

By Senator Lynn

7-82-06

1 A bill to be entitled

2 An act relating to theft; amending s. 812.014,

3 F.S.; providing that the theft of property that

4 has been deployed by a law enforcement officer

5 is grand theft in the first degree; providing

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

7 providing that it is a second-degree felony to

8 possess or use a fifth wheel to commit or

9 attempt to commit theft; providing criminal

10 penalties; amending s. 812.155, F.S.; deleting

11 a provision specifying that the prohibition

12 against obtaining personal property or

13 equipment with intent to defraud does not apply

14 to a rental-purchase agreement unless the

15 rental store retains title to the property or

16 equipment throughout the period of the

17 rental-purchase agreement; amending s.

18 921.0022, F.S.; classifying the offense of

19 stealing property deployed by a law enforcement

20 officer under the offense severity ranking

21 chart of the Criminal Punishment Code;

22 reenacting s. 985.227(1)(a), F.S., relating to

23 prosecution of juveniles as adults, in order to

24 incorporate the amendment to s. 812.014, F.S.,

25 in a reference thereto; providing an effective

26 date.

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

30 Section 1. Paragraph (a) of subsection (2) of section

31 812.014, Florida Statutes, is amended to read:

1 | 812.014 Theft.--

2 | (2)(a)1. If the property stolen is valued at \$100,000
3 | or more or has been deployed by a law enforcement officer; or

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

8 | 3. If the offender commits any grand theft and:

9 | a. In the course of committing the offense the
10 | offender uses a motor vehicle as an instrumentality, other
11 | than merely as a getaway vehicle, to assist in committing the
12 | offense and thereby damages the real property of another; or

13 | b. In the course of committing the offense the
14 | offender causes damage to the real or personal property of
15 | another in excess of \$1,000,

16 |
17 | the offender commits grand theft in the first degree,
18 | punishable as a felony of the first degree, as provided in s.
19 | 775.082, s. 775.083, or s. 775.084.

20 | Section 2. Section 812.0147, Florida Statutes, is
21 | created to read:

22 | 812.0147 Unlawful possession or use of a fifth
23 | wheel.--

24 | (1) A person may not modify, alter, attempt to alter,
25 | and if altered, sell, possess, offer for sale, move, or cause
26 | to be moved onto the highways of this state a device known as
27 | a fifth wheel with the intent to use the fifth wheel to commit
28 | or attempt to commit theft. As used in this section, the term
29 | "fifth wheel" applies only to a fifth wheel on a heavy
30 | commercial motor vehicle.

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1 (2) Any person who violates subsection (1) commits a
2 felony of the second degree, punishable as provided in s.
3 775.082, s. 775.083, or s. 775.084.

4 Section 3. Section 812.155, F.S., is amended to read:
5 812.155 Hiring, leasing, or obtaining personal
6 property or equipment with the intent to defraud; failing to
7 return hired or leased personal property or equipment; rules
8 of evidence.--

9 (1) OBTAINING BY TRICK, FALSE REPRESENTATION,
10 ETC.--Whoever, with the intent to defraud the owner or any
11 person lawfully possessing any personal property or equipment,
12 obtains the custody of such personal property or equipment by
13 trick, deceit, or fraudulent or willful false representation
14 shall be guilty of a misdemeanor of the second degree,
15 punishable as provided in s. 775.082 or s. 775.083, unless the
16 value of the personal property or equipment is of a value of
17 \$300 or more; in that event the violation constitutes a felony
18 of the third degree, punishable as provided in s. 775.082, s.
19 775.083, or s. 775.084.

20 (2) HIRING OR LEASING WITH THE INTENT TO
21 DEFRAUD.--Whoever, with intent to defraud the owner or any
22 person lawfully possessing any personal property or equipment
23 of the rental thereof, hires or leases said personal property
24 or equipment from such owner or such owner's agents or any
25 person in lawful possession thereof shall, upon conviction, be
26 guilty of a misdemeanor of the second degree, punishable as
27 provided in s. 775.082 or s. 775.083, unless the value of the
28 personal property or equipment is of a value of \$300 or more;
29 in that event the violation constitutes a felony of the third
30 degree, punishable as provided in s. 775.082, s. 775.083, or
31 s. 775.084.

