

Bill No. SB 1328

Barcode 651054

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Crist) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

(1) OBTAINING BY TRICK, FALSE REPRESENTATION, ETC.--Whoever, with the intent to defraud the owner or any person lawfully possessing any personal property or equipment, obtains the custody of such personal property or equipment by trick, deceit, or fraudulent or willful false representation shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless the value of the personal property or equipment is of a value of

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

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

16 (3) FAILURE TO REDELIVER HIRED OR LEASED PERSONAL
17 PROPERTY.--Whoever, after hiring or leasing any personal
18 property or equipment under an agreement to redeliver the same
19 to the person letting such personal property or equipment or
20 his or her agent at the termination of the period for which it
21 was let, shall, without the consent of such person or persons
22 ~~knowingly and with the intent to defraud,~~ abandon or ~~willfully~~
23 refuse to redeliver the ~~such~~ personal property or equipment as
24 agreed, shall, upon conviction, be guilty of a misdemeanor of
25 the second degree, punishable as provided in s. 775.082 or s.
26 775.083, unless the value of the personal property or
27 equipment is of a value of \$300 or more; in that event the
28 violation constitutes a felony of the third degree, punishable
29 as provided in s. 775.082, s. 775.083, or s. 775.084.

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

31 (a) In prosecutions under this section, obtaining the

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1 | property or equipment under false pretenses; absconding
 2 | without payment; or removing or attempting to remove the
 3 | property or equipment from the county without the express
 4 | written consent of the lessor, is ~~prima facie~~ evidence of
 5 | fraudulent intent.

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

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

25 | (5) DEMAND FOR RETURN.--Demand for return of overdue
 26 | property or equipment and for payment of amounts due may be
 27 | made in person, by hand delivery, or by certified mail, return
 28 | receipt requested, addressed to the lessee's address shown in
 29 | the rental contract.

30 | (6) NOTICE REQUIRED.--As a prerequisite to prosecution
 31 | under this section, the following statement must be contained

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1 in the agreement under which the owner or person lawfully
 2 possessing the property or equipment has relinquished its
 3 custody, or in an addendum to that agreement, and the
 4 statement must be initialed by the person hiring or leasing
 5 the rental property or equipment:

6
 7 Failure to return rental property or equipment upon expiration
 8 of the rental period and failure to pay all amounts due
 9 (including costs for damage to the property or equipment) are
 10 ~~prima facie~~ evidence of abandonment or refusal to redeliver
 11 the property ~~intent to defraud~~, punishable in accordance with
 12 section 812.155, Florida Statutes.

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

20 Section 2. This act shall take effect July 1, 2006.

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

24 And the title is amended as follows:

25 Delete everything before the enacting clause

26
 27 and insert:

28 A bill to be entitled

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

31 812.155, F.S.; deleting requirement to prove

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1 fraudulent intent to withhold personal property
2 or equipment; providing that failure to return
3 rental property within a specified time is
4 evidence of abandonment or refusal to redeliver
5 the property; deleting a provision specifying
6 that the prohibition against obtaining personal
7 property or equipment with intent to defraud
8 does not apply to a rental-purchase agreement
9 unless the rental store retains title to the
10 property or equipment throughout the period of
11 the rental-purchase agreement; providing an
12 effective date.

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