

By the Committee on Criminal Justice; and 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, failing to redeliver property or
6 equipment within a specified time after receiving the
7 demand for return from a courier service with tracking
8 capability or by certified mail, return receipt
9 requested, or within a specified time after delivery
10 by the courier service or return receipt from the
11 certified mailing of the demand for return, is prima
12 facie evidence of abandonment or refusal to redeliver
13 the property or equipment; providing that notice
14 mailed by delivery by courier with tracking capability
15 to the address given by the renter at the time of the
16 rental is sufficient and equivalent to notice having
17 been received by the renter, if the notice is returned
18 undelivered; providing that in a prosecution for
19 failing to pay any amount due which is incurred as the
20 result of the failure to redeliver property or
21 equipment after the rental period expires, and after
22 the demand for return is made, is prima facie evidence
23 of abandonment or refusal to redeliver the property or
24 equipment; providing that a demand for return of
25 overdue property or equipment and for payment of
26 amounts due may be made by courier service with
27 tracking capability; providing that possession of
28 personal property or equipment by a third party does
29 not alleviate the lessee of his or her obligation to

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30 return the personal property or equipment according to
31 the terms stated in the contract; providing an
32 exception when the personal property or equipment was
33 obtained without the lessee's consent; providing that
34 a lessor of a vehicle that is not returned at the
35 conclusion of a lease is entitled to report the
36 vehicle as stolen to a law enforcement agency and have
37 the vehicle listed as stolen on any local or national
38 registry of such vehicles; providing an effective
39 date.

40
41 Be It Enacted by the Legislature of the State of Florida:

42
43 Section 1. Section 812.155, Florida Statutes, is amended to
44 read:

45 812.155 Hiring, leasing, or obtaining personal property or
46 equipment with the intent to defraud; failing to return hired or
47 leased personal property or equipment; rules of evidence.—

48 (1) OBTAINING BY TRICK, FALSE REPRESENTATION, ETC.—Whoever,
49 with the intent to defraud the owner or any person lawfully
50 possessing any personal property or equipment, obtains the
51 custody of the ~~such~~ personal property or equipment by trick,
52 deceit, or fraudulent or willful false representation commits
53 ~~shall be guilty of~~ a misdemeanor of the second degree,
54 punishable as provided in s. 775.082 or s. 775.083, unless the
55 value of the personal property or equipment is of a value of
56 \$300 or more; in that case event ~~the person commits violation~~
57 ~~constitutes~~ a felony of the third degree, punishable as provided
58 in s. 775.082, s. 775.083, or s. 775.084.

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59 (2) HIRING OR LEASING WITH THE INTENT TO DEFRAUD.—Whoever,
60 with intent to defraud the owner or any person lawfully
61 possessing ~~any~~ personal property or equipment of the rental
62 thereof, hires or leases the personal property or equipment from
63 the owner or the owner's agents or any person in lawful
64 possession thereof commits ~~shall, upon conviction, be guilty of~~
65 a misdemeanor of the second degree, punishable as provided in s.
66 775.082 or s. 775.083, unless the value of the personal property
67 or equipment is of a value of \$300 or more; in that case event
68 the person commits ~~violation constitutes~~ a felony of the third
69 degree, punishable as provided in s. 775.082, s. 775.083, or s.
70 775.084.

71 (3) FAILURE TO RETURN ~~REDELIVER~~ HIRED OR LEASED PERSONAL
72 PROPERTY.—Whoever, after hiring or leasing ~~any~~ personal property
73 or equipment under an agreement to return ~~redeliver~~ the personal
74 property same to the person letting the ~~such~~ personal property
75 or equipment or his or her agent at the termination of the
76 period for which it was let, shall, without the consent of the
77 ~~such~~ person or persons knowingly abandon or refuse to return
78 ~~redeliver~~ the personal property or equipment as agreed, commits
79 ~~shall, upon conviction, be guilty of~~ a misdemeanor of the second
80 degree, punishable as provided in s. 775.082 or s. 775.083,
81 unless the value of the personal property or equipment is of a
82 value of \$300 or more; in that case event the person commits
83 ~~violation constitutes~~ a felony of the third degree, punishable
84 as provided in s. 775.082, s. 775.083, or s. 775.084.

85 (4) EVIDENCE.—

86 (a) In a prosecution ~~prosecutions~~ under this section,
87 obtaining the property or equipment under false pretenses;

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88 absconding without payment; or removing or attempting to remove
89 the property or equipment from the county without the express
90 written consent of the lessor, is evidence of fraudulent intent.

91 (b) In a prosecution under subsection (3), failure to
92 redeliver the property or equipment within 5 days after
93 receiving the demand for return from a courier service with
94 tracking capability or by certified mail, return receipt
95 requested ~~receipt of~~, or within 5 days after delivery by the
96 courier service or return receipt from, the certified mailing of
97 the demand for return, is prima facie evidence of abandonment or
98 refusal to redeliver the property or equipment. Notice mailed by
99 certified mail, return receipt requested, or delivery by courier
100 with tracking capability to the address given by the renter at
101 the time of rental is ~~shall be deemed~~ sufficient and equivalent
102 to notice having been received by the renter, should the notice
103 be returned undelivered.

104 (c) In a prosecution under subsection (3), failure to pay
105 any amount due which is incurred as the result of the failure to
106 redeliver property or equipment after the rental period expires,
107 and after the demand for return is made, is prima facie evidence
108 of abandonment or refusal to redeliver the property or
109 equipment. Amounts due include unpaid rental for the time period
110 during which the property or equipment was not returned and
111 include the lesser of the cost of repairing or replacing the
112 property or equipment if it has been damaged.

113 (5) DEMAND FOR RETURN.—Demand for return of overdue
114 property or equipment and for payment of amounts due may be made
115 in person, by hand delivery, ~~or~~ by certified mail, return
116 receipt requested, or by courier service with tracking

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117 capability, addressed to the lessee's address shown in the
118 rental contract.

119 (6) NOTICE REQUIRED.—As a prerequisite to prosecution under
120 this section, the following statement must be contained in the
121 agreement under which the owner or person lawfully possessing
122 the property or equipment has relinquished its custody, or in an
123 addendum to that agreement, and the statement must be initialed
124 by the person hiring or leasing the rental property or
125 equipment:

126
127 Failure to return rental property or equipment upon
128 expiration of the rental period and failure to pay all
129 amounts due (including costs for damage to the
130 property or equipment) are evidence of abandonment or
131 refusal to redeliver the property, punishable in
132 accordance with section 812.155, Florida Statutes.

133 (7) THIRD PARTY POSSESSION.—Possession of personal property
134 or equipment by a third party does not alleviate the lessee of
135 his or her obligation to return the personal property or
136 equipment according to the terms stated in the contract by which
137 the property or equipment was leased or rented to the lessee,
138 and is not a defense against failure to return unless the lessee
139 provides the court or property owner with documentation that
140 demonstrates that the personal property or equipment was
141 obtained without the lessee's consent.

142 (8) REPORTING VEHICLE AS STOLEN.—A lessor of a vehicle that
143 is not returned at the conclusion of the lease who satisfies the
144 requirements of this section regarding the vehicle is entitled
145 to report the vehicle as stolen to a law enforcement agency and

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146 have the vehicle listed as stolen on any local or national
147 registry of such vehicles.

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