

1 A bill to be entitled
2 An act relating to theft; amending s. 812.014, F.S.;
3 providing that the theft of a semitrailer that was
4 deployed by a law enforcement officer is grand theft in
5 the first degree; providing criminal penalties; creating
6 s. 812.0147, F.S.; providing that it is a second-degree
7 felony to alter, possess, or use a fifth wheel to commit
8 or attempt to commit theft; providing criminal penalties;
9 amending s. 812.155, F.S.; revising the offense of failure
10 to redeliver hired or leased personal property or
11 equipment to require a knowing abandonment of or refusal
12 to redeliver the property or equipment rather than an
13 intent to defraud; removing a provision specifying that
14 certain acts are prima facie evidence of fraudulent
15 intent; providing that certain acts are evidence of
16 knowing abandonment of or refusal to redeliver property;
17 deleting a provision specifying that the prohibition
18 against obtaining personal property or equipment with
19 intent to defraud does not apply to a rental-purchase
20 agreement unless the rental store retains title to the
21 property or equipment throughout the period of the rental-
22 purchase agreement; amending s. 921.0022, F.S.;
23 classifying the offense of stealing a semitrailer deployed
24 by a law enforcement officer under the offense severity
25 ranking chart of the Criminal Punishment Code; providing
26 an effective date.
27

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

29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54

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

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

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

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

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

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

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

62 (2) Any person who violates subsection (1) commits a
63 felony of the second degree, punishable as provided in s.
64 775.082, s. 775.083, or s. 775.084.

65 Section 3. Section 812.155, Florida Statutes, is amended
66 to read:

67 812.155 Hiring, leasing, or obtaining personal property or
68 equipment with the intent to defraud; failing to return hired or
69 leased personal property or equipment; ~~rules of evidence.--~~

70 (1) OBTAINING BY TRICK, FALSE REPRESENTATION,
71 ETC.--Whoever, with the intent to defraud the owner or any
72 person lawfully possessing any personal property or equipment,
73 obtains the custody of such personal property or equipment by
74 trick, deceit, or fraudulent or willful false representation
75 commits ~~shall be guilty of~~ a misdemeanor of the second degree,
76 punishable as provided in s. 775.082 or s. 775.083, unless the
77 value of the personal property or equipment is of a value of
78 \$300 or more; in that event, the violation constitutes a felony
79 of the third degree, punishable as provided in s. 775.082, s.
80 775.083, or s. 775.084.

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

93 (3) FAILURE TO REDELIVER HIRED OR LEASED PERSONAL
 94 PROPERTY.--Whoever, after hiring or leasing any personal
 95 property or equipment under an agreement to redeliver the same
 96 to the person letting such personal property or equipment or his
 97 or her agent at the termination of the period for which it was
 98 let, ~~shall,~~ without the consent of such person or persons,
 99 knowingly abandons ~~and with the intent to defraud, abandon or~~
 100 refuses willfully refuse to redeliver the ~~such~~ personal property
 101 or equipment as agreed, shall, upon conviction, be guilty of a
 102 misdemeanor of the second degree, punishable as provided in s.
 103 775.082 or s. 775.083, unless the value of the personal property
 104 or equipment is of a value of \$300 or more; in that event, the
 105 violation constitutes a felony of the third degree, punishable
 106 as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

132 (5) DEMAND FOR RETURN.--Demand for return of overdue
 133 property or equipment and for payment of amounts due may be made
 134 in person, by hand delivery, or by certified mail, return

135 receipt requested, addressed to the lessee's address shown in
 136 the rental contract.

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

144
 145 Failure to return rental property or equipment upon
 146 expiration of the rental period and failure to pay all
 147 amounts due (including costs for damage to the
 148 property or equipment) are ~~prima facie~~ evidence of
 149 knowing abandonment of or refusal to redeliver the
 150 property intent to defraud, punishable in accordance
 151 with section 812.155, Florida Statutes.

