

Bill No. CS for SB 1328

Barcode 253244

CHAMBER ACTION

Senate

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The Committee on Commerce and Consumer Services (Lynn)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (a) of subsection (2) of section
812.014, Florida Statutes, is amended to read:

812.014 Theft.--

(2)(a)1. If the property stolen is valued at \$100,000
or more or is a semitrailer that was deployed by a law
enforcement officer; or

2. If the property stolen is cargo valued at \$50,000
or more that has entered the stream of interstate or
intrastate commerce from the shipper's loading platform to the
consignee's receiving dock; or

3. If the offender commits any grand theft and:

a. In the course of committing the offense the
offender uses a motor vehicle as an instrumentality, other
than merely as a getaway vehicle, to assist in committing the

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1 offense and thereby damages the real property of another; or

2 b. In the course of committing the offense the
3 offender causes damage to the real or personal property of
4 another in excess of \$1,000,
5
6 the offender commits grand theft in the first degree,
7 punishable as a felony of the first degree, as provided in s.
8 775.082, s. 775.083, or s. 775.084.

9 Section 2. Section 812.0147, Florida Statutes, is
10 created to read:

11 812.0147 Unlawful possession or use of a fifth
12 wheel.--

13 (1) A person may not modify, alter, attempt to alter,
14 and if altered, sell, possess, offer for sale, move, or cause
15 to be moved onto the highways of this state a device known as
16 a fifth wheel with the intent to use the fifth wheel to commit
17 or attempt to commit theft. As used in this section, the term
18 "fifth wheel" applies only to a fifth wheel on a commercial
19 motor vehicle.

20 (2) Any person who violates subsection (1) commits a
21 felony of the second degree, punishable as provided in s.
22 775.082, s. 775.083, or s. 775.084.

23 Section 3. Section 812.155, Florida Statutes, is
24 amended to read:

25 812.155 Hiring, leasing, or obtaining personal
26 property or equipment with the intent to defraud; failing to
27 return hired or leased personal property or equipment; rules
28 of evidence.--

29 (1) OBTAINING BY TRICK, FALSE REPRESENTATION,
30 ETC.--Whoever, with the intent to defraud the owner or any
31 person lawfully possessing any personal property or equipment,

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1 obtains the custody of such personal property or equipment by
 2 trick, deceit, or fraudulent or willful false representation
 3 shall be guilty of a misdemeanor of the second degree,
 4 punishable as provided in s. 775.082 or s. 775.083, unless the
 5 value of the personal property or equipment is of a value of
 6 \$300 or more; in that event the violation constitutes a felony
 7 of the third degree, punishable as provided in s. 775.082, s.
 8 775.083, or s. 775.084.

9 (2) HIRING OR LEASING WITH THE INTENT TO
 10 DEFRAUD.--Whoever, with intent to defraud the owner or any
 11 person lawfully possessing any personal property or equipment
 12 of the rental thereof, hires or leases the ~~said~~ personal
 13 property or equipment from the ~~such~~ owner or the ~~such~~ owner's
 14 agents or any person in lawful possession thereof shall, upon
 15 conviction, be guilty of a misdemeanor of the second degree,
 16 punishable as provided in s. 775.082 or s. 775.083, unless the
 17 value of the personal property or equipment is of a value of
 18 \$300 or more; in that event the violation constitutes a felony
 19 of the third degree, punishable as provided in s. 775.082, s.
 20 775.083, or s. 775.084.

21 (3) FAILURE TO REDELIVER HIRED OR LEASED PERSONAL
 22 PROPERTY.--Whoever, after hiring or leasing any personal
 23 property or equipment under an agreement to redeliver the same
 24 to the person letting such personal property or equipment or
 25 his or her agent at the termination of the period for which it
 26 was let, shall, without the consent of such person or persons
 27 knowingly ~~and with the intent to defraud,~~ abandon or ~~willfully~~
 28 refuse to redeliver the ~~such~~ personal property or equipment as
 29 agreed, shall, upon conviction, be guilty of a misdemeanor of
 30 the second degree, punishable as provided in s. 775.082 or s.
 31 775.083, unless the value of the personal property or

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1 equipment is of a value of \$300 or more; in that event the
 2 violation constitutes a felony of the third degree, punishable
 3 as provided in s. 775.082, s. 775.083, or s. 775.084.

