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ENGROSSED SENATE BILL 5266

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State of Washington

65th Legislature

2017 Regular Session

By Senators O'Ban, Pedersen, Angel, and Darneille

Read first time 01/18/17. Referred to Committee on Law & Justice.

1 AN ACT Relating to theft of rental property; amending RCW  
2 9A.56.096; and prescribing penalties.

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

4 **Sec. 1.** RCW 9A.56.096 and 2012 c 30 s 1 are each amended to read  
5 as follows:

6 (1) A person who, with intent to deprive the owner or owner's  
7 agent, wrongfully obtains, or exerts unauthorized control over, or by  
8 color or aid of deception gains control of personal property that is  
9 rented, leased, or loaned by written agreement to the person, is  
10 guilty of theft of rental, leased, lease-purchased, or loaned  
11 property.

12 (2) A person who, having control of personal property under a  
13 written rental agreement, intentionally holds the property beyond the  
14 expiration of the rental period without the effective consent of the  
15 owner of the property, depriving the owner of the property of its use  
16 in further rentals, is guilty of theft of rental property. It is not  
17 a defense that the person returned the personal property held under a  
18 rental agreement after the expiration of the rental agreement if the  
19 person fails to pay the applicable rental charge for the property for  
20 the time that the person held the personal property. Rental property  
21 agreements must contain a warning that failure to return property and

1 pay all outstanding obligations pursuant to the terms of the  
2 agreement may result in charges up to and including a gross  
3 misdemeanor. For purposes of this subsection, applicable rental  
4 charge is determined pursuant to the late return provisions in the  
5 written agreement; however, if the written agreement contains no late  
6 return provisions, applicable rental charge means a value equal to  
7 the terms of the written rental agreement prorated from the due date  
8 of the rental period through the receipt of the returned property.  
9 This subsection applies only to rental property agreements, and does  
10 not apply to leased property, lease-purchased property, rent to own  
11 property, and motor vehicles.

12 (3) The finder of fact may presume intent to deprive if the  
13 finder of fact finds either of the following:

14 (a) That the person who rented or leased the property failed to  
15 return or make arrangements acceptable to the owner of the property  
16 or the owner's agent to return the property to the owner or the  
17 owner's agent within seventy-two hours after receipt of proper notice  
18 following the due date of the rental, lease, lease-purchase, or loan  
19 agreement; or

20 (b) That the renter, lessee, or borrower presented identification  
21 to the owner or the owner's agent that was materially false,  
22 fictitious, or not current with respect to name, address, place of  
23 employment, or other appropriate items.

24 ((+3)) (4) As used in subsection ((+2)) (3) of this section,  
25 "proper notice" consists of a written demand by the owner or the  
26 owner's agent made after the due date of the rental, lease, lease-  
27 purchase, or loan period, mailed by certified or registered mail to  
28 the renter, lessee, or borrower at: (a) The address the renter,  
29 lessee, or borrower gave when the contract was made; or (b) the  
30 renter, lessee, or borrower's last known address if later furnished  
31 in writing by the renter, lessee, borrower, or the agent of the  
32 renter, lessee, or borrower.

33 ((+4)) (5) The replacement value of the property obtained must  
34 be utilized in determining the amount involved in the theft of  
35 rental, leased, lease-purchased, or loaned property.

36 ((+5)) (6)(a) Theft of rental, leased, lease-purchased, or  
37 loaned property is a class B felony if the rental, leased, lease-  
38 purchased, or loaned property is valued at five thousand dollars or  
39 more.

1 (b) Theft of rental, leased, lease-purchased, or loaned property  
2 is a class C felony if the rental, leased, lease-purchased, or loaned  
3 property is valued at seven hundred fifty dollars or more but less  
4 than five thousand dollars.

5 (c) Theft of rental, leased, lease-purchased, or loaned property  
6 is a gross misdemeanor if the rental, leased, lease-purchased, or  
7 loaned property is valued at less than seven hundred fifty dollars.

8 (d)(i)(A) Theft of rental property under subsection (2) of this  
9 section is a gross misdemeanor if the outstanding obligation is  
10 valued at seven hundred fifty dollars or more;

11 (B) Theft of rental property under subsection (2) of this section  
12 is a misdemeanor if the outstanding obligation is valued at two  
13 hundred fifty dollars or more but less than seven hundred fifty  
14 dollars;

15 (C) Theft of rental property under subsection (2) of this section  
16 is a class 1 civil infraction if the outstanding obligation is valued  
17 at fifty dollars or more but less than two hundred fifty dollars.

18 (ii) This subsection (6)(d) applies only to rental property, and  
19 does not apply to leased property, lease-purchased property, rent to  
20 own property, and motor vehicles.

21 ~~((+6))~~ (7) The crime of theft of rental, leased, lease-  
22 purchased, or loaned property may be deemed to have been committed  
23 either at the physical location where the written agreement for the  
24 rental, lease, lease-purchase, or loan of the property was executed  
25 under subsection (1) of this section, or at the address where proper  
26 notice may be mailed to the renter, lessee, or borrower under  
27 subsection ~~((+3))~~ (4) of this section.

28 ~~((+7))~~ (8) This section applies to rental agreements that  
29 provide that the renter may return the property any time within the  
30 rental period and pay only for the time the renter actually retained  
31 the property, in addition to any minimum rental fee, to lease  
32 agreements, to lease-purchase agreements as defined under RCW  
33 63.19.010, and to vehicles loaned to prospective purchasers borrowing  
34 a vehicle by written agreement from a motor vehicle dealer licensed  
35 under chapter 46.70 RCW. This section does not apply to rental or  
36 leasing of real property under the residential landlord-tenant act,  
37 chapter 59.18 RCW.

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