152
 153 ~~(7) EXCLUSION OF RENTAL PURCHASE AGREEMENTS. This section~~
 154 ~~does not apply to personal property or equipment that is the~~
 155 ~~subject of a rental purchase agreement that permits the lessee~~
 156 ~~to acquire ownership of the personal property or equipment~~
 157 ~~unless the rental store retains title to the personal property~~
 158 ~~or equipment throughout the rental purchase agreement period.~~

159 Section 4. Paragraph (g) of subsection (3) of section
 160 921.0022, Florida Statutes, is amended to read:

161	921.0022	Criminal Punishment Code; offense severity
162	ranking chart.--	
163	(3)	OFFENSE SEVERITY RANKING CHART
	Florida	Felony
	Statute	Degree Description
164		(g) LEVEL 7
165	316.027(1)(b)	2nd Accident involving death, failure to stop; leaving scene.
166	316.193(3)(c)2.	3rd DUI resulting in serious bodily injury.
167	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.
168	327.35(3)(c)2.	3rd Vessel BUI resulting in serious bodily injury.
169	402.319(2)	2nd Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent

			disfiguration, permanent disability, or death.
170	409.920 (2)	3rd	Medicaid provider fraud.
171	456.065 (2)	3rd	Practicing a health care profession without a license.
172	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
173	458.327 (1)	3rd	Practicing medicine without a license.
174	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
175	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
176	461.012 (1)	3rd	Practicing podiatric medicine without a license.
177	462.17	3rd	Practicing naturopathy without a license.
178	463.015 (1)	3rd	Practicing optometry without a license.
179			

180	464.016 (1)	3rd	Practicing nursing without a license.
181	465.015 (2)	3rd	Practicing pharmacy without a license.
182	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
183	467.201	3rd	Practicing midwifery without a license.
184	468.366	3rd	Delivering respiratory care services without a license.
185	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
186	483.901 (9)	3rd	Practicing medical physics without a license.
187	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
188	484.053	3rd	Dispensing hearing aids without a license.
	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property

			unlawfully obtained exceeded \$50,000 and there were five or more victims.
189	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
190	560.125 (5) (a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
191	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
192	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
193	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
194	775.21 (10) (g)	3rd	Failure to report or providing

			false information about a sexual predator; harbor or conceal a sexual predator.
195	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
196	782.07 (1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
197	782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
198	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
199	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
200	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.

201	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
202	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
203	784.048 (7)	3rd	Aggravated stalking; violation of court order.
204	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
205	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
206	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
207	784.081 (1)	1st	Aggravated battery on specified official or employee.
208	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
209	784.083 (1)	1st	Aggravated battery on code inspector.
210	790.07 (4)	1st	Specified weapons violation

			subsequent to previous conviction of s. 790.07(1) or (2).
211	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
212	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
213	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
214	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
215	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
216	796.03	2nd	Procuring any person under 16 years for prostitution.
217	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age;

			offender less than 18 years.
218	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.
219	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
220	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
221	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
222	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
223	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.
224	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
225			

226	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
227	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
228	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
229	812.131 (2) (a)	2nd	Robbery by sudden snatching.
230	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
231	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
232	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
233	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
	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 which are a significant cause of the insolvency of that entity.
234	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
235	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.
236	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
237	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
238	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
239	838.015	2nd	Bribery.
240	838.016	2nd	Unlawful compensation or reward

for official behavior.

241 838.021(3)(a) 2nd Unlawful harm to a public servant.

242 838.22 2nd Bid tampering.

243 847.0135(3) 3rd Solicitation of a child, via a computer service, to commit an unlawful sex act.

244 872.06 2nd Abuse of a dead human body.

245 893.13(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.

246 893.13(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.
247	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).
248	893.135 (1) (a) 1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
249	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
250	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
251	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
252	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
253	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
254	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
255			

256	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
257	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
258	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
259	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
260	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
261	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave;

			failure to comply with reporting requirements.
262	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
263	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
264	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
265	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
266	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
267	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
268	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond

to address verification.

269

270

Section 5. This act shall take effect July 1, 2006.