
SUBSTITUTE HOUSE BILL 2059

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives D. Schmidt, Grant, Thompson and Sheldon)

Read first time 03/05/97.

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 with intent, knowledge,
8 recklessness, or criminal negligence takes, carries, leads, drives
9 away, 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. Property rented under a lease-purchase
12 agreement as defined under RCW 63.19.010 is covered by this section.

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

15 (a) That the person who rented the property of another failed to
16 return or make arrangements acceptable to the owner of the property to
17 return the property to the owner or the owner's agent within seventy-
18 two hours after proper notice following the expiration of the rental
19 agreement; or

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. Theft of rental property is a: Class B felony if the
13 rental property is valued at one thousand five hundred dollars or more;
14 class C felony if the rental property is valued at two hundred fifty
15 dollars or more but less than one thousand five hundred dollars; and
16 gross misdemeanor if the rental property is valued at less than two
17 hundred fifty dollars.

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

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

23 (b) The renter failed to receive the owner's notice personally, due
24 in no significant part to the fault of the renter.

25 (6) This section applies to rental agreements that provide that the
26 renter may return the property any time within the rental period and
27 pay only for the time the renter actually retained the property, in
28 addition to any minimum rental fee. This section does not apply to
29 rental of real property under the residential landlord-tenant act,
30 chapter 59.18 RCW.

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

33 Every person being in possession thereof who shall willfully and
34 without reasonable cause fail to deliver leased personal property to
35 the lessor within (~~ten days~~) seventy-two hours after written notice
36 of the expiration of the lease has been mailed to the lessee by
37 registered or certified mail with return receipt requested, mailed to
38 the last known address of the lessee, shall be guilty of a gross

1 misdemeanor: PROVIDED, That there shall be no prosecution under this
2 section unless such lease is in writing, and contains a warning that
3 failure to promptly return the leased property may result in a criminal
4 prosecution, and the notice mailed pursuant to the provisions of this
5 section shall clearly state that the lessee may be guilty of a crime
6 upon his failure to return the property to the lessor within (~~ten~~
7 days) seventy-two hours.

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

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

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

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

17 (1) A person is guilty of criminal possession of leased (~~or~~
18 rented) machinery, equipment, household goods, or a motor vehicle if
19 (~~the value thereof exceeds one thousand five hundred dollars and if~~
20 ~~he:~~

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

31 ~~(b))~~ the person, after leasing machinery, equipment, household
32 goods, or a motor vehicle under an agreement in writing which provides
33 for periodic (~~rental or~~) lease payments for a period greater than six
34 months duration, fails to pay the lessor of said item the periodic
35 payments when due for a period of ninety days, is thereafter served by
36 registered or certified mail addressed to (~~him~~) the person at (~~his~~)
37 the person's last known place of residence or business with a written
38 demand to return the item to any place of business of the lessor within

1 seventy-two hours from the time of the service of said demand and
2 willfully neglects to return said item to any place of business of the
3 lessor (~~((within five full business days from the date of service of
4 said notice))~~).

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

10 (3) (~~((It shall be a defense to any civil action arising out of or
11 involving the arrest or detention of any person who rents or leases
12 machinery, equipment or a motor vehicle that he failed to return the
13 item to any place of business of the lessor within five full business
14 days after receiving written demand therefor. — Criminal possession))
15 Theft of leased ((or rented)) machinery, equipment, household goods, or
16 a motor vehicle is a ((class C felony)): Class B felony if the leased
17 property is valued at one thousand five hundred dollars or more; class
18 C felony if the leased property is valued at two hundred fifty dollars
19 or more but less than one thousand five hundred dollars; and gross
20 misdemeanor if the leased property is valued at less than two hundred
21 fifty dollars.~~

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