

MAR 8 2004
Place On Calendar

HOUSE FILE 2508
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2365)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the theft of leased or rented personal
2 property and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 2508

H-8214

1 Amend House File 2508 as follows:
2 1. Page 1, line 19, by inserting after the word
3 "another" the following: ", other than a motor
4 vehicle,".
5 2. Page 1, line 28, by striking the words "leased
6 or".
7 3. Page 1, line 30, by striking the words "lessor
8 or".
9 4. Page 1, line 31, by striking the words "lessor
10 or".
11 5. Page 1, line 32, by striking the words "lease
12 or".
13 6. Page 1, line 32, by inserting after the word
14 "agreement" the following: ", or the fact that a
15 person who has leased a motor vehicle willfully fails
16 to return or make arrangements to return the motor
17 vehicle to the lessor within ten days after the
18 expiration of the lease,".

By HEATON of Henry

H-8214 FILED MARCH 10, 2004

HF 2508

1 Section 1. Section 714.1, subsection 2, Code 2003, is
2 amended to read as follows:

3 2. Misappropriates property which the person has in trust,
4 or property of another which the person has in the person's
5 possession or control, whether such possession or control is
6 lawful or unlawful, by using or disposing of it in a manner
7 which is inconsistent with or a denial of the trust or of the
8 owner's rights in such property, or conceals found property,
9 or appropriates such property to the person's own use, when
10 the owner of such property is known to the person. ~~Failure~~
11 Except as provided in section 714.4A, failure by a bailee or
12 ~~lessee~~ of personal property to return the property within
13 seventy-two hours after a time specified in a written
14 agreement of ~~lease-or~~ bailment shall be evidence of
15 misappropriation.

16 Sec. 2. NEW SECTION. 714.4A RENTED OR LEASED PERSONAL
17 PROPERTY -- EVIDENCE OF INTENTION.

18 1. The fact that a person who has leased or rented
19 personal property of another willfully fails to return or make
20 arrangements acceptable with the lessor or owner to return the
21 personal property to the lessor or owner within ten days after
22 proper notice following expiration of the lease or rental
23 agreement, or conceals the property from the lessor or owner,
24 or sells, pawns, loans, abandons, or gives away the leased or
25 rented property, is material evidence of the intent to deprive
26 the lessor or owner of the use and possession of the personal
27 property.

28 2. The fact that a person who has leased or rented a motor
29 vehicle willfully fails to return or make arrangements
30 acceptable to the lessor or owner to return the motor vehicle
31 to the lessor or owner within seventy-two hours after the
32 expiration of the lease or rental agreement is material
33 evidence of the intent to deprive the lessor or owner of the
34 use and possession of the personal property. This subsection
35 shall not apply if return of the motor vehicle is made more

1 difficult or expensive by a defect in such vehicle which
2 renders the vehicle inoperable, if the lessee or renter
3 notifies the lessor or owner of the location of such vehicle
4 and such defect prior to the expiration of the lease or rental
5 agreement.

6 3. The fact that a person obtains possession of personal
7 property subject to a lease or rental agreement by means of
8 deception, including but not limited to furnishing a false
9 name, address, place of employment, or other identification to
10 the lessor or owner is evidence that possession was obtained
11 with intent to knowingly deprive the lessor or owner of the
12 use and possession of the personal property.

13 4. Unless otherwise agreed to in writing, for the purpose
14 of determining whether a theft as described in this section
15 has occurred, personal property which is the subject of a
16 leasing contract or rental agreement providing the option to
17 buy the personal property is owned by the owner until such
18 time as the owner endorses the sale and transfer of ownership
19 of the leased or rented property to the lessee or renter.

20 5. This section shall apply to all forms of leasing and
21 rental agreements concerning personal property, including but
22 not limited to contracts providing the consumer options to buy
23 the leased or rented personal property, lease-purchase
24 agreements, and rent-to-own contracts.

25 EXPLANATION

26 This bill provides for the criminal offense of theft of
27 personal property that is leased or rented. The bill provides
28 that failing to return or making acceptable arrangements to
29 return personal property within 10 days after expiration of
30 the lease or rental agreement is material evidence of intent
31 to deprive. The bill provides that the concealment, sale,
32 pawn, loan, abandonment, or giving away of the leased or
33 rented personal property is material evidence of intent to
34 deprive.

