

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

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| Action: | Do Pass the A-Engrossed Measure |
| Vote: | 5 - 0 - 0 |
| Yeas: | Beyer, Kruse, Prozanski, Walker, Burdick |
| Nays: | 0 |
| Exc.: | 0 |
| Prepared By: | Darian Stanford, Counsel |
| Meeting Dates: | 5/29, 5/30 |

WHAT THE MEASURE DOES: Creates Class C felony of criminal possession of a rented or leased motor vehicle.

ISSUES DISCUSSED:

- Ability to prosecute case as Unlawful Use of a Vehicle under ORS 164.135
- Desire for police to place vehicles on “hot sheet” (stolen car list) as soon as possible

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 164.140 creates the crime of criminal possession of rented or leased personal property (either a Class A misdemeanor or a Class C felony, depending on whether the value of the property is at or over \$500). The elements of the offense are either: (1) a person rents “an item of personal property” from a commercial renter pursuant to a written agreement, the person fails to return the item as specified, the commercial renter serves the person with a written demand to return the item, and the person knowingly fails to return the item within 10 business days of the demand; OR (2) a person leases “an item of personal property” from a commercial lessor pursuant to a written agreement, the person is at least 45 days late in making a payment, the commercial lessor serves the person with a written demand to return the item, and the person knowingly fails to return the item within 10 business days of the demand. The written demand should be sent via certified mail to the address provided by the rentee/lessee. The rentee/lessee can raise an affirmative defense if there is a contract dispute between the parties.

HB 3379 A creates a new Class C felony of “criminal possession of a rented or leased motor vehicle” if either of the following is true: (1) a person rents a vehicle from a commercial renter pursuant to a written agreement, fails to return the vehicle as specified, the commercial renter serves the person with a written demand, and the person fails to return the vehicle within three days of receiving the demand, OR (2) a person leases a vehicle from a commercial lessor pursuant to a written agreement, the person is at least 45 days late on a payment, the commercial lessor serves the person with a written demand, and the person knowingly fails to return the vehicle within three days of receiving the demand.

The “written demand” discussed above is accomplished by delivery of a demand letter “through any commercial overnight service that can supply a delivery receipt.” The demand must be sent to the person who rented or leased the vehicle at the address the person provided at the time of renting/leasing the vehicle. If the address originally supplied by the person renting or leasing the vehicle is inaccurate, the person is considered to have refused the demand. HB 3379 A allows the rentee/lessee to raise a contract dispute as an affirmative defense.