

HB 4043

2016

1                                   A bill to be entitled  
 2           An act relating to failure to return hired or leased  
 3           personal property or equipment; amending s. 812.155,  
 4           F.S.; deleting provisions providing criminal penalties  
 5           for failure to return hired or leased personal  
 6           property or equipment in certain circumstances;  
 7           conforming provisions; providing an effective date.

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

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11           Section 1. Subsections (3) through (8) of section 812.155,  
 12   Florida Statutes, are amended to read:

13           812.155 Hiring, leasing, or obtaining personal property or  
 14   equipment with the intent to defraud; ~~failing to return hired or~~  
 15   ~~leased personal property or equipment;~~ rules of evidence.-

16           ~~(3) FAILURE TO RETURN HIRED OR LEASED PERSONAL PROPERTY.-~~  
 17   ~~Whoever, after hiring or leasing personal property or equipment~~  
 18   ~~under an agreement to return the personal property to the person~~  
 19   ~~letting the personal property or equipment or his or her agent~~  
 20   ~~at the termination of the period for which it was let, shall,~~  
 21   ~~without the consent of the person or persons knowingly abandon~~  
 22   ~~or refuse to return the personal property or equipment as~~  
 23   ~~agreed, commits a misdemeanor of the second degree, punishable~~  
 24   ~~as provided in s. 775.082 or s. 775.083, unless the value of the~~  
 25   ~~personal property or equipment is of a value of \$300 or more; in~~  
 26   ~~that case the person commits a felony of the third degree,~~

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27 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

28 (3)~~(4)~~ EVIDENCE.—

29 ~~(a)~~ In a prosecution under this section, obtaining the  
30 property or equipment under false pretenses; absconding without  
31 payment; or removing or attempting to remove the property or  
32 equipment from the county without the express written consent of  
33 the lessor, is evidence of fraudulent intent.

34 ~~(b)~~ In a prosecution under subsection ~~(3)~~, failure to  
35 redeliver the property or equipment within 5 days after  
36 receiving the demand for return from a courier service with  
37 tracking capability or by certified mail, return receipt  
38 requested, or within 5 days after delivery by the courier  
39 service or return receipt from the certified mailing of the  
40 demand for return, is prima facie evidence of abandonment or  
41 refusal to redeliver the property or equipment. Notice mailed by  
42 certified mail, return receipt requested, or delivery by courier  
43 with tracking capability to the address given by the renter at  
44 the time of rental is sufficient and equivalent to notice having  
45 been received by the renter, should the notice be returned  
46 undelivered.

47 ~~(c)~~ In a prosecution under subsection ~~(3)~~, failure to pay  
48 any amount due which is incurred as the result of the failure to  
49 redeliver property or equipment after the rental period expires,  
50 and after the demand for return is made, is prima facie evidence  
51 of abandonment or refusal to redeliver the property or  
52 equipment. Amounts due include unpaid rental for the time period

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53 ~~during which the property or equipment was not returned and~~  
54 ~~include the lesser of the cost of repairing or replacing the~~  
55 ~~property or equipment if it has been damaged.~~

56 ~~(5) DEMAND FOR RETURN.—Demand for return of overdue~~  
57 ~~property or equipment and for payment of amounts due may be made~~  
58 ~~in person, by hand delivery, by certified mail, return receipt~~  
59 ~~requested, or by courier service with tracking capability,~~  
60 ~~addressed to the lessee's address shown in the rental contract.~~

61 ~~(6) NOTICE REQUIRED.—As a prerequisite to prosecution~~  
62 ~~under this section, the following statement must be contained in~~  
63 ~~the agreement under which the owner or person lawfully~~  
64 ~~possessing the property or equipment has relinquished its~~  
65 ~~eustody, or in an addendum to that agreement, and the statement~~  
66 ~~must be initialed by the person hiring or leasing the rental~~  
67 ~~property or equipment:~~

68 ~~Failure to return rental property or equipment upon expiration~~  
69 ~~of the rental period and failure to pay all amounts due~~  
70 ~~(including costs for damage to the property or equipment) are~~  
71 ~~evidence of abandonment or refusal to redeliver the property,~~  
72 ~~punishable in accordance with section 812.155, Florida Statutes.~~

73 ~~(4) (7) THIRD-PARTY POSSESSION.—Possession of personal~~  
74 ~~property or equipment by a third party does not alleviate the~~  
75 ~~lessee of his or her obligation to return the personal property~~  
76 ~~or equipment according to the terms stated in the contract by~~  
77 ~~which the property or equipment was leased or rented to the~~  
78 ~~lessee, and is not a defense against failure to return unless~~

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79 | the lessee provides the court or property owner with  
80 | documentation that demonstrates that the personal property or  
81 | equipment was obtained without the lessee's consent.

82 | ~~(8) REPORTING VEHICLE AS STOLEN.—A lessor of a vehicle~~  
83 | ~~that is not returned at the conclusion of the lease who~~  
84 | ~~satisfies the requirements of this section regarding the vehicle~~  
85 | ~~is entitled to report the vehicle as stolen to a law enforcement~~  
86 | ~~agency and have the vehicle listed as stolen on any local or~~  
87 | ~~national registry of such vehicles.~~

88 | Section 2. This act shall take effect July 1, 2016.