

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

HOUSE BILL 1392
RATIFIED BILL

AN ACT TO CREATE A CLASS H FELONY OFFENSE FOR FAILURE TO RETURN A HIRED MOTOR VEHICLE VALUED IN EXCESS OF FOUR THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-167 reads as rewritten:

"§ 14-167. Failure to return hired property.

Any person who shall rent or hire, any horse, mule or other like animal, or any buggy, wagon, truck, automobile, or other vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, and who shall willfully fail to return the same to the possession of the person, firm or corporation from whom such property has been rented or hired at the expiration of the time for which such property has been rented or hired, shall be guilty of a Class 2 misdemeanor.

If the value at the time of the rental or hiring of the truck, automobile, or other motor vehicle that is not returned is in excess of four thousand dollars (\$4,000), the person who rented or hired it and failed to return it shall be guilty of a Class H felony."

SECTION 2. G.S. 14-168.3 reads as rewritten:

"§ 14-168.3. Prima facie evidence of intent to convert property.

It shall be prima facie evidence of intent to commit a crime as set forth in G.S. 14-167, 14-168, and 14-168.1 with respect to any property other than a truck, automobile, or other motor vehicle when one who has, by written instrument, leased or rented the personal property of another:

- (1) Failed or refused to return such property to its owner after the lease, bailment, or rental agreement has expired,
 - a. Within 10 days, and
 - b. Within 48 hours after written demand for return thereof is personally served or given by registered mail delivered to the last known address provided in such lease or rental agreement, or
- (2) When the leasing or rental of such personal property is obtained by presentation of identification to the lessor or rentor thereof which is false, fictitious, or knowingly not current as to name, address, place of employment, or other identification."

SECTION 3. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-168.5. Prima facie evidence of intent to convert a truck, automobile, or other motor vehicle; demand for return or payment.

(a) Prima Facie Evidence. – It shall be prima facie evidence of intent to commit a crime as set forth in G.S. 14-167, 14-168, and 14-168.1 when one who has, by written instrument, leased or rented a truck, automobile, or other motor vehicle owned by another:

- (1) Failed or refused to return the vehicle to the lessor or rentor at the place specified after the lease, bailment, or rental agreement has expired, within 72 hours after written demand for the vehicle is made in accordance with subsection (b) of this section; or

- (2) When the leasing or rental of the vehicle is obtained by presentation of identification to the lessor or rentor of the vehicle which is false, fictitious, or knowingly not current as to name, address, place of employment, or other identification.
- (b) Method of Demand; When Effective. –
- (1) Demand for return of a leased or rented truck, automobile, or other motor vehicle may be made in one of three ways:
- a. By personal service in accordance with Rule 4(j) of the North Carolina Rules of Civil Procedure.
 - b. By certified mail, return receipt requested, addressed to the last known address provided in the lease, bailment, or rental agreement.
 - c. By depositing the demand with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) addressed to the last known address provided in the lease, bailment, or rental agreement.
- (2) Demand is effective upon hand delivery to the last known address, three days after deposit by mail (even if the demand is returned as undeliverable), or upon delivery by a designated delivery service to the last known address."

SECTION 4. G.S. 20-102 reads as rewritten:

"§ 20-102. Report of stolen and recovered motor vehicles.

Every sheriff, chief of police, or peace officer upon receiving reliable information that any vehicle registered hereunder has been stolen shall ~~immediately~~ report such theft to the Division. Any said officer upon receiving information that any vehicle, which he has previously reported as stolen, has been recovered, shall ~~immediately~~ report the fact of such recovery to the Division."

SECTION 5. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-102.2. Report of failure to return hired motor vehicles.

Every sheriff, chief of police, or peace officer, upon receiving a vehicle theft report, warrant, or other reliable information that any rental, for-hire, or leased vehicle registered pursuant to this Chapter has not been returned as set forth in G.S. 14-167, shall report the failure to the National Crime Information Center. Any officer upon receiving information concerning the recovery of a vehicle that the officer previously reported as not having been returned shall report the recovery to the National Crime Information Center. The officer shall also attempt to notify the reporting party of the location and condition of the recovered vehicle by telephone, if the telephone number of the reporting party is available or readily accessible."

SECTION 6. This act becomes effective December 1, 2005, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 5th day of July, 2005.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2005