4 (4) EVIDENCE ~~OF FRAUDULENT INTENT.~~--

5 (a) In prosecutions under this section, obtaining the
 6 property or equipment under false pretenses; absconding
 7 without payment; or removing or attempting to remove the
 8 property or equipment from the county without the express
 9 written consent of the lessor, is ~~prima facie~~ evidence of
 10 fraudulent intent.

11 (b) In a prosecution under subsection (3), failure to
 12 redeliver the property or equipment within 5 days after
 13 receipt of, or within 5 days after return receipt from, the
 14 certified mailing of the demand for return is ~~prima facie~~
 15 evidence of abandonment or refusal to redeliver the property
 16 ~~fraudulent intent~~. Notice mailed by certified mail, return
 17 receipt requested, to the address given by the renter at the
 18 time of rental shall be deemed sufficient and equivalent to
 19 notice having been received by the renter, should the notice
 20 be returned undelivered.

21 (c) In a prosecution under subsection (3), failure to
 22 pay any amount due which is incurred as the result of the
 23 failure to redeliver property after the rental period expires,
 24 and after the demand for return is made, is ~~prima facie~~
 25 evidence of abandonment or refusal to redeliver the property
 26 ~~fraudulent intent~~. Amounts due include unpaid rental for the
 27 time period during which the property or equipment was not
 28 returned and include the lesser of the cost of repairing or
 29 replacing the property or equipment if it has been damaged.

30 (5) DEMAND FOR RETURN.--Demand for return of overdue
 31 property or equipment and for payment of amounts due may be

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1 made in person, by hand delivery, or by certified mail, return
2 receipt requested, addressed to the lessee's address shown in
3 the rental contract.

4 (6) NOTICE REQUIRED.--As a prerequisite to prosecution
5 under this section, the following statement must be contained
6 in the agreement under which the owner or person lawfully
7 possessing the property or equipment has relinquished its
8 custody, or in an addendum to that agreement, and the
9 statement must be initialed by the person hiring or leasing
10 the rental property or equipment:

11
12 Failure to return rental property or equipment upon expiration
13 of the rental period and failure to pay all amounts due
14 (including costs for damage to the property or equipment) are
15 ~~prima facie~~ evidence of abandonment or refusal to redeliver
16 the property intent to defraud, punishable in accordance with
17 section 812.155, Florida Statutes.

18 ~~(7) EXCLUSION OF RENTAL-PURCHASE AGREEMENTS.--This~~
19 ~~section does not apply to personal property or equipment that~~
20 ~~is the subject of a rental-purchase agreement that permits the~~
21 ~~lessee to acquire ownership of the personal property or~~
22 ~~equipment unless the rental store retains title to the~~
23 ~~personal property or equipment throughout the rental-purchase~~
24 ~~agreement period.~~

25 Section 4. Paragraph (g) of subsection (3) of section
26 921.0022, Florida Statutes, is amended to read:

27 921.0022 Criminal Punishment Code; offense severity
28 ranking chart.--

29 (3) OFFENSE SEVERITY RANKING CHART

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31

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1	Florida	Felony	
2	Statute	Degree	Description
3			
4			
5			(g) LEVEL 7
6	316.027(1)(b)	2nd	Accident involving death, failure
7			to stop; leaving scene.
8	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
9			injury.
10	316.1935(3)(b)	1st	Causing serious bodily injury or
11			death to another person; driving
12			at high speed or with wanton
13			disregard for safety while
14			fleeing or attempting to elude
15			law enforcement officer who is in
16			a patrol vehicle with siren and
17			lights activated.
18	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
19			bodily injury.
20	402.319(2)	2nd	Misrepresentation and negligence
21			or intentional act resulting in
22			great bodily harm, permanent
23			disfiguration, permanent
24			disability, or death.
25	409.920(2)	3rd	Medicaid provider fraud.
26	456.065(2)	3rd	Practicing a health care
27			profession without a license.
28	456.065(2)	2nd	Practicing a health care
29			profession without a license
30			which results in serious bodily
31			injury.

