

House Study Bill 138

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON PAULSEN)

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

A BILL FOR

1 An Act relating to the criminal offense of theft of leased or
2 rented personal property and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1059HC 81
5 kk/sh/8

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1 1 Section 1. Section 714.1, subsection 2, Code 2005, is
1 2 amended to read as follows:
1 3 2. Misappropriates property which the person has in trust,
1 4 or property of another which the person has in the person's
1 5 possession or control, whether such possession or control is
1 6 lawful or unlawful, by using or disposing of it in a manner
1 7 which is inconsistent with or a denial of the trust or of the
1 8 owner's rights in such property, or conceals found property,
1 9 or appropriates such property to the person's own use, when
1 10 the owner of such property is known to the person. ~~Failure~~
1 11 ~~Except as provided in section 714.4A, failure~~ by a bailee ~~or~~
1 12 ~~lessee~~ of personal property to return the property within
1 13 seventy-two hours after a time specified in a written
1 14 agreement of ~~lease or~~ bailment shall be evidence of
1 15 misappropriation.
1 16 Sec. 2. NEW SECTION. 714.4A THEFT OF LEASED OR RENTED
1 17 PERSONAL PROPERTY == EVIDENCE.
1 18 1. The fact that a person who has leased or rented
1 19 personal property of another willfully fails to return or make
1 20 arrangements acceptable with the lessor or owner to return the
1 21 personal property to the lessor or owner within seventy-two
1 22 hours after proper notice following expiration or termination
1 23 of the lease or rental agreement, or willfully conceals the
1 24 property from the lessor or owner, or sells, pawns, loans,
1 25 abandons, or gives away the leased or rented property, is
1 26 material evidence of intent to deprive the lessor or owner of
1 27 the use and possession of the personal property.
1 28 2. If the personal property leased or rented is a motor
1 29 vehicle, this section shall not apply if return of the motor
1 30 vehicle is made more difficult or expensive by a defect in
1 31 such vehicle which renders the vehicle inoperable, if the
1 32 lessee or renter notifies the lessor or owner of the location
1 33 of such vehicle and such defect prior to the expiration of the
1 34 lease or rental agreement.
1 35 3. The fact that a person obtains possession of personal
2 1 property subject to a lease or rental agreement by means of
2 2 deception, including but not limited to furnishing a false
2 3 name, address, place of employment, or other identification to
2 4 the owner, is evidence that possession was obtained with
2 5 intent to deprive the lessor or owner of the use and
2 6 possession of the personal property.
2 7 4. Unless otherwise agreed to in writing, for the purpose
2 8 of determining whether a theft as described in this section
2 9 has occurred, personal property which is the subject of a
2 10 lease or rental agreement providing the option to buy the
2 11 personal property is owned by the owner until such time as the
2 12 owner endorses the sale and transfer of ownership of the
2 13 leased or rented property to the lessee or renter.
2 14 5. This section applies to all forms of leases and rental
2 15 agreements concerning personal property, including but not
2 16 limited to contracts providing the consumer options to buy the
2 17 leased or rented personal property, lease-purchase agreements,
2 18 and rent-to-own contracts.

2 19 6. For purposes of this section, "proper notice" means a
2 20 written confirmation of the expiration or termination of the
2 21 lease or rental agreement sent to the lessee or renter by
2 22 certified or restricted certified mail to the last known
2 23 address of the lessee or renter. The notice shall be
2 24 considered effective on the date of the mailing of the notice
2 25 regardless of whether or not the lessee or renter signs a
2 26 receipt for the notice.

2 27 EXPLANATION

2 28 This bill provides evidentiary rules for the criminal
2 29 offense of theft of personal property that is leased or
2 30 rented. The bill provides that willfully failing to return or
2 31 making acceptable arrangements to return personal property
2 32 within 72 hours after proper notice following expiration or
2 33 termination of the lease or rental agreement is material
2 34 evidence of intent to deprive of use and possessions. The
2 35 bill provides that the willful concealment, or the sale,
3 1 pawning, loan, abandonment, or giving away of the leased or
3 2 rented personal property is material evidence of intent to
3 3 deprive of use and possession.

3 4 The bill provides that the provision does not apply if the
3 5 personal property that is leased or rented is a motor vehicle
3 6 if the reason the vehicle is not timely returned is due to a
3 7 defect in the vehicle making the vehicle inoperable and the
3 8 lessee or renter has given notice of the defect to the lessor
3 9 or owner prior to the expiration of the lease or rental
3 10 agreement. Obtaining possession of personal property by means
3 11 of deception is also made evidence of intent to deprive of use
3 12 and possession.

3 13 The owner of the personal property is deemed to be the
3 14 owner of property until the owner has endorsed the sale and
3 15 transfer of ownership or unless there has been a written
3 16 agreement to the contrary. The bill's provisions apply to all
3 17 forms of leases and rental agreements concerning personal
3 18 property. Proper notice is defined as written notice sent by
3 19 certified or restricted certified mail to the last known
3 20 address of the lessee or renter regardless of whether or not
3 21 the lessee or renter signs a receipt for the notice.

3 22 The penalties in Code section 714.2 apply to theft of
3 23 leased or rented personal property. Theft of property
3 24 exceeding \$10,000 in value is a class "C" felony. Theft of
3 25 property exceeding \$1,000 but not more than \$10,000 in value
3 26 is a class "D" felony. Theft of property exceeding \$500 but
3 27 not more than \$1,000 in value is an aggravated misdemeanor.
3 28 Theft of property exceeding \$200 but not more than \$500 in
3 29 value is a serious misdemeanor. Theft of property with a
3 30 value of \$200 or less is a simple misdemeanor.

3 31 LSB 1059HC 81

3 32 kk:nh/sh/8