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

15 (4) EVIDENCE OF FRAUDULENT INTENT.--

16 (a) In prosecutions under this section, obtaining the
17 property or equipment under false pretenses; absconding
18 without payment; or removing or attempting to remove the
19 property or equipment from the county without the express
20 written consent of the lessor, is prima facie evidence of
21 fraudulent intent.

22 (b) In a prosecution under subsection (3), failure to
23 redeliver the property or equipment within 5 days after
24 receipt of, or within 5 days after return receipt from, the
25 certified mailing of the demand for return is prima facie
26 evidence of fraudulent intent. Notice mailed by certified
27 mail, return receipt requested, to the address given by the
28 renter at the time of rental shall be deemed sufficient and
29 equivalent to notice having been received by the renter,
30 should the notice be returned undelivered.

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1 (c) In a prosecution under subsection (3), failure to
2 pay any amount due which is incurred as the result of the
3 failure to redeliver property after the rental period expires,
4 and after the demand for return is made, is prima facie
5 evidence of fraudulent intent. Amounts due include unpaid
6 rental for the time period during which the property or
7 equipment was not returned and include the lesser of the cost
8 of repairing or replacing the property or equipment if it has
9 been damaged.

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

15 (6) NOTICE REQUIRED.--As a prerequisite to prosecution
16 under this section, the following statement must be contained
17 in the agreement under which the owner or person lawfully
18 possessing the property or equipment has relinquished its
19 custody, or in an addendum to that agreement, and the
20 statement must be initialed by the person hiring or leasing
21 the rental property or equipment:

22
23 Failure to return rental property or equipment
24 upon expiration of the rental period and
25 failure to pay all amounts due (including costs
26 for damage to the property or equipment) are
27 prima facie evidence of intent to defraud,
28 punishable in accordance with section 812.155,
29 Florida Statutes.
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1 ~~(7) EXCLUSION OF RENTAL PURCHASE AGREEMENTS. This~~
2 ~~section does not apply to personal property or equipment that~~
3 ~~is the subject of a rental purchase agreement that permits the~~
4 ~~lessee to acquire ownership of the personal property or~~
5 ~~equipment unless the rental store retains title to the~~
6 ~~personal property or equipment throughout the rental purchase~~
7 ~~agreement period.~~

8 Section 4. Paragraph (g) of subsection (3) of section
9 921.0022, Florida Statutes, is amended to read:

10 921.0022 Criminal Punishment Code; offense severity
11 ranking chart.--

12 (3) OFFENSE SEVERITY RANKING CHART

14 Florida	Felony	
15 Statute	Degree	Description
		(c) LEVEL 3
		(g) LEVEL 7
20 316.027(1)(b)	2nd	Accident involving death, failure 21 to stop; leaving scene.
22 316.193(3)(c)2.	3rd	DUI resulting in serious bodily 23 injury.
24 316.1935(3)(b)	1st	Causing serious bodily injury or 25 death to another person; driving 26 at high speed or with wanton 27 disregard for safety while 28 fleeing or attempting to elude 29 law enforcement officer who is in 30 a patrol vehicle with siren and 31 lights activated.

