

CHAPTER 2012-210

Committee Substitute for Committee Substitute for House Bill No. 729

An act relating to hiring, leasing, or obtaining personal property or equipment with the intent to defraud; amending s. 812.155, F.S.; providing that in a prosecution, the failure to redeliver property or equipment within a specified time after receiving a demand for return delivered by a courier service with tracking capability or by certified mail, return receipt requested, or within a specified time after delivery by the courier service or return receipt from the certified mailing of the demand for return, is prima facie evidence of abandonment or refusal to redeliver the property or equipment; providing that notice sent by delivery by courier with tracking capability to the address given by the renter at the time of the rental is sufficient and equivalent to notice having been received by the renter, if the notice is returned undelivered; providing that in a prosecution for failing to pay any amount due which is incurred as the result of the failure to redeliver property or equipment after the rental period expires, and after the demand for return is made, is prima facie evidence of abandonment or refusal to redeliver the property or equipment; providing that a demand for return of overdue property or equipment and for payment of amounts due may be made by courier service with tracking capability; providing that possession of personal property or equipment by a third party does not alleviate the lessee of his or her obligation to return the personal property or equipment according to the terms stated in the contract; providing an exception when the personal property or equipment was obtained without the lessee's consent; providing that a lessor of a vehicle that is not returned at the conclusion of a lease is entitled to report the vehicle as stolen to a law enforcement agency and have the vehicle listed as stolen on any local or national registry of such vehicles; providing an effective date.

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

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

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

(1) OBTAINING BY TRICK, FALSE REPRESENTATION, ETC.—Whoever, with the intent to defraud the owner or any person lawfully possessing any personal property or equipment, obtains the custody of the such personal property or equipment by trick, deceit, or fraudulent or willful false representation commits ~~shall be guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless the value of the personal property or equipment is of a value of \$300 or more; in that case

event the person commits violation ~~constitutes~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

(4) EVIDENCE.—

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

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

(c) In a prosecution under subsection (3), failure to pay any amount due which is incurred as the result of the failure to redeliver property or equipment after the rental period expires, and after the demand for return is

made, is prima facie evidence of abandonment or refusal to redeliver the property or equipment. Amounts due include unpaid rental for the time period during which the property or equipment was not returned and include the lesser of the cost of repairing or replacing the property or equipment if it has been damaged.

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

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

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

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

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

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

Approved by the Governor May 4, 2012.

Filed in Office Secretary of State May 4, 2012.