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2 An act relating to the unlawful taking of  
3 personal property or equipment; amending s.  
4 812.014, F.S.; providing that the theft of  
5 property that has been deployed by a law  
6 enforcement officer is grand theft in the first  
7 degree; providing criminal penalties; creating  
8 s. 812.0147, F.S.; providing that it is a  
9 second-degree felony to possess or use a fifth  
10 wheel to commit or attempt to commit theft;  
11 providing criminal penalties; amending s.  
12 812.155, F.S.; deleting the requirement to  
13 prove fraudulent intent in prosecutions related  
14 to the theft of personal property or equipment;  
15 providing that failure to return rental  
16 property within a specified time is evidence of  
17 abandonment or refusal to redeliver the  
18 property; deleting a provision that certain  
19 actions constitute prima facie evidence of  
20 fraudulent intent; deleting a provision  
21 specifying that the prohibition against  
22 obtaining personal property or equipment with  
23 intent to defraud does not apply to a  
24 rental-purchase agreement unless the rental  
25 store retains title to the property or  
26 equipment throughout the period of the  
27 rental-purchase agreement; amending s.  
28 921.0022, F.S.; classifying the offense of  
29 stealing property deployed by a law enforcement  
30 officer under the offense severity ranking  
31 chart of the Criminal Punishment Code;

1 reenacting s. 985.227(1)(a), F.S., relating to  
2 prosecution of juveniles as adults, in order to  
3 incorporate the amendment to s. 812.014, F.S.,  
4 in a reference thereto; providing an effective  
5 date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9 Section 1. Paragraph (a) of subsection (2) of section  
10 812.014, Florida Statutes, is amended to read:

11 812.014 Theft.--

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

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

19 3. If the offender commits any grand theft and:

20 a. In the course of committing the offense the  
21 offender uses a motor vehicle as an instrumentality, other  
22 than merely as a getaway vehicle, to assist in committing the  
23 offense and thereby damages the real property of another; or

24 b. In the course of committing the offense the  
25 offender causes damage to the real or personal property of  
26 another in excess of \$1,000,

27  
28 the offender commits grand theft in the first degree,  
29 punishable as a felony of the first degree, as provided in s.  
30 775.082, s. 775.083, or s. 775.084.

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

3           812.0147 Unlawful possession or use of a fifth  
4 wheel.--

5           (1) A person may not modify, alter, attempt to alter,  
6 and if altered, sell, possess, offer for sale, move, or cause  
7 to be moved onto the highways of this state a device known as  
8 a fifth wheel with the intent to use the fifth wheel to commit  
9 or attempt to commit theft. As used in this section, the term  
10 "fifth wheel" applies only to a fifth wheel on a commercial  
11 motor vehicle.

12           (2) Any person who violates subsection (1) commits a  
13 felony of the second degree, punishable as provided in s.  
14 775.082, s. 775.083, or s. 775.084.

15           Section 3. Section 812.155, Florida Statutes, is  
16 amended to read:

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

21           (1) OBTAINING BY TRICK, FALSE REPRESENTATION,  
22 ETC.--Whoever, with the intent to defraud the owner or any  
23 person lawfully possessing any personal property or equipment,  
24 obtains the custody of such personal property or equipment by  
25 trick, deceit, or fraudulent or willful false representation  
26 shall be guilty of a misdemeanor of the second degree,  
27 punishable as provided in s. 775.082 or s. 775.083, unless the  
28 value of the personal property or equipment is of a value of  
29 \$300 or more; in that event the violation constitutes a felony  
30 of the third degree, punishable as provided in s. 775.082, s.  
31 775.083, or s. 775.084.

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

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

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

28           (a)   In prosecutions under this section, obtaining the  
29 property or equipment under false pretenses; absconding  
30 without payment; or removing or attempting to remove the  
31 property or equipment from the county without the express

1 written consent of the lessor, is ~~prima facie~~ evidence of  
2 fraudulent intent.

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

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

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

27 (6) NOTICE REQUIRED.--As a prerequisite to prosecution  
28 under this section, the following statement must be contained  
29 in the agreement under which the owner or person lawfully  
30 possessing the property or equipment has relinquished its  
31 custody, or in an addendum to that agreement, and the

1 statement must be initialed by the person hiring or leasing  
 2 the rental property or equipment:

3  
 4 Failure to return rental property or equipment upon expiration  
 5 of the rental period and failure to pay all amounts due  
 6 (including costs for damage to the property or equipment) are  
 7 ~~prima facie~~ evidence of abandonment or refusal to redeliver  
 8 the property intent to defraud, punishable in accordance with  
 9 section 812.155, Florida Statutes.

