

CHAMBER ACTION

1 The Justice Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to theft; amending s. 812.014, F.S.;
7 providing that the theft of a semitrailer that was
8 deployed by a law enforcement officer is grand theft in
9 the first degree; providing criminal penalties; creating
10 s. 812.0147, F.S.; providing that it is a second-degree
11 felony to alter, possess, or use a fifth wheel to commit
12 or attempt to commit theft; providing criminal penalties;
13 amending s. 812.155, F.S.; revising the offense of failure
14 to redeliver hired or leased personal property or
15 equipment to require a knowing abandonment of or refusal
16 to redeliver the property or equipment rather than an
17 intent to defraud; removing a provision specifying that
18 certain acts are prima facie evidence of fraudulent
19 intent; providing that certain acts are evidence of
20 knowing abandonment of or refusal to redeliver property;
21 deleting a provision specifying that the prohibition
22 against obtaining personal property or equipment with
23 intent to defraud does not apply to a rental-purchase

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24 | agreement unless the rental store retains title to the
 25 | property or equipment throughout the period of the rental-
 26 | purchase agreement; amending s. 921.0022, F.S.;
 27 | classifying the offense of stealing a semitrailer deployed
 28 | by a law enforcement officer under the offense severity
 29 | ranking chart of the Criminal Punishment Code; providing
 30 | an effective date.

31

32 | Be It Enacted by the Legislature of the State of Florida:

33

34 | Section 1. Paragraph (a) of subsection (2) of section
 35 | 812.014, Florida Statutes, is amended to read:

36 | 812.014 Theft.--

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

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

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

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

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

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52
53 the offender commits grand theft in the first degree, punishable
54 as a felony of the first degree, as provided in s. 775.082, s.
55 775.083, or s. 775.084.

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

58 812.0147 Unlawful possession or use of a fifth wheel.--

59 (1) A person may not modify, alter, or attempt to alter,
60 and if altered, sell, possess, offer for sale, move, or cause to
61 be moved onto the highways of this state, a device known as a
62 fifth wheel with the intent to use the fifth wheel to commit or
63 attempt to commit theft. As used in this section, the term
64 "fifth wheel" applies only to a fifth wheel on a commercial
65 motor vehicle.

66 (2) Any person who violates subsection (1) commits a
67 felony of the second degree, punishable as provided in s.
68 775.082, s. 775.083, or s. 775.084.

69 Section 3. Section 812.155, Florida Statutes, is amended
70 to read:

71 812.155 Hiring, leasing, or obtaining personal property or
72 equipment with the intent to defraud; failing to return hired or
73 leased personal property or equipment; ~~rules of~~ evidence.--

74 (1) OBTAINING BY TRICK, FALSE REPRESENTATION,
75 ETC.--Whoever, with the intent to defraud the owner or any
76 person lawfully possessing any personal property or equipment,
77 obtains the custody of such personal property or equipment by
78 trick, deceit, or fraudulent or willful false representation
79 commits shall be guilty of a misdemeanor of the second degree,

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80 | punishable as provided in s. 775.082 or s. 775.083, unless the
81 | value of the personal property or equipment is of a value of
82 | \$300 or more; in that event, the violation constitutes a felony
83 | of the third degree, punishable as provided in s. 775.082, s.
84 | 775.083, or s. 775.084.

85 | (2) HIRING OR LEASING WITH THE INTENT TO
86 | DEFRAUD.--Whoever, with intent to defraud the owner or any
87 | person lawfully possessing any personal property or equipment of
88 | the rental thereof, hires or leases the ~~said~~ personal property
89 | or equipment from the ~~such~~ owner or the ~~such~~ owner's agents or
90 | any person in lawful possession thereof shall, upon conviction,
91 | be guilty of a misdemeanor of the second degree, punishable as
92 | provided in s. 775.082 or s. 775.083, unless the value of the
93 | personal property or equipment is of a value of \$300 or more; in
94 | that event, the violation constitutes a felony of the third
95 | degree, punishable as provided in s. 775.082, s. 775.083, or s.
96 | 775.084.

97 | (3) FAILURE TO REDELIVER HIRED OR LEASED PERSONAL
98 | PROPERTY.--Whoever, after hiring or leasing any personal
99 | property or equipment under an agreement to redeliver the same
100 | to the person letting such personal property or equipment or his
101 | or her agent at the termination of the period for which it was
102 | let, ~~shall,~~ without the consent of such person or persons, the
103 | knowingly abandons ~~and with the intent to defraud, abandon or~~
104 | refuses ~~willfully refuse~~ to redeliver the ~~such~~ personal property
105 | or equipment as agreed, shall, upon conviction, be guilty of a
106 | misdemeanor of the second degree, punishable as provided in s.
107 | 775.082 or s. 775.083, unless the value of the personal property

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

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

112 (a) In prosecutions under this section, obtaining the
113 property or equipment under false pretenses; absconding without
114 payment; or removing or attempting to remove the property or
115 equipment from the county without the express written consent of
116 the lessor, is ~~prima facie~~ evidence of fraudulent intent.