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1	458.327(1)	3rd	Practicing medicine without a
2			license.
3	459.013(1)	3rd	Practicing osteopathic medicine
4			without a license.
5	460.411(1)	3rd	Practicing chiropractic medicine
6			without a license.
7	461.012(1)	3rd	Practicing podiatric medicine
8			without a license.
9	462.17	3rd	Practicing naturopathy without a
10			license.
11	463.015(1)	3rd	Practicing optometry without a
12			license.
13	464.016(1)	3rd	Practicing nursing without a
14			license.
15	465.015(2)	3rd	Practicing pharmacy without a
16			license.
17	466.026(1)	3rd	Practicing dentistry or dental
18			hygiene without a license.
19	467.201	3rd	Practicing midwifery without a
20			license.
21	468.366	3rd	Delivering respiratory care
22			services without a license.
23	483.828(1)	3rd	Practicing as clinical laboratory
24			personnel without a license.
25	483.901(9)	3rd	Practicing medical physics
26			without a license.
27	484.013(1)(c)	3rd	Preparing or dispensing optical
28			devices without a prescription.
29	484.053	3rd	Dispensing hearing aids without a
30			license.
31			

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1	494.0018(2)	1st	Conviction of any violation of
2			ss. 494.001-494.0077 in which the
3			total money and property
4			unlawfully obtained exceeded
5			\$50,000 and there were five or
6			more victims.
7	560.123(8)(b)1.	3rd	Failure to report currency or
8			payment instruments exceeding
9			\$300 but less than \$20,000 by
10			money transmitter.
11	560.125(5)(a)	3rd	Money transmitter business by
12			unauthorized person, currency or
13			payment instruments exceeding
14			\$300 but less than \$20,000.
15	655.50(10)(b)1.	3rd	Failure to report financial
16			transactions exceeding \$300 but
17			less than \$20,000 by financial
18			institution.
19	775.21(10)(a)	3rd	Sexual predator; failure to
20			register; failure to renew
21			driver's license or
22			identification card; other
23			registration violations.
24	775.21(10)(b)	3rd	Sexual predator working where
25			children regularly congregate.
26	775.21(10)(g)	3rd	Failure to report or providing
27			false information about a sexual
28			predator; harbor or conceal a
29			sexual predator.
30	782.051(3)	2nd	Attempted felony murder of a
31			person by a person other than the

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1			perpetrator or the perpetrator of
2			an attempted felony.
3	782.07(1)	2nd	Killing of a human being by the
4			act, procurement, or culpable
5			negligence of another
6			(manslaughter).
7	782.071	2nd	Killing of human being or viable
8			fetus by the operation of a motor
9			vehicle in a reckless manner
10			(vehicular homicide).
11	782.072	2nd	Killing of a human being by the
12			operation of a vessel in a
13			reckless manner (vessel
14			homicide).
15	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
16			causing great bodily harm or
17			disfigurement.
18	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
19			weapon.
20	784.045(1)(b)	2nd	Aggravated battery; perpetrator
21			aware victim pregnant.
22	784.048(4)	3rd	Aggravated stalking; violation of
23			injunction or court order.
24	784.048(7)	3rd	Aggravated stalking; violation of
25			court order.
26	784.07(2)(d)	1st	Aggravated battery on law
27			enforcement officer.
28	784.074(1)(a)	1st	Aggravated battery on sexually
29			violent predators facility staff.
30	784.08(2)(a)	1st	Aggravated battery on a person 65
31			years of age or older.

