

New York State Car and Truck Renters and Lessors

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State Director

November 23, 1964

Temporary State Commission on Revision
of the Penal Law and Criminal Code
Room 442
State Capitol
Albany, New York

Attention: Hon. Richard J. Bartlett

Dear Mr. Bartlett:

I am the New York State Director of the Car and Truck Renters Association, a national association having its offices in Chicago, Illinois, and I represent various car and truck renters in the State of New York in connection with matters of common interest.

In New York State it appears not to be a crime to borrow anyone's property and then fail to return the same irrespective of the length of time or the reason for the detention unless evidence can be produced to establish that the bailee had a felonious intent at the time that the bailment was made.

Such a situation is immoral and not in keeping with the dignity of human relationships in a civilized society and this is particularly reprehensible in the case of the borrowing of automobiles or other equipment, the use of which can cause harm to others and involve the bailor in unanticipated liability and loss.

As indicated below, other States have enacted statutes to deal with this situation. My list is incomplete but see Act No. 442 Laws of 1964 for the State of Louisiana. This statute makes it a misdemeanor for any person renting automobiles who after obtaining same under any agreement which provides for the return thereof fails to return the vehicle within the time specified and, amongst other things, provides that it is a complete defense in an action involving false arrest that the bailee failed to return the vehicle within seventy-two (72) hours.

New Jersey has just enacted a bill Senate No. 279 which is before the Governor for signature and which provides, amongst other things, that any person after renting an automobile under an agreement in writing, which provides for the return of the automobile, who fails to return the automobile within the time specified in the rental agreement upon whom a written demand is thereafter made either personally or by registered mail for the return thereof within seventy-two (72) hours and who fails to return the same, except for causes beyond his control within the specified period, is guilty of a misdemeanor.

Florida clause 3 of the Chapter 817.52 also makes it a crime to fail to return a borrowed automobile and provides that the failure to return an automobile within seventy-two (72) hours of the time agreed upon shall be evidence of a fraudulent intent.

California law Section 10851 et. seq. of the Vehicle Code provides that a person who with intent either permanently or temporarily to deprive the owner of title or possession of his vehicle, whether with or without intent to steal the same, *** is guilty of a felony.

Section 10855 of the California Vehicle Code provides that whenever any person who has leased or rented a vehicle willfully and intentionally fails to return the vehicle to its owner within five (5) days after the lease or rental agreement has expired shall be presumed to have embezzled the vehicle.

The New York State car and truck rental people have drafted a proposed statute as to bailments, a copy of which has heretofore been submitted to your office, which in part follows the statutes as enacted by some of the other States.

However, we believe that a matter of this kind could very well be covered in a general statute such as the proposed Art. 170 of the Penal Law revision. However, we feel that the phrase "gross deviation" in clause 3 of Section 170.10 is too vague and we urge that there be added a sentence at the end thereof to read as follows:

"Such retention or possession for a period of ten (10) days after the time specified for the return of the vehicle shall constitute presumptive evidence of a gross deviation from the agreement."

We all know that by far the greatest part of the public is honest and above board and problems of this kind invariably arise with people who have larceny in their hearts. The protection afforded the rental industry as well as to other lenders by the civil laws are wholly inadequate. They were suitable in the "horse and buggy days" perhaps when people remained in their neighborhoods and did not as readily, as they do today, move not only from city to city but from state to state. Bailors as well as the public are entitled to have an adequate tool to use against the small percentage of the public which makes cheating and stealing a way of life and this Commission should do whatever is within their power not to permit such an uncivilized condition to continue.

Respectfully submitted,


Abraham Kleinberg
New York State Director