

Bill No. SB 158

Barcode 813078

CHAMBER ACTION

Senate

House

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

**Senate Amendment (with title amendment)**

On page 2, line 1, through page 12, line 6, delete those lines

and insert:

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 offense and thereby damages the real property of another; or

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

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

10           812.0147 Unlawful possession or use of a fifth  
 11 wheel.--

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

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

22           Section 2. Section 812.155, F.S., is amended to read:

23           812.155 Hiring, leasing, or obtaining personal  
 24 property or equipment with the intent to defraud; failing to  
 25 return hired or leased personal property or equipment; rules  
 26 of evidence.--

27           (1) OBTAINING BY TRICK, FALSE REPRESENTATION,  
 28 ETC.--Whoever, with the intent to defraud the owner or any  
 29 person lawfully possessing any personal property or equipment,  
 30 obtains the custody of such personal property or equipment by  
 31 trick, deceit, or fraudulent or willful false representation

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1 shall be guilty of a misdemeanor of the second degree,  
2 punishable as provided in s. 775.082 or s. 775.083, unless the  
3 value of the personal property or equipment is of a value of  
4 \$300 or more; in that event the violation constitutes a felony  
5 of the third degree, punishable as provided in s. 775.082, s.  
6 775.083, or s. 775.084.

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

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

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1 as provided in s. 775.082, s. 775.083, or s. 775.084.

2 (4) EVIDENCE OF FRAUDULENT INTENT.--

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

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

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

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

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

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

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

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

26           921.0022 Criminal Punishment Code; offense severity  
 27 ranking chart.--

28           (3) OFFENSE SEVERITY RANKING CHART

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

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

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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 or a semitrailer
- 15 deployed by a law enforcement
- 16 officer; property stolen while
- 17 causing other property damage;
- 18 1st degree grand theft.

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

22 And the title is amended as follows:

23 On page 1, lines 3-19, delete those lines

25 and insert:

26 F.S.; providing that the theft of a semitrailer

27 that was deployed by a law enforcement officer

28 is grand theft in the first degree; providing

29 criminal penalties; creating s. 812.0147, F.S.;

30 providing that it is a second-degree felony to

31 alter, possess, or use a fifth wheel to commit

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1 or attempt to commit theft; providing criminal  
2 penalties; amending s. 812.155, F.S.; deleting  
3 a provision specifying that the prohibition  
4 against obtaining personal property or  
5 equipment with intent to defraud does not apply  
6 to a rental-purchase agreement unless the  
7 rental store retains title to the property or  
8 equipment throughout the period of the  
9 rental-purchase agreement; amending s.  
10 921.0022, F.S.; classifying the offense of  
11 stealing a semitrailer deployed by a law  
12 enforcement

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