

ESB 5266 - H COMM AMD  
By Committee on Judiciary

ADOPTED 04/11/2017

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

11 (2)(a) A person is guilty of theft of rental or leased property  
12 who, having control of personal property under a written rental or  
13 lease agreement, intentionally holds the property beyond the  
14 expiration of the rental or lease period without the effective  
15 consent of the owner of the property, depriving the owner of the  
16 property of its use in further rentals, and fails to return the  
17 property within seventy-two hours after receipt of proper notice.

18 (b) As used in this subsection (2), "proper notice" consists of a  
19 written demand by the owner or the owner's agent made after the due  
20 date of the rental or lease period, mailed by certified or registered  
21 mail to the renter or lessee at: (i) The address the renter or lessee  
22 gave when the contract was made; or (ii) the renter's or lessee's  
23 last known address if later furnished in writing by the renter or  
24 lessee or the agent of the renter or lessee.

25 (c) It is not a defense that the person returned the personal  
26 property held under a rental or lease agreement if the return was  
27 made after the end of the seventy-two hour period following receipt  
28 of proper notice and the person fails to pay the applicable rental  
29 charge for the property for the time that the person held the  
30 personal property.

31 (d) Rental and leased property agreements must contain a warning  
32 that failure to return property and pay all outstanding obligations

1 pursuant to the terms of the agreement may result in charges up to  
2 and including a gross misdemeanor. For purposes of this subsection,  
3 applicable rental charge is determined pursuant to the late return  
4 provisions in the written agreement; however, if the written  
5 agreement contains no late return provisions, applicable rental  
6 charge means a value equal to the terms of the written rental or  
7 lease agreement prorated from the due date of the rental or lease  
8 period through the receipt of the returned property.

9 (e) This subsection (2) applies only to rental and leased  
10 property agreements, and does not apply to lease-purchased property,  
11 rent to own property, medical equipment, and motor vehicles.

12 (3) The finder of fact may presume intent to deprive under  
13 subsection (1) of this section if the finder of fact finds either of  
14 the following:

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

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

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

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

37 ~~((+5))~~ (6)(a) Theft of rental, leased, lease-purchased, or  
38 loaned property is a class B felony if the rental, leased, lease-  
39 purchased, or loaned property is valued at five thousand dollars or  
40 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 or leased property under subsection (2)  
9 of this section is a gross misdemeanor if the outstanding obligation  
10 is valued at seven hundred fifty dollars or more;

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

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

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

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

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

39 Correct the title.

EFFECT: (1) Applies the new subsection only to written rental and lease agreements, rather than only to written rental agreements;

(2) Excludes rental or lease of medical equipment from the provisions of this new subsection;

(3) Adds a notice element such that a person is guilty of theft of rental or leased property who both:

(a) Intentionally holds the property beyond the expiration of the rental or lease period without consent/depriving the owner of the property in further rentals; and

(b) Fails to return the property within 72 hours after receipt of proper notice (and defines proper notice);

(4) Inserts a reference to a subsection number so that it is clear that the subsection regarding presumption of "intent to deprive" only pertains to existing law which uses that phrase in the context of theft of rental, leased, lease-purchased, or loaned property.

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