

By Representative Baxley

1 A bill to be entitled
2 An act relating to obtaining personal property
3 or equipment illegally; amending s. 812.155,
4 F.S.; revising provision relating to
5 applicability of said section to include rental
6 stores that retain title to the property
7 throughout the rental-purchase agreement
8 period; providing an effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Section 812.155, Florida Statutes, is
13 amended to read:

14 812.155 Hiring, leasing, or obtaining personal
15 property or equipment with the intent to defraud; failing to
16 return hired or leased personal property or equipment; rules
17 of evidence.--

18 (1) OBTAINING BY TRICK, FALSE REPRESENTATION,
19 ETC.--Whoever, with the intent to defraud the owner or any
20 person lawfully possessing any personal property or equipment,
21 obtains the custody of such personal property or equipment by
22 trick, deceit, or fraudulent or willful false representation
23 shall be guilty of a misdemeanor of the second degree,
24 punishable as provided in s. 775.082 or s. 775.083, unless the
25 value of the personal property or equipment is of a value of
26 \$300 or more; in that event the violation constitutes a felony
27 of the third degree, punishable as provided in s. 775.082, s.
28 775.083, or s. 775.084.

29 (2) HIRING OR LEASING WITH THE INTENT TO
30 DEFRAUD.--Whoever, with intent to defraud the owner or any
31 person lawfully possessing any personal property or equipment

1 of the rental thereof, hires or leases said personal property
2 or equipment from such owner or such owner's agents or any
3 person in lawful possession thereof shall, upon conviction, be
4 guilty of a misdemeanor of the second degree, punishable as
5 provided in s. 775.082 or s. 775.083, unless the value of the
6 personal property or equipment is of a value of \$300 or more;
7 in that event the violation constitutes a felony of the third
8 degree, punishable as provided in s. 775.082, s. 775.083, or
9 s. 775.084.

10 (3) FAILURE TO REDELIVER HIRED OR LEASED PERSONAL
11 PROPERTY.--Whoever, after hiring or leasing any personal
12 property or equipment under an agreement to redeliver the same
13 to the person letting such personal property or equipment or
14 his or her agent at the termination of the period for which it
15 was let, shall, without the consent of such person or persons
16 and with the intent to defraud, abandon or willfully refuse to
17 redeliver such personal property or equipment as agreed,
18 shall, upon conviction, be guilty of a misdemeanor of the
19 second degree, punishable as provided in s. 775.082 or s.
20 775.083, unless the value of the personal property or
21 equipment is of a value of \$300 or more; in that event the
22 violation constitutes a felony of the third degree, punishable
23 as provided in s. 775.082, s. 775.083, or s. 775.084.

24 (4) EVIDENCE OF FRAUDULENT INTENT.--

25 (a) In prosecutions under this section, obtaining the
26 property or equipment under false pretenses; absconding
27 without payment; or removing or attempting to remove the
28 property or equipment from the county without the express
29 written consent of the lessor, is prima facie evidence of
30 fraudulent intent.

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1 (b) In a prosecution under subsection (3), failure to
2 redeliver the property or equipment within 5 days after
3 receipt of, or within 5 days after return receipt from, the
4 certified mailing of the demand for return is prima facie
5 evidence of fraudulent intent. Notice mailed by certified
6 mail, return receipt requested, to the address given by the
7 renter at the time of rental shall be deemed sufficient and
8 equivalent to notice having been received by the renter,
9 should the notice be returned undelivered.

10 (c) In a prosecution under subsection (3), failure to
11 pay any amount due which is incurred as the result of the
12 failure to redeliver property after the rental period expires,
13 and after the demand for return is made, is prima facie
14 evidence of fraudulent intent. Amounts due include unpaid
15 rental for the time period during which the property or
16 equipment was not returned and include the lesser of the cost
17 of repairing or replacing the property or equipment if it has
18 been damaged.

19 (5) DEMAND FOR RETURN.--Demand for return of overdue
20 property or equipment and for payment of amounts due may be
21 made in person, by hand delivery, or by certified mail, return
22 receipt requested, addressed to the lessee's address shown in
23 the rental contract.

24 (6) NOTICE REQUIRED.--As a prerequisite to prosecution
25 under this section, the following statement must be contained
26 in the agreement under which the owner or person lawfully
27 possessing the property or equipment has relinquished its
28 custody, or in an addendum to that agreement, and the
29 statement must be initialed by the person hiring or leasing
30 the rental property or equipment:
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1 Failure to return rental property or equipment
2 upon expiration of the rental period and
3 failure to pay all amounts due (including costs
4 for damage to the property or equipment) are
5 prima facie evidence of intent to defraud,
6 punishable in accordance with section 812.155,
7 Florida Statutes.

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9 (7) EXCLUSION OF RENTAL-PURCHASE AGREEMENTS.--This
10 section does not apply to personal property or equipment that
11 is the subject of a rental-purchase agreement that permits the
12 lessee to acquire ownership of the personal property or
13 equipment, unless the rental store retains the title to the
14 property throughout the rental-purchase agreement period.

15 Section 2. This act shall take effect July 1, 2001.

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18 HOUSE SUMMARY

19 Revises a provision relating to applicability of s.
20 812.155, F.S., which relates to the hiring, leasing, or
21 obtaining of personal property or equipment with the
22 intent to defraud and failing to return hired or leased
23 personal property or equipment, to include rental stores
24 that retain title to the property throughout the
25 rental-purchase agreement period.
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