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## Judiciary Committee

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### ESB 5266

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

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

**Sponsors:** Senators O'Ban, Pedersen, Angel and Darneille.

#### Brief Summary of Engrossed Bill

- Provides that a person who, having control of personal property under a written rental agreement, intentionally holds the property beyond the expiration of the rental period without the effective consent of the owner, depriving the owner of its use in further rentals, is guilty of theft of rental property.
- Specifies that it is not a defense that the person returned the property after the expiration of the rental agreement if the person fails to pay the applicable rental charge for the time that the person held the property, and differentiates the level of seriousness based upon the amount of the applicable unpaid rental charge.

**Hearing Date:** 3/15/17

**Staff:** Cece Clynch (786-7195).

#### Background:

A person is guilty of "theft of rental, leased, lease-purchased, or loaned property" if he or she with intent to deprive, wrongfully obtains, exerts unauthorized control over, or deceitfully gains control of personal property that is rented, leased, or loaned by written agreement from another person. This law is explicitly applicable to rental agreements that provide that the renter may return the property any time within the rental period and pay only for the time the renter actually retained the property, in addition to any minimum rental fee. It also applies to lease agreements, certain lease-purchase agreements, and vehicles loaned by motor vehicle dealers to prospective purchasers. It does not apply to rental or leasing of real property under the Residential Landlord-Tenant Act.

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Intent to deprive an owner of his or her property may be presumed if the finder of fact finds either of the following:

1. The renter failed to return or make arrangements acceptable to the owner of the property or the owner's agent to return the property within 72 hours after receipt of proper notice following the due date of the agreement; or
2. The renter, lessee, or borrower presented identification to the owner or the owner's agent that was materially false, fictitious, or not current with respect to name, address, place of employment, or other appropriate items.

"Proper notice" consists of a written demand by the owner or the owner's agent made after the due date of the rental, lease, lease-purchase, or loan period, mailed by certified or registered mail to the renter, lessee, or borrower at: the address the renter, lessee, or borrower gave when the contract was made; or, the renter, lessee, or borrower's last known address if later furnished in writing by the renter, lessee, borrower, or the agent of the renter, lessee, or borrower.

The crime may be deemed to have been committed either at the physical location where the written agreement for the rental, lease, lease-purchase, or loan of the property was executed or at the address where proper notice may be mailed to the renter, lessee, or borrower.

The classification for this crime is based upon the replacement value of the property. Theft of rental, leased, lease-purchased, or loaned property is a:

- seriousness level II, class B felony offense if the rental, leased, lease-purchased, or loaned property is valued at \$5,000 or more;
- seriousness level I, class C felony offense if the rental, leased, lease-purchased, or loaned property is valued at least \$750 but less than \$5,000;
- gross misdemeanor offense if the rental, leased, lease-purchased, or loaned property is valued at less than \$750.

### **Summary of Bill:**

A person who, having control of personal property under a written rental agreement, intentionally holds the property beyond the expiration of the rental period without the effective consent of the owner of the property, depriving the owner of the property of its use in further rentals, is guilty of theft of rental property. It is not a defense that the person returned the personal property after the expiration of the rental agreement if the person fails to pay the applicable rental charge for the property for the time that the person held it.

For purposes of this new provision governing theft of rental property:

- Rental property agreements must contain a warning that failure to return property and pay all outstanding obligations according to the terms of the agreement may result in charges up to and including a gross misdemeanor.
- "Applicable rental charge" is determined pursuant to the late return provisions found in the written agreement. If the written agreement is silent with respect to this, "applicable rental charge" means a value equal to the terms of the written rental agreement prorated from the due date of the rental period through the receipt of the returned property.
- The amount of the unpaid applicable rental charge determines whether it is a Gross Misdemeanor, Misdemeanor, or Class 1 Civil Infraction, as follows:

- \$50 or more but less than \$250 is a Class 1 Civil Infraction.
- \$250 or more but less than \$750 is a Misdemeanor.
- \$750 or more is a Gross Misdemeanor.
- Only rental property agreements are covered. The new provision does not apply to leased property, lease-purchased property, rent to own property, and motor vehicles.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.