

Senate File 403 - Introduced

SENATE FILE 403
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1127)

A BILL FOR

1 An Act relating to the theft of equipment rental property, and
2 making penalties applicable.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 714.1, subsection 9, Code 2017, is
2 amended to read as follows:

3 9. *a.* Obtains the temporary use of video rental property
4 or equipment rental property with the intent to deprive the
5 owner of the use and possession of the video rental property or
6 equipment rental property without the consent of the owner.

7 *b.* Lawfully obtains the temporary use of video rental
8 property or equipment rental property and fails to return the
9 video rental property or equipment rental property by the
10 agreed time with the intent to deprive the owner of the use and
11 possession of the video rental property or equipment rental
12 property without the consent of the owner. The aggregate value
13 of the video rental property or equipment rental property
14 involved shall be the original retail value of the video rental
15 property or equipment rental property.

16 Sec. 2. Section 714.6A, Code 2017, is amended to read as
17 follows:

18 **714.6A Video or equipment rental property theft — evidence**
19 **of intention — affirmative defense.**

20 1. The fact that a person obtains possession of video rental
21 property or equipment rental property by means of deception,
22 including but not limited to furnishing a false name, address,
23 or other identification to the owner, is evidence that
24 possession was obtained with intent to knowingly deprive the
25 owner of the use and possession of the video rental property
26 or equipment rental property.

27 2. The fact that a person, having lawfully obtained
28 possession of video rental property or equipment rental
29 property, fails to pay the owner the fair market value of the
30 video rental property or equipment rental property or to return
31 or make arrangements acceptable to the owner to return the
32 video rental property or equipment rental property to the owner
33 within forty-eight hours after receipt of written notice and
34 demand from the owner is evidence of an intent to knowingly
35 deprive the owner of the use and possession of the video rental

1 property or equipment rental property.

2 3. It shall be an affirmative defense to a prosecution under
3 section 714.1, subsection 9, paragraph "a", if the defendant
4 in possession of video rental property or equipment rental
5 property pays the owner the fair market value of the video
6 rental property or equipment rental property or returns the
7 property to the owner within forty-eight hours of arrest,
8 together with any standard overdue charges for the period that
9 the owner was unlawfully deprived of possession, but not to
10 exceed one hundred twenty days, and the value of the damage to
11 the property, if any.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill relates to the theft of equipment rental property.

16 Code section 714.1(9) specifically includes the theft
17 of video rental property in the definition of theft. Code
18 section 714.6A provides further provisions about the crime of
19 video rental property theft, including provisions relating to
20 evidence of intention and affirmative defenses.

21 The bill amends Code sections 714.1(9) and 714.6A by
22 specifically including equipment rental property in the
23 definition of theft. Therefore, a person commits theft when
24 the person obtains the temporary use of equipment rental
25 property with the intent to deprive the owner of the property
26 without their consent, or lawfully obtains the temporary use
27 of equipment rental property and fails to return the property
28 by the agreed time with the intent to deprive the owner of
29 the property without their consent. The aggregate value of
30 the property for purposes of determining the degree of theft
31 committed is its original retail value. The fact that a person
32 obtains possession of the property by means of deception,
33 as specified in the bill, is evidence of intent to deprive.
34 The fact that a person, having lawfully obtained possession
35 of the property, fails to pay the owner its fair market

1 value or return the property within 48 hours after receipt
2 of written notice and demand from the owner is evidence of
3 intent to deprive. It is an affirmative defense if a person in
4 possession of the property pays the owner the fair market value
5 or returns the property to the owner within 48 hours of arrest,
6 as well as certain overdue charges.

7 A person who violates the bill is guilty of a class "C"
8 felony if the value of the property is more than \$10,000 or
9 if the theft occurs under certain circumstances. A person
10 is guilty of a class "D" felony if the value of the property
11 exceeds \$1,000 but does not exceed \$10,000. A person commits
12 an aggravated misdemeanor if the value of the property exceeds
13 \$500 but does not exceed \$1,000 or if the person has twice
14 before been convicted of theft and the value of the property
15 is \$500 or less. A person commits a serious misdemeanor if
16 the value of the property exceeds \$200 but does not exceed
17 \$500. A person commits a simple misdemeanor if the value of
18 the property is \$200 or less.

19 A class "C" felony is punishable by confinement for no more
20 than 10 years and a fine of at least \$1,000 but not more than
21 \$10,000. A class "D" felony is punishable by confinement for
22 no more than five years and a fine of at least \$750 but not
23 more than \$7,500. An aggravated misdemeanor is punishable
24 by confinement for no more than two years and a fine of at
25 least \$625 but not more than \$6,250. A serious misdemeanor
26 is punishable by confinement for no more than one year and
27 a fine of at least \$315 but not more than \$1,875. A simple
28 misdemeanor is punishable by confinement for no more than 30
29 days or a fine of at least \$65 but not more than \$625 or by
30 both.