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

17 Section 4. Paragraph (g) of subsection (3) of section  
 18 921.0022, Florida Statutes, is amended to read:

19 921.0022 Criminal Punishment Code; offense severity  
 20 ranking chart.--

21 (3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	
Statute	Degree	Description
316.027(1)(b)	2nd	(g) LEVEL 7 Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.

1	316.1935(3)(b)	1st	Causing serious bodily injury or
2			death to another person; driving
3			at high speed or with wanton
4			disregard for safety while
5			fleeing or attempting to elude
6			law enforcement officer who is in
7			a patrol vehicle with siren and
8			lights activated.
9	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
10			bodily injury.
11	402.319(2)	2nd	Misrepresentation and negligence
12			or intentional act resulting in
13			great bodily harm, permanent
14			disfiguration, permanent
15			disability, or death.
16	409.920(2)	3rd	Medicaid provider fraud.
17	456.065(2)	3rd	Practicing a health care
18			profession without a license.
19	456.065(2)	2nd	Practicing a health care
20			profession without a license
21			which results in serious bodily
22			injury.
23	458.327(1)	3rd	Practicing medicine without a
24			license.
25	459.013(1)	3rd	Practicing osteopathic medicine
26			without a license.
27	460.411(1)	3rd	Practicing chiropractic medicine
28			without a license.
29	461.012(1)	3rd	Practicing podiatric medicine
30			without a license.
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1	462.17	3rd	Practicing naturopathy without a
2			license.
3	463.015(1)	3rd	Practicing optometry without a
4			license.
5	464.016(1)	3rd	Practicing nursing without a
6			license.
7	465.015(2)	3rd	Practicing pharmacy without a
8			license.
9	466.026(1)	3rd	Practicing dentistry or dental
10			hygiene without a license.
11	467.201	3rd	Practicing midwifery without a
12			license.
13	468.366	3rd	Delivering respiratory care
14			services without a license.
15	483.828(1)	3rd	Practicing as clinical laboratory
16			personnel without a license.
17	483.901(9)	3rd	Practicing medical physics
18			without a license.
19	484.013(1)(c)	3rd	Preparing or dispensing optical
20			devices without a prescription.
21	484.053	3rd	Dispensing hearing aids without a
22			license.
23	494.0018(2)	1st	Conviction of any violation of
24			ss. 494.001-494.0077 in which the
25			total money and property
26			unlawfully obtained exceeded
27			\$50,000 and there were five or
28			more victims.
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1	560.123(8)(b)1.	3rd	Failure to report currency or
2			payment instruments exceeding
3			\$300 but less than \$20,000 by
4			money transmitter.
5	560.125(5)(a)	3rd	Money transmitter business by
6			unauthorized person, currency or
7			payment instruments exceeding
8			\$300 but less than \$20,000.
9	655.50(10)(b)1.	3rd	Failure to report financial
10			transactions exceeding \$300 but
11			less than \$20,000 by financial
12			institution.
13	775.21(10)(a)	3rd	Sexual predator; failure to
14			register; failure to renew
15			driver's license or
16			identification card; other
17			registration violations.
18	775.21(10)(b)	3rd	Sexual predator working where
19			children regularly congregate.
20	775.21(10)(g)	3rd	Failure to report or providing
21			false information about a sexual
22			predator; harbor or conceal a
23			sexual predator.
24	782.051(3)	2nd	Attempted felony murder of a
25			person by a person other than the
26			perpetrator or the perpetrator of
27			an attempted felony.
28	782.07(1)	2nd	Killing of a human being by the
29			act, procurement, or culpable
30			negligence of another
31			(manslaughter).