1	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
2			bodily injury.
3	402.319(2)	2nd	Misrepresentation and negligence
4			or intentional act resulting in
5			great bodily harm, permanent
6			disfiguration, permanent
7			disability, or death.
8	409.920(2)	3rd	Medicaid provider fraud.
9	456.065(2)	3rd	Practicing a health care
10			profession without a license.
11	456.065(2)	2nd	Practicing a health care
12			profession without a license
13			which results in serious bodily
14			injury.
15	458.327(1)	3rd	Practicing medicine without a
16			license.
17	459.013(1)	3rd	Practicing osteopathic medicine
18			without a license.
19	460.411(1)	3rd	Practicing chiropractic medicine
20			without a license.
21	461.012(1)	3rd	Practicing podiatric medicine
22			without a license.
23	462.17	3rd	Practicing naturopathy without a
24			license.
25	463.015(1)	3rd	Practicing optometry without a
26			license.
27	464.016(1)	3rd	Practicing nursing without a
28			license.
29	465.015(2)	3rd	Practicing pharmacy without a
30			license.
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1	466.026(1)	3rd	Practicing dentistry or dental
2			hygiene without a license.
3	467.201	3rd	Practicing midwifery without a
4			license.
5	468.366	3rd	Delivering respiratory care
6			services without a license.
7	483.828(1)	3rd	Practicing as clinical laboratory
8			personnel without a license.
9	483.901(9)	3rd	Practicing medical physics
10			without a license.
11	484.013(1)(c)	3rd	Preparing or dispensing optical
12			devices without a prescription.
13	484.053	3rd	Dispensing hearing aids without a
14			license.
15	494.0018(2)	1st	Conviction of any violation of
16			ss. 494.001-494.0077 in which the
17			total money and property
18			unlawfully obtained exceeded
19			\$50,000 and there were five or
20			more victims.
21	560.123(8)(b)1.	3rd	Failure to report currency or
22			payment instruments exceeding
23			\$300 but less than \$20,000 by
24			money transmitter.
25	560.125(5)(a)	3rd	Money transmitter business by
26			unauthorized person, currency or
27			payment instruments exceeding
28			\$300 but less than \$20,000.
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1	655.50(10)(b)1.	3rd	Failure to report financial
2			transactions exceeding \$300 but
3			less than \$20,000 by financial
4			institution.
5	775.21(10)(a)	3rd	Sexual predator; failure to
6			register; failure to renew
7			driver's license or
8			identification card; other
9			registration violations.
10	775.21(10)(b)	3rd	Sexual predator working where
11			children regularly congregate.
12	775.21(10)(g)	3rd	Failure to report or providing
13			false information about a sexual
14			predator; harbor or conceal a
15			sexual predator.
16	782.051(3)	2nd	Attempted felony murder of a
17			person by a person other than the
18			perpetrator or the perpetrator of
19			an attempted felony.
20	782.07(1)	2nd	Killing of a human being by the
21			act, procurement, or culpable
22			negligence of another
23			(manslaughter).
24	782.071	2nd	Killing of human being or viable
25			fetus by the operation of a motor
26			vehicle in a reckless manner
27			(vehicular homicide).
28	782.072	2nd	Killing of a human being by the
29			operation of a vessel in a
30			reckless manner (vessel
31			homicide).

1	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
2			causing great bodily harm or
3			disfigurement.
4	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
5			weapon.
6	784.045(1)(b)	2nd	Aggravated battery; perpetrator
7			aware victim pregnant.
8	784.048(4)	3rd	Aggravated stalking; violation of
9			injunction or court order.
10	784.048(7)	3rd	Aggravated stalking; violation of
11			court order.
12	784.07(2)(d)	1st	Aggravated battery on law
13			enforcement officer.
14	784.074(1)(a)	1st	Aggravated battery on sexually
15			violent predators facility staff.
16	784.08(2)(a)	1st	Aggravated battery on a person 65
17			years of age or older.
18	784.081(1)	1st	Aggravated battery on specified
19			official or employee.
20	784.082(1)	1st	Aggravated battery by detained
21			person on visitor or other
22			detainee.
23	784.083(1)	1st	Aggravated battery on code
24			inspector.
25	790.07(4)	1st	Specified weapons violation
26			subsequent to previous conviction
27			of s. 790.07(1) or (2).
28	790.16(1)	1st	Discharge of a machine gun under
29			specified circumstances.
30	790.165(2)	2nd	Manufacture, sell, possess, or
31			deliver hoax bomb.

