

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 729 — Hiring, Leasing, or Obtaining Personal Property or Equipment with the Intent to Defraud

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Pilon and others (CS/SB 1276 by Criminal Justice Committee and Senator Latvala)

The bill provides an additional method by which the owner or agent of the owner of leased personal property or equipment may make a demand for return or provide notice to a lessee, such that the lessee's failure to respond to the demand or notice may be evidence of the abandonment of or refusal to return the leased property. Section 812.155(4), F.S., is amended by the bill to allow for delivery by courier service with tracking capability to the address of the lessee as it appears on the rental contract.

A new subsection is added to the statute providing that possession of personal property or equipment by a third party is not a defense for failure to return the property unless the lessee provides documentation to the owner or the court showing that the lessor is not in possession of the property without his or her consent.

The bill creates a permissive inference in ss. 812.155(4)(b) and 812.155(4)(c), F.S., that would give the evidence of abandonment or refusal to return the personal property or equipment greater weight than it has under the current language found therein.

Proper notice or a demand for return of property (not responded to) may be considered as prima facie evidence of the crimes of abandonment of or refusal to return leased property. Considering (or not considering) the fact of the unresponded to notice or demand does not require a finding that an element of the crime has been proven. In other words, it is evidence a jury is free to consider or to dismiss as it determines whether the facts presented by the prosecution prove the crime beyond a reasonable doubt.

The bill provides that, so long as the property owner has fulfilled the requirements of s. 812.155, F.S., he or she may report a rented vehicle as stolen and have it listed on any local or national registry of stolen vehicles.

The bill also makes organizational and stylistic changes to ss. 812.155(1), 812.155(2), and 812.155(3), F.S. These changes are not substantive in nature.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 40-0; House 116-0