1	782.071	2nd	Killing of human being or viable
2			fetus by the operation of a motor
3			vehicle in a reckless manner
4			(vehicular homicide).
5	782.072	2nd	Killing of a human being by the
6			operation of a vessel in a
7			reckless manner (vessel
8			homicide).
9	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
10			causing great bodily harm or
11			disfigurement.
12	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
13			weapon.
14	784.045(1)(b)	2nd	Aggravated battery; perpetrator
15			aware victim pregnant.
16	784.048(4)	3rd	Aggravated stalking; violation of
17			injunction or court order.
18	784.048(7)	3rd	Aggravated stalking; violation of
19			court order.
20	784.07(2)(d)	1st	Aggravated battery on law
21			enforcement officer.
22	784.074(1)(a)	1st	Aggravated battery on sexually
23			violent predators facility staff.
24	784.08(2)(a)	1st	Aggravated battery on a person 65
25			years of age or older.
26	784.081(1)	1st	Aggravated battery on specified
27			official or employee.
28	784.082(1)	1st	Aggravated battery by detained
29			person on visitor or other
30			detainee.
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1	784.083(1)	1st	Aggravated battery on code
2			inspector.
3	790.07(4)	1st	Specified weapons violation
4			subsequent to previous conviction
5			of s. 790.07(1) or (2).
6	790.16(1)	1st	Discharge of a machine gun under
7			specified circumstances.
8	790.165(2)	2nd	Manufacture, sell, possess, or
9			deliver hoax bomb.
10	790.165(3)	2nd	Possessing, displaying, or
11			threatening to use any hoax bomb
12			while committing or attempting to
13			commit a felony.
14	790.166(3)	2nd	Possessing, selling, using, or
15			attempting to use a hoax weapon
16			of mass destruction.
17	790.166(4)	2nd	Possessing, displaying, or
18			threatening to use a hoax weapon
19			of mass destruction while
20			committing or attempting to
21			commit a felony.
22	796.03	2nd	Procuring any person under 16
23			years for prostitution.
24	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
25			victim less than 12 years of age;
26			offender less than 18 years.
27	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
28			victim 12 years of age or older
29			but less than 16 years; offender
30			18 years or older.
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1	806.01(2)	2nd	Maliciously damage structure by
2			fire or explosive.
3	810.02(3)(a)	2nd	Burglary of occupied dwelling;
4			unarmed; no assault or battery.
5	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
6			unarmed; no assault or battery.
7	810.02(3)(d)	2nd	Burglary of occupied conveyance;
8			unarmed; no assault or battery.
9	812.014(2)(a)1.	1st	Property stolen, valued at
10			\$100,000 or more <u>or a semitrailer</u>
11			<u>deployed by a law enforcement</u>
12			<u>officer</u> ; property stolen while
13			causing other property damage;
14			1st degree grand theft.
15	812.014(2)(b)2.	2nd	Property stolen, cargo valued at
16			less than \$50,000, grand theft in
17			2nd degree.
18	812.014(2)(b)3.	2nd	Property stolen, emergency
19			medical equipment; 2nd degree
20			grand theft.
21	812.0145(2)(a)	1st	Theft from person 65 years of age
22			or older; \$50,000 or more.
23	812.019(2)	1st	Stolen property; initiates,
24			organizes, plans, etc., the theft
25			of property and traffics in
26			stolen property.
27	812.131(2)(a)	2nd	Robbery by sudden snatching.
28	812.133(2)(b)	1st	Carjacking; no firearm, deadly
29			weapon, or other weapon.
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1	817.234(8)(a)	2nd	Solicitation of motor vehicle
2			accident victims with intent to
3			defraud.
4	817.234(9)	2nd	Organizing, planning, or
5			participating in an intentional
6			motor vehicle collision.
7	817.234(11)(c)	1st	Insurance fraud; property value
8			\$100,000 or more.
9	817.2341(2)(b)&		
10	(3)(b)	1st	Making false entries of material
11			fact or false statements
12			regarding property values
13			relating to the solvency of an
14			insuring entity which are a
15			significant cause of the
16			insolvency of that entity.
17	825.102(3)(b)	2nd	Neglecting an elderly person or
18			disabled adult causing great
19			bodily harm, disability, or
20			disfigurement.
21	825.103(2)(b)	2nd	Exploiting an elderly person or
22			disabled adult and property is
23			valued at \$20,000 or more, but
24			less than \$100,000.
25	827.03(3)(b)	2nd	Neglect of a child causing great
26			bodily harm, disability, or
27			disfigurement.
28	827.04(3)	3rd	Impregnation of a child under 16
29			years of age by person 21 years
30			of age or older.
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1	837.05(2)	3rd	Giving false information about
2			alleged capital felony to a law
3			enforcement officer.
4	838.015	2nd	Bribery.
5	838.016	2nd	Unlawful compensation or reward
6			for official behavior.
7	838.021(3)(a)	2nd	Unlawful harm to a public
8			servant.
9	838.22	2nd	Bid tampering.
10	847.0135(3)	3rd	Solicitation of a child, via a
11			computer service, to commit an
12			unlawful sex act.
13	872.06	2nd	Abuse of a dead human body.
14	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
15			cocaine (or other drug prohibited
16			under s. 893.03(1)(a), (1)(b),
17			(1)(d), (2)(a), (2)(b), or
18			(2)(c)4.) within 1,000 feet of a
19			child care facility, school, or
20			state, county, or municipal park
21			or publicly owned recreational
22			facility or community center.
23	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
24			cocaine or other drug prohibited
25			under s. 893.03(1)(a), (1)(b),
26			(1)(d), (2)(a), (2)(b), or
27			(2)(c)4., within 1,000 feet of
28			property used for religious
29			services or a specified business
30			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.
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1	893.135		
2	(1)(h)1.a.	1st	Trafficking in
3			gamma-hydroxybutyric acid (GHB),
4			1 kilogram or more, less than 5
5			kilograms.
6	893.135		
7	(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1
8			kilogram or more, less than 5
9			kilograms.
10	893.135		
11	(1)(k)2.a.	1st	Trafficking in Phenethylamines,
12			10 grams or more, less than 200
13			grams.
14	896.101(5)(a)	3rd	Money laundering, financial
15			transactions exceeding \$300 but
16			less than \$20,000.
17	896.104(4)(a)1.	3rd	Structuring transactions to evade
18			reporting or registration
19			requirements, financial
20			transactions exceeding \$300 but
21			less than \$20,000.
22	943.0435(4)(c)	2nd	Sexual offender vacating
23			permanent residence; failure to
24			comply with reporting
25			requirements.
26	943.0435(8)	2nd	Sexual offender; remains in state
27			after indicating intent to leave;
28			failure to comply with reporting
29			requirements.
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1	943.0435(9)(a)	3rd	Sexual offender; failure to
2			comply with reporting
3			requirements.
4	943.0435(13)	3rd	Failure to report or providing
5			false information about a sexual
6			offender; harbor or conceal a
7			sexual offender.
8	943.0435(14)	3rd	Sexual offender; failure to
9			report and reregister; failure to
10			respond to address verification.
11	944.607(9)	3rd	Sexual offender; failure to
12			comply with reporting
13			requirements.
14	944.607(10)(a)	3rd	Sexual offender; failure to
15			submit to the taking of a
16			digitized photograph.
17	944.607(12)	3rd	Failure to report or providing
18			false information about a sexual
19			offender; harbor or conceal a
20			sexual offender.
21	944.607(13)	3rd	Sexual offender; failure to
22			report and reregister; failure to
23			respond to address verification.