1	790.165(3)	2nd	Possessing, displaying, or
2			threatening to use any hoax bomb
3			while committing or attempting to
4			commit a felony.
5	790.166(3)	2nd	Possessing, selling, using, or
6			attempting to use a hoax weapon
7			of mass destruction.
8	790.166(4)	2nd	Possessing, displaying, or
9			threatening to use a hoax weapon
10			of mass destruction while
11			committing or attempting to
12			commit a felony.
13	796.03	2nd	Procuring any person under 16
14			years for prostitution.
15	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
16			victim less than 12 years of age;
17			offender less than 18 years.
18	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
19			victim 12 years of age or older
20			but less than 16 years; offender
21			18 years or older.
22	806.01(2)	2nd	Maliciously damage structure by
23			fire or explosive.
24	810.02(3)(a)	2nd	Burglary of occupied dwelling;
25			unarmed; no assault or battery.
26	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
27			unarmed; no assault or battery.
28	810.02(3)(d)	2nd	Burglary of occupied conveyance;
29			unarmed; no assault or battery.
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1	812.014(2)(a)1.	1st	Property stolen, valued at
2			\$100,000 or more <u>or deployed by a</u>
3			<u>law enforcement officer</u> ; property
4			stolen while causing other
5			property damage; 1st degree grand
6			theft.
7	812.014(2)(b)2.	2nd	Property stolen, cargo valued at
8			less than \$50,000, grand theft in
9			2nd degree.
10	812.014(2)(b)3.	2nd	Property stolen, emergency
11			medical equipment; 2nd degree
12			grand theft.
13	812.0145(2)(a)	1st	Theft from person 65 years of age
14			or older; \$50,000 or more.
15	812.019(2)	1st	Stolen property; initiates,
16			organizes, plans, etc., the theft
17			of property and traffics in
18			stolen property.
19	812.131(2)(a)	2nd	Robbery by sudden snatching.
20	812.133(2)(b)	1st	Carjacking; no firearm, deadly
21			weapon, or other weapon.
22	817.234(8)(a)	2nd	Solicitation of motor vehicle
23			accident victims with intent to
24			defraud.
25	817.234(9)	2nd	Organizing, planning, or
26			participating in an intentional
27			motor vehicle collision.
28	817.234(11)(c)	1st	Insurance fraud; property value
29			\$100,000 or more.
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1	817.2341(2)(b)&		
2	(3)(b)	1st	Making false entries of material
3			fact or false statements
4			regarding property values
5			relating to the solvency of an
6			insuring entity which are a
7			significant cause of the
8			insolvency of that entity.
9	825.102(3)(b)	2nd	Neglecting an elderly person or
10			disabled adult causing great
11			bodily harm, disability, or
12			disfigurement.
13	825.103(2)(b)	2nd	Exploiting an elderly person or
14			disabled adult and property is
15			valued at \$20,000 or more, but
16			less than \$100,000.
17	827.03(3)(b)	2nd	Neglect of a child causing great
18			bodily harm, disability, or
19			disfigurement.
20	827.04(3)	3rd	Impregnation of a child under 16
21			years of age by person 21 years
22			of age or older.
23	837.05(2)	3rd	Giving false information about
24			alleged capital felony to a law
25			enforcement officer.
26	838.015	2nd	Bribery.
27	838.016	2nd	Unlawful compensation or reward
28			for official behavior.
29	838.021(3)(a)	2nd	Unlawful harm to a public
30			servant.
31	838.22	2nd	Bid tampering.

1	847.0135(3)	3rd	Solicitation of a child, via a
2			computer service, to commit an
3			unlawful sex act.
4	872.06	2nd	Abuse of a dead human body.
5	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
6			cocaine (or other drug prohibited
7			under s. 893.03(1)(a), (1)(b),
8			(1)(d), (2)(a), (2)(b), or
9			(2)(c)4.) within 1,000 feet of a
10			child care facility, school, or
11			state, county, or municipal park
12			or publicly owned recreational
13			facility or community center.
14	893.13(1)(e)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
19			property used for religious
20			services or a specified business
21			site.
22	893.13(4)(a)	1st	Deliver to minor cocaine (or
23			other s. 893.03(1)(a), (1)(b),
24			(1)(d), (2)(a), (2)(b), or
25			(2)(c)4. drugs).
26	893.135(1)(a)1.	1st	Trafficking in cannabis, more
27			than 25 lbs., less than 2,000
28			lbs.
29	893.135		
30	(1)(b)1.a.	1st	Trafficking in cocaine, more than
31			28 grams, less than 200 grams.

1	893.135		
2	(1)(c)1.a.	1st	Trafficking in illegal drugs,
3			more than 4 grams, less than 14
4			grams.
5	893.135		
6	(1)(d)1.	1st	Trafficking in phencyclidine,
7			more than 28 grams, less than 200
8			grams.
9	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
10			than 200 grams, less than 5
11			kilograms.
12	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
13			than 14 grams, less than 28
14			grams.
15	893.135		
16	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
17			grams or more, less than 14
18			grams.
19	893.135		
20	(1)(h)1.a.	1st	Trafficking in
21			gamma-hydroxybutyric acid (GHB),
22			1 kilogram or more, less than 5
23			kilograms.
24	893.135		
25	(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1
26			kilogram or more, less than 5
27			kilograms.
28	893.135		
29	(1)(k)2.a.	1st	Trafficking in Phenethylamines,
30			10 grams or more, less than 200
31			grams.

