
SENATE BILL 5963

State of Washington

55th Legislature

1997 Regular Session

By Senators Long, McAuliffe and Haugen

Read first time 02/24/97. Referred to Committee on Law & Justice.

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) A person guilty of theft of rental property involving an amount
11 of one thousand five hundred dollars or more is guilty of a class C
12 felony and of less than one thousand five hundred dollars is guilty of
13 a gross misdemeanor. The reasonable and fair market value of the
14 property obtained must be utilized in determining the amount involved
15 in the theft of rental property.

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

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

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

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

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

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

1 mailed pursuant to the provisions of this section shall clearly state
2 that the lessee may be guilty of a crime upon his failure to return the
3 property to the lessor within ten days.

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

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

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

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

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

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

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

37 (2) "Willfully neglects" as used in this section means omits,
38 fails, or forbears with intent to deprive the owner of or exert

1 unauthorized control over the property, and specifically excludes the
2 failure to return the item because of a bona fide contract dispute with
3 the owner.

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

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

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