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1	784.081(1)	1st	Aggravated battery on specified
2			official or employee.
3	784.082(1)	1st	Aggravated battery by detained
4			person on visitor or other
5			detainee.
6	784.083(1)	1st	Aggravated battery on code
7			inspector.
8	790.07(4)	1st	Specified weapons violation
9			subsequent to previous conviction
10			of s. 790.07(1) or (2).
11	790.16(1)	1st	Discharge of a machine gun under
12			specified circumstances.
13	790.165(2)	2nd	Manufacture, sell, possess, or
14			deliver hoax bomb.
15	790.165(3)	2nd	Possessing, displaying, or
16			threatening to use any hoax bomb
17			while committing or attempting to
18			commit a felony.
19	790.166(3)	2nd	Possessing, selling, using, or
20			attempting to use a hoax weapon
21			of mass destruction.
22	790.166(4)	2nd	Possessing, displaying, or
23			threatening to use a hoax weapon
24			of mass destruction while
25			committing or attempting to
26			commit a felony.
27	796.03	2nd	Procuring any person under 16
28			years for prostitution.
29	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
30			victim less than 12 years of age;
31			offender less than 18 years.

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1	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
2			victim 12 years of age or older
3			but less than 16 years; offender
4			18 years or older.
5	806.01(2)	2nd	Maliciously damage structure by
6			fire or explosive.
7	810.02(3)(a)	2nd	Burglary of occupied dwelling;
8			unarmed; no assault or battery.
9	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
10			unarmed; no assault or battery.
11	810.02(3)(d)	2nd	Burglary of occupied conveyance;
12			unarmed; no assault or battery.
13	812.014(2)(a)1.	1st	Property stolen, valued at
14			\$100,000 or more <u>or a semitrailer</u>
15			<u>deployed by a law enforcement</u>
16			<u>officer</u> ; property stolen while
17			causing other property damage;
18			1st degree grand theft.
19	812.014(2)(b)2.	2nd	Property stolen, cargo valued at
20			less than \$50,000, grand theft in
21			2nd degree.
22	812.014(2)(b)3.	2nd	Property stolen, emergency
23			medical equipment; 2nd degree
24			grand theft.
25	812.0145(2)(a)	1st	Theft from person 65 years of age
26			or older; \$50,000 or more.
27	812.019(2)	1st	Stolen property; initiates,
28			organizes, plans, etc., the theft
29			of property and traffics in
30			stolen property.
31	812.131(2)(a)	2nd	Robbery by sudden snatching.
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1	812.133(2)(b)	1st	Carjacking; no firearm, deadly
2			weapon, or other weapon.
3	817.234(8)(a)	2nd	Solicitation of motor vehicle
4			accident victims with intent to
5			defraud.
6	817.234(9)	2nd	Organizing, planning, or
7			participating in an intentional
8			motor vehicle collision.
9	817.234(11)(c)	1st	Insurance fraud; property value
10			\$100,000 or more.
11	817.2341(2)(b)&		
12	(3)(b)	1st	Making false entries of material
13			fact or false statements
14			regarding property values
15			relating to the solvency of an
16			insuring entity which are a
17			significant cause of the
18			insolvency of that entity.
19	825.102(3)(b)	2nd	Neglecting an elderly person or
20			disabled adult causing great
21			bodily harm, disability, or
22			disfigurement.
23	825.103(2)(b)	2nd	Exploiting an elderly person or
24			disabled adult and property is
25			valued at \$20,000 or more, but
26			less than \$100,000.
27	827.03(3)(b)	2nd	Neglect of a child causing great
28			bodily harm, disability, or
29			disfigurement.
30	827.04(3)	3rd	Impregnation of a child under 16
31			years of age by person 21 years
			12
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1			of age or older.
2	837.05(2)	3rd	Giving false information about
3			alleged capital felony to a law
4			enforcement officer.
5	838.015	2nd	Bribery.
6	838.016	2nd	Unlawful compensation or reward
7			for official behavior.
8	838.021(3)(a)	2nd	Unlawful harm to a public
9			servant.
10	838.22	2nd	Bid tampering.
11	847.0135(3)	3rd	Solicitation of a child, via a
12			computer service, to commit an
13			unlawful sex act.
14	872.06	2nd	Abuse of a dead human body.
15	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
16			cocaine (or other drug prohibited
17			under s. 893.03(1)(a), (1)(b),
18			(1)(d), (2)(a), (2)(b), or
19			(2)(c)4.) within 1,000 feet of a
20			child care facility, school, or
21			state, county, or municipal park
22			or publicly owned recreational
23			facility or community center.
24	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
25			cocaine or other drug prohibited
26			under s. 893.03(1)(a), (1)(b),
27			(1)(d), (2)(a), (2)(b), or
28			(2)(c)4., within 1,000 feet of
29			property used for religious
30			services or a specified business
31			site.

