

# HOUSE BILL REPORT

## HB 2059

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### As Reported By House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to theft of rental property.

**Brief Description:** Prohibiting theft of rental property.

**Sponsors:** Representatives D. Schmidt, Grant, Thompson and Sheldon.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 3/4/97, 3/5/97 [DPS].

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## HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Blalock; Cairnes; Delvin; Dickerson; Hickel; Robertson and Sullivan.

**Staff:** Yvonne Walker (786-7841).

**Background:** An offender convicted of stealing property valued over \$1,500 is considered theft in the first degree or a class B felony; valued between \$250 and \$1,500 is considered theft in the second degree or a class C felony; and valued less than \$250 is considered theft in the third degree or a gross misdemeanor.

Expiration of a lease or rental contract. A person who fails to return rented or leased property within 10 days after receiving a written notice, sent by certified or registered mail, of the expiration of the lease or rental agreement is guilty of a gross misdemeanor. The written notice from the lessor must include a warning that failure to promptly return the leased property within 10 days may result in a criminal prosecution.

The term "lease" in this section also includes rental agreements.

Failure to pay leased or rental payments. A person is guilty of a class C felony if the rented or leased property is valued over \$1,500, and if the person fails to return the

rented or leased property within five days after receiving a written notice, sent by certified or registered mail, from the lessor; and the person has signed an agreement to rent or lease for a period of six months or more and fails to pay the lessor the periodic payments when due for a period of 90 days.

**Summary of Substitute Bill:** A new section is created prohibiting theft of rental property which is to distinguish between theft of leased property.

A person is guilty of theft of rental or lease-purchase property if after receiving a written demand, sent by certified or registered mail, by the owner after expiration of the rental period: (1) the person continually fails to return the rented property or make acceptable arrangements for return of the property within 10 days; or (2) has presented a false identification when he or she originally rented the material.

A person is also guilty if:

- (a) The renter accurately stated the renter's name, address, and other material items of identification at the time of the rental; and
- (b) The renter failed to receive the owner's notice, due in no significant part to the fault of the renter.

Failure to return rental or lease-purchase property is: a class B felony if the rental property is valued at \$1,500 or more; a class C felony if the rental property is valued at less than \$1,500 and more than \$250; and a gross misdemeanor if the rental property is valued at less than \$250.

The penalties due to failure to return rental property do not apply to rental of real property between landlords and tenants under the Residential Landlord Tenant Act.

Expiration of a lease or rental contract. This section has been revised to only relate to leased property instead of both leased and rental property. The term "lease" in this section excludes rental agreements.

Failure to pay leased or rental payments. This section has been revised to only relate to leased property instead of both leased and rental property.

Failure to return leased property is subject to the same penalties as theft of rental property and the penalty is: a class B felony if the leased property is valued at \$1,500 or more; a class C felony if the leased property is valued at less than \$1,500 and more than \$250; and a gross misdemeanor if the leased property is valued at less than \$250.

**Substitute Bill Compared to Original Bill:** The added provisions make a number of technical corrections; define the term rental agreements-; brings the bill into

compliance with current theft statutes and associated penalties when a person does not return rented, leased, or leased-purchased property to its rightful owner; and requires a person to return leased or rented material within 72 hours instead of 10 days, thereby making the amount of return time consistent with current statute time limits. In addition, a provision is added to ensure penalties due to failure to return rental property do not apply to rental of real property between landlords and tenants.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Over the years a number of people have rented, leased, and failed to return various materials from small businesses around the state. Many of these people were absconders who presented false identification at the time of rental and consequently cannot be traced. The failure to return many of these items has resulted in substantial financial losses to area businesses, some stores losing over \$50,000 per year in stolen property, and there is no law to prosecute these offenders. These losses are crippling small businesses. This bill can only help to improve the law as it applies to the rental and leasing industry in Washington.

**Testimony Against:** None.

**Testified:** Roger Odegard, AA Rentals of Bothell (pro); Martin Dennison, American Rental Association of Washington (pro); Detective DJ Nesel, King County Police (pro); Gina Forte, 40 Rentals (pro); and Celia Fritz, Washington Rental Dealers Association (pro).