94 tracking capability or by certified mail, return receipt
95 requested ~~receipt of~~, or within 5 days after delivery by the
96 courier service or return receipt from, the certified mailing of
97 the demand for return, is prima facie evidence of abandonment or
98 refusal to redeliver the property or equipment. Notice mailed by
99 certified mail, return receipt requested, or delivery by courier
100 with tracking capability to the address given by the renter at
101 the time of rental is ~~shall be deemed~~ sufficient and equivalent
102 to notice having been received by the renter, should the notice
103 be returned undelivered.

104 (c) In a prosecution under subsection (3), failure to pay
105 any amount due which is incurred as the result of the failure to
106 redeliver property or equipment after the rental period expires,
107 and after the demand for return is made, is prima facie evidence
108 of abandonment or refusal to redeliver the property or
109 equipment. Amounts due include unpaid rental for the time period
110 during which the property or equipment was not returned and
111 include the lesser of the cost of repairing or replacing the
112 property or equipment if it has been damaged.

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113 (5) DEMAND FOR RETURN.—Demand for return of overdue
114 property or equipment and for payment of amounts due may be made
115 in person, by hand delivery, ~~or~~ by certified mail, return
116 receipt requested, or by courier service with tracking
117 capability, addressed to the lessee's address shown in the
118 rental contract.

119 (6) NOTICE REQUIRED.—As a prerequisite to prosecution
120 under this section, the following statement must be contained in
121 the agreement under which the owner or person lawfully
122 possessing the property or equipment has relinquished its
123 custody, or in an addendum to that agreement, and the statement
124 must be initialed by the person hiring or leasing the rental
125 property or equipment:
126

127 Failure to return rental property or equipment upon
128 expiration of the rental period and failure to pay all
129 amounts due (including costs for damage to the
130 property or equipment) are evidence of abandonment or
131 refusal to redeliver the property, punishable in
132 accordance with section 812.155, Florida Statutes.

133 (7) THIRD-PARTY POSSESSION.—Possession of personal
134 property or equipment by a third party does not alleviate the
135 lessee of his or her obligation to return the personal property
136 or equipment according to the terms stated in the contract by
137 which the property or equipment was leased or rented to the
138 lessee, and is not a defense against failure to return unless
139 the lessee provides the court or property owner with
140 documentation that demonstrates that the personal property or

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141 equipment was obtained without the lessee's consent.

142 (8) REPORTING VEHICLE AS STOLEN.—A lessor of a vehicle
143 that is not returned at the conclusion of the lease who
144 satisfies the requirements of this section regarding the vehicle
145 is entitled to report the vehicle as stolen to a law enforcement
146 agency and have the vehicle listed as stolen on any local or
147 national registry of such vehicles.

148 Section 2. This act shall take effect July 1, 2012.