

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1030

By: Representative M. Jones

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 5-36-115 TO REDUCE THE PERIOD OF TIME REQUIRED FOR ESTABLISHING PRIMA FACIE EVIDENCE OF INTENT TO COMMIT THEFT OF LEASED, RENTED OR ENTRUSTED PERSONAL PROPERTY; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 5-36-115 is hereby amended to read as follows:

"5-36-115. Theft of leased, rented, or entrusted personal property.

(a) Any person is guilty of theft and subject to the punishments prescribed by 5-36-103 who shall intentionally, fraudulently, or by false pretense take, carry, lead, drive away, destroy, sell, secrete, convert, or appropriate in any wrongful manner any personal property which is leased, rented, or entrusted to the person, or reports falsely of his wealth or mercantile credit and thereby fraudulently obtains possession of that personal property.

(b) The amount involved in the theft shall be deemed to be the highest value by any reasonable standard of the property or services which the person stole or attempted to steal.

(c) It shall be prima facie evidence of intent to commit theft when one who has leased or rented the personal property of another fails to return or make arrangements acceptable with the lessor to return the personal property to its owner within one (1) day, excluding Saturday, Sunday or state or federal holidays, after proper notice following the expiration of the lease or rental agreement or presents identification to the lessor or rentor thereof which is false, fictitious, or not current with respect to name, address, place of employment, or other appropriate items.

(d) Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to the lessee at the

address given at the time of making the lease or rental agreement.

(e) The following factors shall constitute an affirmative defense to prosecution for theft: That the lessee accurately stated his name and address at the time of rental, that the lessee's failure to return the item at the expiration date of the rental contract was lawful, that the lessee failed to receive the lessor's notice personally unless notice was waived, and that the lessee returned the personal property to the owner or lessor within forty-eight (48) hours of the commencement of prosecution, together with any charges for the overdue period and the value of damages to the personal property, if any.

(f) The lessee may waive the notice required in subsection (c) by signing a statement contained in the lease agreement or rental agreement. The waiver shall require a separate signature of the lessee. The form of the waiver shall be substantially as follows:

WAVIER OF NOTICE

I acknowledge that I shall be subject to criminal penalties for theft under Arkansas Code 5-36-115 for: (a) failure to return or make arrangements acceptable to the lessor to return the property covered by this contract within one (1) day, excluding Saturday, Sunday, or state or federal holidays; or (b) presenting identification to the lessor or rentor which is false, fictitious, or not current with respect to name, address, place of employment, or other appropriate items. I hereby waive my right to notice by certified or registered mail before such actions constitute prima facie evidence of an intent to commit theft.

Signature

Date

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SECTION 2. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. All laws and parts of laws in conflict with this Act are

hereby repealed.