1	896.101(5)(a)	3rd	Money laundering, financial
2			transactions exceeding \$300 but
3			less than \$20,000.
4	896.104(4)(a)1.	3rd	Structuring transactions to evade
5			reporting or registration
6			requirements, financial
7			transactions exceeding \$300 but
8			less than \$20,000.
9	943.0435(4)(c)	2nd	Sexual offender vacating
10			permanent residence; failure to
11			comply with reporting
12			requirements.
13	943.0435(8)	2nd	Sexual offender; remains in state
14			after indicating intent to leave;
15			failure to comply with reporting
16			requirements.
17	943.0435(9)(a)	3rd	Sexual offender; failure to
18			comply with reporting
19			requirements.
20	943.0435(13)	3rd	Failure to report or providing
21			false information about a sexual
22			offender; harbor or conceal a
23			sexual offender.
24	943.0435(14)	3rd	Sexual offender; failure to
25			report and reregister; failure to
26			respond to address verification.
27	944.607(9)	3rd	Sexual offender; failure to
28			comply with reporting
29			requirements.
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1 944.607(10)(a) 3rd Sexual offender; failure to
2 submit to the taking of a
3 digitized photograph.
4 944.607(12) 3rd Failure to report or providing
5 false information about a sexual
6 offender; harbor or conceal a
7 sexual offender.
8 944.607(13) 3rd Sexual offender; failure to
9 report and reregister; failure to
10 respond to address verification.

11 Section 5. For the purpose of incorporating the
12 amendment made by this act to section 812.014, Florida
13 Statutes, in a reference thereto, paragraph (a) of subsection
14 (1) of section 985.227, Florida Statutes, is reenacted to
15 read:

16 985.227 Prosecution of juveniles as adults by the
17 direct filing of an information in the criminal division of
18 the circuit court; discretionary criteria; mandatory
19 criteria.--

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

21 (a) With respect to any child who was 14 or 15 years
22 of age at the time the alleged offense was committed, the
23 state attorney may file an information when in the state
24 attorney's judgment and discretion the public interest
25 requires that adult sanctions be considered or imposed and
26 when the offense charged is for the commission of, attempt to
27 commit, or conspiracy to commit:

- 28 1. Arson;
29 2. Sexual battery;
30 3. Robbery;
31 4. Kidnapping;

- 1 5. Aggravated child abuse;
- 2 6. Aggravated assault;
- 3 7. Aggravated stalking;
- 4 8. Murder;
- 5 9. Manslaughter;
- 6 10. Unlawful throwing, placing, or discharging of a
- 7 destructive device or bomb;
- 8 11. Armed burglary in violation of s. 810.02(2)(b) or
- 9 specified burglary of a dwelling or structure in violation of
- 10 s. 810.02(2)(c), or burglary with an assault or battery in
- 11 violation of s. 810.02(2)(a);
- 12 12. Aggravated battery;
- 13 13. Any lewd or lascivious offense committed upon or
- 14 in the presence of a person less than 16 years of age;
- 15 14. Carrying, displaying, using, threatening, or
- 16 attempting to use a weapon or firearm during the commission of
- 17 a felony;
- 18 15. Grand theft in violation of s. 812.014(2)(a);
- 19 16. Possessing or discharging any weapon or firearm on
- 20 school property in violation of s. 790.115;
- 21 17. Home invasion robbery;
- 22 18. Carjacking; or
- 23 19. Grand theft of a motor vehicle in violation of s.
- 24 812.014(2)(c)6. or grand theft of a motor vehicle valued at
- 25 \$20,000 or more in violation of s. 812.014(2)(b) if the child
- 26 has a previous adjudication for grand theft of a motor vehicle
- 27 in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

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

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SENATE SUMMARY

Provides that theft of property deployed by a law enforcement officer is first-degree grand theft. Provides that possession or use of a fifth wheel to commit or attempt to commit theft is a second-degree felony. Deletes an exemption provided for rental purchase agreements. (See bill for details.)