35 The bill provides that failing to return or making

1 acceptable arrangements to return a motor vehicle within 72
2 hours after expiration of a lease or rental agreement is
3 material evidence of intent to deprive unless the vehicle is
4 not timely returned due to a defect in the vehicle making the
5 vehicle inoperable if the lessee or renter gives notice of the
6 defect to the lessor or owner prior to the expiration of the
7 lease or rental agreement. Obtaining possession of personal
8 property by means of deception is evidence of intent to
9 deprive.

10 The owner of the personal property is deemed to be the
11 owner of property until the owner has endorsed the sale and
12 transfer of ownership or unless there has been a written
13 agreement to the contrary. The bill's provisions are intended
14 to apply to all forms of leasing and rental agreements
15 concerning personal property.

16 The penalties in Code section 714.2 apply to theft of
17 leased or rented personal property. Theft of property
18 exceeding \$10,000 in value is a class "C" felony. Theft of
19 property exceeding \$1,000 in value is a class "D" felony.
20 Theft of property exceeding \$500 in value is an aggravated
21 misdemeanor. Theft of property exceeding \$200 in value is a
22 serious misdemeanor. Theft of property with a value of \$200
23 or less is a simple misdemeanor.

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HOUSE FILE 2508

H-8204

1 Amend House File 2508 as follows:

2 1. Page 2, by striking lines 21 through 24 and
3 inserting the following: "rental agreements
4 concerning personal property. However, this section
5 shall not apply to personal property purchased
6 pursuant to a consumer rental purchase agreement
7 subject to chapter 537, article 3, part 6, or to a
8 lease which constitutes a security interest pursuant
9 to section 554.1201, subsection 37, paragraph "b"."

By SWAIM of Davis

H-8204 FILED MARCH 9, 2004

**Fiscal Services Division
Legislative Services Agency
Fiscal Note**

HF 2508 - Theft (LSB 6170HV)

Analyst: Beth Lenstra (Phone: (515) 281-6301 (beth.lenstra@legis.state.ia.us))

Fiscal Note Version - New

Description

House File 2508 provides for the criminal offense of theft of personal property that is leased or rented. The Bill provides that failure to return or make arrangements to return personal property within ten days after expiration of the lease or rental agreement is material evidence of the intent to deprive the owner. The Bill provides that failure to return or make arrangements to return a motor vehicle within 72 hours after expiration of the lease or rental agreement is material evidence of the intent to deprive the owner. Current law provides a graduated system of penalties for theft, ranging from a simple misdemeanor to a Class C felony, depending on the value of the property.

Assumptions

1. According to the Justice Data Warehouse, there were 14,910 convictions for theft during FY 2003. Information concerning how many of these convictions were for theft from retailers is not available.
2. Enhancing existing penalties increases the demand for resources in the criminal justice system. This includes costs in the Judicial Branch, Community-Based Corrections (CBC), the State prison system, and indigent defense.

Correctional Impact

There is no readily available information to predict the increased number of enhanced convictions under the Bill. The impact on correctional resources may be significant.

Fiscal Impact

The fiscal impact of HF 2508 cannot be determined due to insufficient information.

The State's increased costs for one conviction under HF 2508 is:

- Simple misdemeanor conviction ranges from \$14 to \$300.
- Serious misdemeanor conviction ranges from \$100 to \$5,000.
- Aggravated misdemeanor conviction ranges from \$1,100 to \$5,000.
- Class D felony conviction ranges from \$2,000 to \$8,000.
- Class C felony conviction ranges from \$3,000 to \$11,000.

The cost for a conviction of a serious or aggravated misdemeanor and a Class D or C felony will be incurred over multiple fiscal years as the offender serves time in the correctional system. The costs stated above include the Judicial Branch holding a trial; indigent defense; and supervision while on probation, parole, or prison, if applicable.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections
Judicial Branch
Office of the State Public Defender

Dennis C Prouty

March 9, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
