

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 267

BY SENATORS JEFFRIES AND LINDSAY

[Introduced January 10, 2020; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §61-3-24i, relating to the criminal possession of rented or leased personal
 3 property; establishing the elements of the offense; requirements of service of written
 4 demand; affirmative defense; and exceptions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-25i. Criminal possession of rented or leased personal property.

1 (a) A person is guilty of larceny of rented or leased personal property if:

2 (1) After renting an item of personal property from a commercial renter of personal property
 3 under a written agreement which provides for the return of the item to a particular place at a
 4 particular time, the person fails to return the item as specified, is thereafter served by mail with a
 5 written demand to return the item, and knowingly fails to return the item within 10 business days
 6 from the date of mailing of the demand; or

7 (2) After leasing an item of personal property from a commercial lessor of personal
 8 property under a written agreement which provides for periodic lease payments, the person fails
 9 to pay the lessor a periodic payment when due for a period of 45 days, is thereafter served by
 10 mail with a written demand to return the item, and knowingly fails to return the item within 10
 11 business days from the date of mailing of the demand.

12 (b) Service of written demand under this section shall be accomplished by certified mail
 13 sent to the person who obtained the item of personal property by rental or lease, sent to the
 14 address stated in the rental or lease agreement and any other address of the person provided by
 15 the person to the renter or lessor. The person is responsible for providing correct current address
 16 information to the renter or lessor until the item of personal property is returned.

17 (c) A bona fide contract dispute with the lessor or renter shall be an affirmative defense to
 18 a charge of criminal possession of rented or leased personal property.

19 (d) This section does not apply if such personal property is a vehicle and such return is

20 made more difficult or expensive by a defect in such vehicle which renders such vehicle
21 inoperable, if the lessee shall notify the lessor of the location of such vehicle and such defect
22 before the expiration of the lease or rental agreement, or within 10 days after proper notice.

NOTE: The purpose of this bill is to create a new criminal offense of criminal possession of rented or leased personal property.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.