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1	893.13(4)(a)	1st	Deliver to minor cocaine (or
2			other s. 893.03(1)(a), (1)(b),
3			(1)(d), (2)(a), (2)(b), or
4			(2)(c)4. drugs).
5	893.135(1)(a)1.	1st	Trafficking in cannabis, more
6			than 25 lbs., less than 2,000
7			lbs.
8	893.135		
9	(1)(b)1.a.	1st	Trafficking in cocaine, more than
10			28 grams, less than 200 grams.
11	893.135		
12	(1)(c)1.a.	1st	Trafficking in illegal drugs,
13			more than 4 grams, less than 14
14			grams.
15	893.135		
16	(1)(d)1.	1st	Trafficking in phencyclidine,
17			more than 28 grams, less than 200
18			grams.
19	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
20			than 200 grams, less than 5
21			kilograms.
22	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
23			than 14 grams, less than 28
24			grams.
25	893.135		
26	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
27			grams or more, less than 14
28			grams.
29	893.135		
30	(1)(h)1.a.	1st	Trafficking in
31			gamma-hydroxybutyric acid (GHB),
			14
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1			1 kilogram or more, less than 5
2			kilograms.
3	893.135		
4	(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1
5			kilogram or more, less than 5
6			kilograms.
7	893.135		
8	(1)(k)2.a.	1st	Trafficking in Phenethylamines,
9			10 grams or more, less than 200
10			grams.
11	896.101(5)(a)	3rd	Money laundering, financial
12			transactions exceeding \$300 but
13			less than \$20,000.
14	896.104(4)(a)1.	3rd	Structuring transactions to evade
15			reporting or registration
16			requirements, financial
17			transactions exceeding \$300 but
18			less than \$20,000.
19	943.0435(4)(c)	2nd	Sexual offender vacating
20			permanent residence; failure to
21			comply with reporting
22			requirements.
23	943.0435(8)	2nd	Sexual offender; remains in state
24			after indicating intent to leave;
25			failure to comply with reporting
26			requirements.
27	943.0435(9)(a)	3rd	Sexual offender; failure to
28			comply with reporting
29			requirements.
30	943.0435(13)	3rd	Failure to report or providing
31			false information about a sexual
			15
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1			offender; harbor or conceal a
2			sexual offender.
3	943.0435(14)	3rd	Sexual offender; failure to
4			report and reregister; failure to
5			respond to address verification.
6	944.607(9)	3rd	Sexual offender; failure to
7			comply with reporting
8			requirements.
9	944.607(10)(a)	3rd	Sexual offender; failure to
10			submit to the taking of a
11			digitized photograph.
12	944.607(12)	3rd	Failure to report or providing
13			false information about a sexual
14			offender; harbor or conceal a
15			sexual offender.
16	944.607(13)	3rd	Sexual offender; failure to
17			report and reregister; failure to
18			respond to address verification.