24           Section 5. For the purpose of incorporating the  
25 amendment made by this act to section 812.014, Florida  
26 Statutes, in a reference thereto, paragraph (a) of subsection  
27 (1) of section 985.227, Florida Statutes, is reenacted to  
28 read:

29           985.227 Prosecution of juveniles as adults by the  
30 direct filing of an information in the criminal division of  
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1 the circuit court; discretionary criteria; mandatory  
2 criteria.--

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

4 (a) With respect to any child who was 14 or 15 years  
5 of age at the time the alleged offense was committed, the  
6 state attorney may file an information when in the state  
7 attorney's judgment and discretion the public interest  
8 requires that adult sanctions be considered or imposed and  
9 when the offense charged is for the commission of, attempt to  
10 commit, or conspiracy to commit:

11 1. Arson;

12 2. Sexual battery;

13 3. Robbery;

14 4. Kidnapping;

15 5. Aggravated child abuse;

16 6. Aggravated assault;

17 7. Aggravated stalking;

18 8. Murder;

19 9. Manslaughter;

20 10. Unlawful throwing, placing, or discharging of a  
21 destructive device or bomb;

22 11. Armed burglary in violation of s. 810.02(2)(b) or  
23 specified burglary of a dwelling or structure in violation of  
24 s. 810.02(2)(c), or burglary with an assault or battery in  
25 violation of s. 810.02(2)(a);

26 12. Aggravated battery;

27 13. Any lewd or lascivious offense committed upon or  
28 in the presence of a person less than 16 years of age;

29 14. Carrying, displaying, using, threatening, or  
30 attempting to use a weapon or firearm during the commission of  
31 a felony;

- 1           15. Grand theft in violation of s. 812.014(2)(a);
- 2           16. Possessing or discharging any weapon or firearm on
- 3 school property in violation of s. 790.115;
- 4           17. Home invasion robbery;
- 5           18. Carjacking; or
- 6           19. Grand theft of a motor vehicle in violation of s.
- 7 812.014(2)(c)6. or grand theft of a motor vehicle valued at
- 8 \$20,000 or more in violation of s. 812.014(2)(b) if the child
- 9 has a previous adjudication for grand theft of a motor vehicle
- 10 in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

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

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