
HOUSE BILL 2059

State of Washington

55th Legislature

1997 Regular Session

By Representatives D. Schmidt, Grant, Thompson and Sheldon

Read first time 02/19/97. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to theft of rental property; amending RCW 9.45.062
2 and 9A.56.095; adding a new section to chapter 9A.56 RCW; and
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.56 RCW
6 to read as follows:

7 (1) A person who in any wrongful manner intentionally,
8 fraudulently, or by false pretenses takes, carries, leads, drives away,
9 destroys, sells, secretes, converts, withholds, or appropriates
10 personal property of another that is rented to the person, is guilty of
11 theft of rental property.

12 (2) The finder of fact may presume intent to commit theft of rental
13 property if the finder of fact finds either or both of the following:

14 (a) That the person who rented the personal property of another
15 failed to return or make arrangements acceptable to the owner of the
16 property to return the property to the owner or the owner's agent
17 within ten days after proper notice following the expiration of the
18 rental agreement; and

1 (b) That the renter presented identification to the owner that was
2 materially false, fictitious, or not current with respect to name,
3 address, place of employment, or other appropriate items.

4 (3) As used in subsection (2) of this section, "proper notice"
5 consists of a written demand by the owner made after the expiration of
6 the rental period, mailed by certified or registered mail to the renter
7 at: (a) The address the renter gave when the renter made the rental
8 contract; or (b) the renter's last known address if later furnished in
9 writing by the renter or the renter's agent.

10 (4) The reasonable and fair market value of the property obtained
11 must be utilized in determining the amount involved in the theft of
12 rental property.

13 (5) The following factors, if established by the renter by a
14 preponderance of the evidence, constitute an affirmative defense to
15 prosecution for theft of rental property:

16 (a) The renter accurately stated the renter's name, address, and
17 other material items of identification at the time of the rental;

18 (b) The renter failed to receive the owner's notice personally, due
19 in no significant part to the fault of the renter; and

20 (c) The renter personally or through the renter's agent returned
21 the personal property to the owner or the owner's agent within forty-
22 eight hours of the commencement of the prosecution, together with any
23 charges for the overdue period and the value of damages, if any, to the
24 property.

25 **Sec. 2.** RCW 9.45.062 and 1971 c 61 s 2 are each amended to read as
26 follows:

27 Every person being in possession thereof who shall wilfully and
28 without reasonable cause fail to deliver leased personal property to
29 the lessor within ten days after written notice of the expiration of
30 the lease has been mailed to the lessee by registered or certified mail
31 with return receipt requested, mailed to the last known address of the
32 lessee, shall be guilty of a gross misdemeanor: PROVIDED, That there
33 shall be no prosecution under this section unless such lease is in
34 writing, and contains a warning that failure to promptly return the
35 leased property may result in a criminal prosecution, and the notice
36 mailed pursuant to the provisions of this section shall clearly state
37 that the lessee may be guilty of a crime upon his failure to return the
38 property to the lessor within ten days.

1 In any prosecution under this section, any allegation containing a
2 description of the lease by reference to the date thereof and names of
3 the parties shall be sufficiently definite and certain.

4 ~~((As used in this section, the term "lease" shall also include
5 rental agreements.))~~

6 The provisions of this section shall be cumulative and nonexclusive
7 and shall not affect any other criminal provision.

8 **Sec. 3.** RCW 9A.56.095 and 1977 ex.s. c 236 s 1 are each amended to
9 read as follows:

10 (1) A person is guilty of criminal possession of leased ~~((or
11 rented))~~ machinery, equipment, or a motor vehicle if the value thereof
12 exceeds one thousand five hundred dollars and if ~~((he:~~

13 ~~((a) After renting machinery, equipment or a motor vehicle under an
14 agreement in writing which provides for the return of said item to a
15 particular place at a particular time, fails to return the item to said
16 place within the time specified, is thereafter served by registered or
17 certified mail addressed to him at his last known place of residence or
18 business with a written demand to return said item within seventy two
19 hours from the time of the service of such demand, and wilfully
20 neglects to return said item to any place of business of the lessor
21 within five full business days from the date of service of said notice;
22 or~~

23 ~~((b)))~~, after leasing machinery, equipment, or a motor vehicle under
24 an agreement in writing which provides for periodic ((rental or)) lease
25 payments for a period greater than six months duration, fails to pay
26 the lessor of said item the periodic payments when due for a period of
27 ninety days, is thereafter served by registered or certified mail
28 addressed to ((him)) the person at ((his)) the person's last known
29 place of residence or business with a written demand to return the item
30 to any place of business of the lessor within seventy-two hours from
31 the time of the service of said demand and willfully neglects to return
32 said item to any place of business of the lessor within five full
33 business days from the date of service of said notice.

34 (2) "Willfully neglects" as used in this section means omits,
35 fails, or forbears with intent to deprive the owner of or exert
36 unauthorized control over the property, and specifically excludes the
37 failure to return the item because of a bona fide contract dispute with
38 the owner.

1 (3) It shall be a defense to any civil action arising out of or
2 involving the arrest or detention of any person who (~~rents or~~) leases
3 machinery, equipment, or a motor vehicle that (~~he~~) the person failed
4 to return the item to any place of business of the lessor within five
5 full business days after receiving written demand therefor.

6 Criminal possession of leased (~~or rented~~) machinery, equipment,
7 or a motor vehicle is a class C felony.

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