19 Section 5. For the purpose of incorporating the
20 amendment made by this act to section 812.014, Florida
21 Statutes, in a reference thereto, paragraph (a) of subsection
22 (1) of section 985.227, Florida Statutes, is reenacted to
23 read:

24 985.227 Prosecution of juveniles as adults by the
25 direct filing of an information in the criminal division of
26 the circuit court; discretionary criteria; mandatory
27 criteria.--

28 (1) DISCRETIONARY DIRECT FILE; CRITERIA.--

29 (a) With respect to any child who was 14 or 15 years
30 of age at the time the alleged offense was committed, the
31 state attorney may file an information when in the state

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1 attorney's judgment and discretion the public interest
2 requires that adult sanctions be considered or imposed and
3 when the offense charged is for the commission of, attempt to
4 commit, or conspiracy to commit:

- 5 1. Arson;
- 6 2. Sexual battery;
- 7 3. Robbery;
- 8 4. Kidnapping;
- 9 5. Aggravated child abuse;
- 10 6. Aggravated assault;
- 11 7. Aggravated stalking;
- 12 8. Murder;
- 13 9. Manslaughter;
- 14 10. Unlawful throwing, placing, or discharging of a
15 destructive device or bomb;
- 16 11. Armed burglary in violation of s. 810.02(2)(b) or
17 specified burglary of a dwelling or structure in violation of
18 s. 810.02(2)(c), or burglary with an assault or battery in
19 violation of s. 810.02(2)(a);
- 20 12. Aggravated battery;
- 21 13. Any lewd or lascivious offense committed upon or
22 in the presence of a person less than 16 years of age;
- 23 14. Carrying, displaying, using, threatening, or
24 attempting to use a weapon or firearm during the commission of
25 a felony;
- 26 15. Grand theft in violation of s. 812.014(2)(a);
- 27 16. Possessing or discharging any weapon or firearm on
28 school property in violation of s. 790.115;
- 29 17. Home invasion robbery;
- 30 18. Carjacking; or
- 31 19. Grand theft of a motor vehicle in violation of s.

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1 812.014(2)(c)6. or grand theft of a motor vehicle valued at
 2 \$20,000 or more in violation of s. 812.014(2)(b) if the child
 3 has a previous adjudication for grand theft of a motor vehicle
 4 in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

5 Section 6. This act shall take effect July 1, 2006.

6

7

8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 Delete everything before the enacting clause

11

12 and insert:

13

A bill to be entitled

14

An act relating to the unlawful taking of
personal property or equipment; amending s.

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812.014, F.S.; providing that the theft of

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property that has been deployed by a law

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enforcement officer is grand theft in the first

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degree; providing criminal penalties; creating

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s. 812.0147, F.S.; providing that it is a

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second-degree felony to possess or use a fifth

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wheel to commit or attempt to commit theft;

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providing criminal penalties; amending s.

24

812.155, F.S.; deleting the requirement to

25

prove fraudulent intent in order to withhold

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personal property or equipment; providing that

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failure to return rental property within a

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specified time is evidence of abandonment or

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refusal to redeliver the property; deleting a

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provision specifying that the prohibition

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against obtaining personal property or

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1 equipment with intent to defraud does not apply
2 to a rental-purchase agreement unless the
3 rental store retains title to the property or
4 equipment throughout the period of the
5 rental-purchase agreement; amending s.
6 921.0022, F.S.; classifying the offense of
7 stealing property deployed by a law enforcement
8 officer under the offense severity ranking
9 chart of the Criminal Punishment Code;
10 reenacting s. 985.227(1)(a), F.S., relating to
11 prosecution of juveniles as adults, in order to
12 incorporate the amendment to s. 812.014, F.S.,
13 in a reference thereto; providing an effective
14 date.

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