117 (b) In a prosecution under subsection (3), failure to
118 redeliver the property or equipment within 5 days after receipt
119 of, or within 5 days after return receipt from, the certified
120 mailing of the demand for return is ~~prima facie~~ evidence of
121 knowing abandonment of or refusal to redeliver the property
122 ~~fraudulent intent~~. Notice mailed by certified mail, return
123 receipt requested, to the address given by the renter at the
124 time of rental shall be deemed sufficient and equivalent to
125 notice having been received by the renter, should the notice be
126 returned undelivered.

127 (c) In a prosecution under subsection (3), failure to pay
128 any amount due that ~~which~~ is incurred as the result of the
129 failure to redeliver property after the rental period expires,
130 and after the demand for return is made, is ~~prima facie~~ evidence
131 of knowing abandonment of or refusal to redeliver the property
132 ~~fraudulent intent~~. Amounts due include unpaid rental for the
133 time period during which the property or equipment was not
134 returned and include the lesser of the cost of repairing or
135 replacing the property or equipment if it has been damaged.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

141 (6) NOTICE REQUIRED.--As a prerequisite to prosecution
142 under this section, the following statement must be contained in
143 the agreement under which the owner or person lawfully
144 possessing the property or equipment has relinquished its
145 custody, or in an addendum to that agreement, and the statement
146 must be initialed by the person hiring or leasing the rental
147 property or equipment:

148
149 Failure to return rental property or equipment upon
150 expiration of the rental period and failure to pay all
151 amounts due (including costs for damage to the
152 property or equipment) are ~~prima facie~~ evidence of
153 knowing abandonment of or refusal to redeliver the
154 property intent to defraud, punishable in accordance
155 with section 812.155, Florida Statutes.

156
157 ~~(7) EXCLUSION OF RENTAL PURCHASE AGREEMENTS. This section~~
158 ~~does not apply to personal property or equipment that is the~~
159 ~~subject of a rental purchase agreement that permits the lessee~~
160 ~~to acquire ownership of the personal property or equipment~~
161 ~~unless the rental store retains title to the personal property~~
162 ~~or equipment throughout the rental purchase agreement period.~~

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163 Section 4. Paragraph (g) of subsection (3) of section
164 921.0022, Florida Statutes, is amended to read:

165 921.0022 Criminal Punishment Code; offense severity
166 ranking chart.--

167 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence

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			or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
174	409.920 (2)	3rd	Medicaid provider fraud.
175	456.065 (2)	3rd	Practicing a health care profession without a license.
176	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
177	458.327 (1)	3rd	Practicing medicine without a license.
178	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
179	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
180	461.012 (1)	3rd	Practicing podiatric medicine without a license.
181	462.17	3rd	Practicing naturopathy without a license.
182	463.015 (1)	3rd	Practicing optometry without a

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			license.
183	464.016 (1)	3rd	Practicing nursing without a license.
184	465.015 (2)	3rd	Practicing pharmacy without a license.
185	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
186	467.201	3rd	Practicing midwifery without a license.
187	468.366	3rd	Delivering respiratory care services without a license.
188	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
189	483.901 (9)	3rd	Practicing medical physics without a license.
190	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
191	484.053	3rd	Dispensing hearing aids without a license.
192	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the

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			total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
193	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
194	560.125 (5) (a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
195	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
196	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
197	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
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199	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
200	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
201	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
202	782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
203	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
204	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
	784.045(1)(a)2.	2nd	Aggravated battery; using deadly

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			weapon.
205	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
206	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
207	784.048 (7)	3rd	Aggravated stalking; violation of court order.
208	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
209	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
210	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
211	784.081 (1)	1st	Aggravated battery on specified official or employee.
212	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
213	784.083 (1)	1st	Aggravated battery on code inspector.
214	790.07 (4)	1st	Specified weapons violation

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			subsequent to previous conviction of s. 790.07(1) or (2).
215	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
216	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
217	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
218	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
219	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
220	796.03	2nd	Procuring any person under 16 years for prostitution.
221	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.

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222	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
223	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
224	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
225	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
226	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
227	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more <u>or a semitrailer deployed by a law enforcement officer</u> ; property stolen while causing other property damage; 1st degree grand theft.
228	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
229	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical

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			equipment; 2nd degree grand theft.
230	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
231	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
232	812.131 (2) (a)	2nd	Robbery by sudden snatching.
233	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
234	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
235	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
236	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
237	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity

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			which are a significant cause of the insolvency of that entity.
238	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
239	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
240	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
241	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
242	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
243	838.015	2nd	Bribery.
244	838.016	2nd	Unlawful compensation or reward for official behavior.
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246	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
247	838.22	2nd	Bid tampering.
248	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
249	872.06	2nd	Abuse of a dead human body.
250	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
251	893.13 (1) (e) 1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4., within 1,000 feet of property used for religious services or a specified business site.

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252	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
253	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
254	893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
255	893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
256	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
257	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
258	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
259	893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
	893.135(1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1

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			kilogram or more, less than 5 kilograms.
260	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
261	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
262	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
263	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
264	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
265	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
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267	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
268	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
269	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
270	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
271	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
272	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
273	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
274	Section 5. This act shall take effect July 1, 2006.		