

## Article 24.

### Vehicles and Draft Animals-Protection of Bailor Against Acts of Bailee.

#### **§ 14-165. Malicious or willful injury to hired personal property.**

Any person who shall rent or hire from any person, firm or corporation, any horse, mule or like animal, or any buggy, wagon, truck, automobile, or other like vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, who shall maliciously or willfully injure or damage the same by in any way using or driving the same in violation of any statute of the State of North Carolina, or who shall permit any other person so to do, shall be guilty of a Class 2 misdemeanor. (1927, c. 61, s. 1; 1965, c. 1073, s. 1; 1993, c. 539, s. 109; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 14-166. Subletting of hired property.**

Any person who shall rent or hire, any horse, mule, or other like animal, or any buggy, wagon, truck, automobile, or other like vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, who shall, without the permission of the person, firm or corporation from whom such property is rented or hired, sublet or rent the same to any other person, firm or corporation, shall be guilty of a Class 2 misdemeanor. (1927, c. 61, s. 2; 1965, c. 1073, s. 2; 1969, c. 1224, s. 15; 1993, c. 539, s. 110; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 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 3 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. (1927, c. 61, s. 3; 1965, c. 1073, s. 3; 1969, c. 1224, s. 15; 1993, c. 539, s. 111; 1994, Ex. Sess., c. 24, s. 14(c); 2005-182, s. 1; 2013-360, s. 18B.14(c).)

#### **§ 14-168. Hiring with intent to defraud.**

Any person who shall, with intent to cheat and defraud the owner thereof of the rental price therefor, hire or rent any horse or mule or any other like animal, or any buggy, wagon, truck, automobile or other like vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, or who shall obtain the possession of the same by false and fraudulent statements made with intent to deceive, which are calculated to deceive, and which do deceive, shall be guilty of a Class 2 misdemeanor. (1927, c. 61, s. 4; 1965, c. 1073, s. 4; 1969, c. 1224, s. 15; 1993, c. 539, s. 112; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 14-168.1. Conversion by bailee, lessee, tenant or attorney-in-fact.**

Every person entrusted with any property as bailee, lessee, tenant or lodger, or with any power of attorney for the sale or transfer thereof, who fraudulently converts the same, or

the proceeds thereof, to his own use, or secretes it with a fraudulent intent to convert it to his own use, shall be guilty of a Class 3 misdemeanor.

If, however, the value of the property converted or secreted, or the proceeds thereof, is in excess of four hundred dollars (\$400.00), every person so converting or secreting it is guilty of a Class H felony. In all cases of doubt the jury shall, in the verdict, fix the value of the property converted or secreted. (1965, c. 1073, s. 5; 1979, c. 468; 1979, 2nd Sess., c. 1316, s. 13; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 113; 1994, Ex. Sess., c. 24, s. 14(c); 2013-360, s. 18B.14(d).)

#### **§ 14-168.2. Definitions.**

For the purposes of this Article, the terms "rent," "hire" and "lease" are used to designate the letting for hire of any horse, mule or other like animal, or any buggy, wagon, truck, automobile, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value by lease, bailment, or rental agreement. (1965, c. 1073, s. 5.)

#### **§ 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. (1965, c. 1118; 2005-182, s. 2.)

#### **§ 14-168.4. Failing to return rented property on which there is purchase option.**

(a) It shall be a Class 3 misdemeanor for any person to fail to return rented property with intent to defeat the rights of the owner, which is rented pursuant to a written rental agreement in which there is an option to purchase the property, after the date of termination provided in the agreement has occurred or, if the termination date is the occurrence of a specified event, then that such event has in fact occurred.

(b) Intent to commit the crime set forth in subsection (a) may be presumed from the following evidence:

- (1) Evidence that the defendant has disposed of the property, or has encumbered the property by allowing a security interest to be placed on the property or by delivering the property to a pawnbroker; or
- (2) Evidence that the defendant has refused to deliver the property to the sheriff or other officer charged with the execution of process directed to him for its seizure, after a judgment for possession of the property or a claim and delivery order for the property has been issued; or

- (3) Evidence that the defendant has moved the rented property out of state and has failed to notify the owner of the new location of the property.

However, this presumption may be rebutted by evidence from the defendant that he has no intent to defeat the rights of the owner of the property.

(c) Violations of this Article for failure to return rented property which is rented pursuant to a written rental agreement in which there is an option to purchase shall be prosecuted only under this section. (1987 (Reg. Sess., 1988), c. 1065, s. 3; 1993, c. 539, s. 114; 1994, Ex. Sess., c. 24, s. 14(c); 2013-360, s. 18B.14(e).)

**§ 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. (2005-182, s. 3.)

**§ 14-169. Violation made misdemeanor.**

Except as otherwise provided, any person violating the provisions of this Article shall be guilty of a Class 1 misdemeanor. (1927, c. 61, s. 5; 1929, c. 38, s. 1; 1969, c. 1224, s. 15; 1993, c. 539, s. 115; 1994, Ex. Sess., c. 24, s. 14(c).)