

By Senator Latvala

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1 A bill to be entitled
2 An act relating to hiring, leasing, or obtaining
3 personal property or equipment with the intent to
4 defraud; amending s. 812.155, F.S.; providing that in
5 a prosecution for failing to return leased property or
6 equipment within a specified time to the lawful owner,
7 failure to return the property after a demand made by
8 certified mail or courier service creates a rebuttable
9 presumption that the lessee abandoned or refused to
10 return the property to the lessor; providing that
11 notice mailed by certified mail, return receipt
12 requested, or by delivery by courier with tracking
13 capabilities, to the address given by the renter at
14 the time of the rental is sufficient and equivalent to
15 notice having been received by the renter, if the
16 notice is returned undelivered; providing that
17 possession of personal property or equipment by a
18 third party is not a defense for failing to return the
19 personal property or equipment to its lawful owner;
20 providing that a demand for return of overdue property
21 or equipment and for payment of amounts due may be
22 made by courier service with tracking capabilities;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 812.155, Florida Statutes, is amended to
28 read:

29 812.155 Hiring, leasing, or obtaining personal property or

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30 equipment with the intent to defraud; failing to return hired or
31 leased personal property or equipment; rules of evidence.-

32 (1) OBTAINING BY TRICK, FALSE REPRESENTATION, ETC.—Whoever,
33 with the intent to defraud the owner or any person lawfully
34 possessing any personal property or equipment, obtains the
35 custody of the ~~such~~ personal property or equipment by trick,
36 deceit, or fraudulent or willful false representation commits
37 ~~shall be guilty of~~ a misdemeanor of the second degree,
38 punishable as provided in s. 775.082 or s. 775.083, unless the
39 value of the personal property or equipment is of a value of
40 \$300 or more; in that case event the person commits ~~violation~~
41 ~~constitutes~~ a felony of the third degree, punishable as provided
42 in s. 775.082, s. 775.083, or s. 775.084.

43 (2) HIRING OR LEASING WITH THE INTENT TO DEFRAUD.—Whoever,
44 with intent to defraud the owner or any person lawfully
45 possessing ~~any~~ personal property or equipment of the rental
46 thereof, hires or leases the personal property or equipment from
47 the owner or the owner's agents or any person in lawful
48 possession thereof commits ~~shall, upon conviction, be guilty of~~
49 a misdemeanor of the second degree, punishable as provided in s.
50 775.082 or s. 775.083, unless the value of the personal property
51 or equipment is of a value of \$300 or more; in that case event
52 the person commits ~~violation constitutes~~ a felony of the third
53 degree, punishable as provided in s. 775.082, s. 775.083, or s.
54 775.084.

55 (3) FAILURE TO RETURN ~~REDELIVER~~ HIRED OR LEASED PERSONAL
56 PROPERTY.—Whoever, after hiring or leasing ~~any~~ personal property
57 or equipment under an agreement to return ~~redeliver~~ the personal
58 property ~~same~~ to the person letting the ~~such~~ personal property

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59 or equipment or his or her agent at the termination of the
60 period for which it was let, shall, without the consent of the
61 ~~such~~ person or persons knowingly abandon or refuse to return
62 ~~redeliver~~ the personal property or equipment as agreed, commits
63 ~~shall, upon conviction, be guilty of~~ a misdemeanor of the second
64 degree, punishable as provided in s. 775.082 or s. 775.083,
65 unless the value of the personal property or equipment is of a
66 value of \$300 or more; in that case event the person commits
67 ~~violation constitutes~~ a felony of the third degree, punishable
68 as provided in s. 775.082, s. 775.083, or s. 775.084.

69 (4) EVIDENCE.—

70 (a) In a prosecution ~~prosecutions~~ under this section,
71 obtaining the property or equipment under false pretenses;
72 absconding without payment; or removing or attempting to remove
73 the property or equipment from the county without the express
74 written consent of the lessor, is evidence of fraudulent intent.

75 (b) In a prosecution under subsection (3), failure to
76 return ~~redeliver~~ the hired or leased personal property or
77 equipment to the lessor within 5 days after the lessor mailed a
78 demand to the lessee by certified mail, return receipt
79 requested, or delivered by courier service, with tracking
80 capability, the demand to the lessee's address on the rental
81 contract after receipt of, or within 5 days after return receipt
82 from, the certified mailing or delivery by courier service with
83 tracking capabilities of the demand for return of the property,
84 creates a rebuttable presumption ~~is evidence~~ of abandonment or
85 refusal to return ~~redeliver~~ the property. Notice mailed by
86 certified mail, return receipt requested, or delivery by courier
87 with tracking capabilities, to the address given by the renter

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88 at the time of rental ~~is shall be deemed~~ sufficient and
89 equivalent to notice having been received by the renter, should
90 the notice be returned undelivered.

91 (c) In a prosecution under subsection (3), failure to pay
92 any amount due which is incurred as the result of the failure to
93 redeliver property after the rental period expires, and after
94 the demand for return creates a rebuttable presumption ~~is made,~~
95 ~~is evidence~~ of abandonment or refusal to redeliver the property.
96 Amounts due include unpaid rental for the time period during
97 which the property or equipment was not returned and include the
98 lesser of the cost of repairing or replacing the property or
99 equipment if it has been damaged.

100 (d) Possession of personal property or equipment by a third
101 party is not a defense for failing to return the personal
102 property or equipment.

103 (5) DEMAND FOR RETURN.—Demand for return of overdue
104 property or equipment and for payment of amounts due may be made
105 in person, by hand delivery, or by certified mail, return
106 receipt requested, or by courier service with tracking
107 capabilities, addressed to the lessee's address shown in the
108 rental contract.

109 (6) NOTICE REQUIRED.—As a prerequisite to prosecution under
110 this section, the following statement must be contained in the
111 agreement under which the owner or person lawfully possessing
112 the property or equipment has relinquished its custody, or in an
113 addendum to that agreement, and the statement must be initialed
114 by the person hiring or leasing the rental property or
115 equipment:

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117 Failure to return rental property or equipment upon expiration
118 of the rental period and failure to pay all amounts due
119 (including costs for damage to the property or equipment) are
120 evidence of abandonment or refusal to redeliver the property,
121 punishable in accordance with section 812.155, Florida Statutes.

122 Section 2. This act shall take effect July 1, 2012.