

HOUSE BILL No. 1175

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-43-4.

Synopsis: Criminal conversion of rented personal property. Makes it criminal conversion, a Level 6 felony, for a person to knowingly or intentionally exert unauthorized control over the personal property of another person if the person: (1) acquires the personal property by a rental or lease agreement; (2) signs a written agreement to return the property to a specified location within a specified time; and (3) fails to return the property within 30 days after the specified time, or, during that 30 day period, within three days after receiving a written demand for return of the property, whichever is earlier. Provides that evidence that a person, after renting or leasing any personal property under a written agreement providing for the return of the property to a specified location at a specified time, failed to return the property to the specified location at the specified time constitutes prima facie evidence that the person exerted unauthorized control over the property.

Effective: July 1, 2014.

Burton

January 13, 2014, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1175

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-43-4-3, AS AMENDED BY P.L.158-2013,
2 SECTION 467, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) A person who knowingly or
4 intentionally exerts unauthorized control over property of another
5 person commits criminal conversion, a Class A misdemeanor.
6 (b) The offense under subsection (a) is a Level 6 felony if
7 committed by a person who exerts unauthorized control over the motor
8 vehicle of another person with the intent to use the motor vehicle to
9 assist the person in the commission of a crime.
10 (c) The offense under subsection (a) is a Level 5 felony if:
11 (1) committed by a person who exerts unauthorized control over
12 the motor vehicle of another person; and
13 (2) the person uses the motor vehicle to assist the person in the
14 commission of a felony.
15 (d) The offense under subsection (a) is a Level 6 felony if:
16 (1) the person acquires ~~the personal~~ property by **a rental or** lease



- 1 **agreement;**
 2 ~~(2) the property is a motor vehicle;~~
 3 ~~(3) (2) the person signs a written agreement to return the property~~
 4 ~~to a specified location within a specified time; and~~
 5 ~~(4) (3) the person fails to return the property:~~
 6 (A) within thirty (30) days after the specified time; or
 7 (B) **during the thirty (30) day period described in clause**
 8 **(A),** within three (3) days after a written demand for return of
 9 the property is either:
 10 (i) personally served on the person; or
 11 (ii) sent by registered mail to the person's address that is
 12 provided by the person in the written agreement;
 13 **whichever is earlier.**
 14 SECTION 2. IC 35-43-4-4 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The price tag or
 16 price marking on property displayed or offered for sale constitutes
 17 prima facie evidence of the value and ownership of the property.
 18 (b) Evidence that a person:
 19 (1) altered, substituted, or transferred a universal product code
 20 (UPC) or another product identification code, label, price tag, or
 21 price marking on property displayed or offered for sale or hire; or
 22 (2) transferred property displayed or offered for sale or hire from
 23 the package, bag, or container in or on which the property was
 24 displayed or offered to another package, bag, or container;
 25 constitutes prima facie evidence of intent to deprive the owner of the
 26 property of a part of its value and that the person exerted unauthorized
 27 control over the property.
 28 (c) Evidence that a person:
 29 (1) concealed property displayed or offered for sale or hire; and
 30 (2) removed the property from any place within the business
 31 premises at which it was displayed or offered to a point beyond
 32 that at which payment should be made;
 33 constitutes prima facie evidence of intent to deprive the owner of the
 34 property of a part of its value and that the person exerted unauthorized
 35 control over the property.
 36 (d) Except as provided in subsection (e) of this section, evidence of
 37 failure to perform as promised, by itself, does not constitute evidence
 38 that the promisor knew that the promise would not be performed.
 39 (e) Except as provided in section 5(b) of this chapter, a person who
 40 has insufficient funds in or no account with a drawee credit institution
 41 and who makes, draws, or utters a check, draft, or order for payment on
 42 the credit institution may be inferred:



1 (1) to have known that the credit institution would refuse payment
2 upon presentment in the usual course of business; and

3 (2) to have intended to deprive the owner of any property
4 acquired by making, drawing, or uttering the check, draft, or order
5 for payment of a part of the value of that property.

6 (f) Evidence that a person, after renting or leasing any **personal**
7 property under a written agreement providing for the return of the
8 property to a **particular place specified location** at a **particular**
9 **specified** time, failed to return the property to the **place within**
10 **seventy-two (72) hours after location and at the agreed time as**
11 **provided in section 3(d) of this chapter** constitutes prima facie
12 evidence that ~~he~~ **the person** exerted unauthorized control over the
13 property.

14 (g) A judge may find that a photograph of property over which a
15 person is alleged to have exerted unauthorized control or to have
16 otherwise obtained unlawfully is competent evidence, if the
17 photograph:

18 (1) will serve the purpose of demonstrating the nature of the
19 property; and

20 (2) is otherwise admissible into evidence under all other rules of
21 law governing the admissibility of photographs into evidence.

22 The fact that it is impractical to introduce into evidence the actual
23 property for any reason, including its size, weight, or unavailability,
24 need not be established for a judge to find a photograph of that property
25 to be competent evidence. If a photograph is found to be competent
26 evidence under this subsection, it is admissible into evidence in place
27 of the property and to the same extent as the property itself.

28 (h) A law enforcement agency that is holding as evidence property
29 over which a person is alleged to have exerted unauthorized control or
30 to have otherwise obtained unlawfully, may return that property to its
31 owner if:

32 (1) the property has been photographed in a manner that will
33 serve the purpose of demonstrating the nature of the property, and
34 if these photographs are filed with or retained by the law
35 enforcement agency in place of the property;

36 (2) receipt for the property is obtained from the owner upon
37 delivery by the law enforcement agency;

38 (3) the prosecuting attorney who is prosecuting a case that
39 involves the property has not requested the law enforcement
40 agency to decline requests for return of the property to its owner;
41 and

42 (4) the property may be lawfully possessed by the owner.

