N.Y.S. Car & Truck Renters

STATE OF NEW YORK

Print. 2181, 3757 Intro. 2100

IN SENATE

January 29, 1964

Introduced by Mr. LENT—read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT

To amend the penal law, in relation to the fraudulent conversion of personal property obtained pursuant to a contract of hiring or borrowing or other bailment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The penal law is hereby amended by inserting therein a new section, to be section twelve hundred ninety-three-e, to read as follows:

§ *1293-e. Unlawful retention of personal property obtained pursuant to a bailment. 1. Any person having possession of any personal property, including but without limitation, a motor vehicle, trailer, equipment or tool belonging to another by virtue of a bailment agreement who shall fail, except for causes beyond his control, to return any such property to the bailor upon termination of such bailment agreement within ten days after having been*

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

given notice of the termination thereof containing a demand for the return of the property, as hereinafter provided, is guilty of larceny, and shall be punishable accordingly.

2. "Notice" as used in this section shall be notice in writing sent by registered or certified mail or telegram, addressed to such person at the address set forth in the bailment agreement or in the absence of such address therein then at the address set forth in his driver's license or credit card. Notice shall be deemed adequately given if any of the following conditions are met:

(a) A return receipt is in the possession of the sender signed by the bailee or by a person at such address, or

(b) The envelope has been returned to the sender thereof with a notation thereupon "unknown" or "refused," or "unclaimed" or any other notation similar or commonly used by the United States post office, or

(c) The telegram has been returned to the sender thereof with a notation thereupon "unknown" or "refused," or "unclaimed" or any other notation similar or commonly used by the telegraph office, or

(d) That the envelope is returned to the sender with a stamp normally used by the United States post office showing that no such address exists, or

(e) That the envelope is returned to the sender with a stamp normally used by the United States post office showing that the addressee does not live, reside or have an office at such address, or

(f) That the telegram is returned to the sender indicating that the addressee does not live, reside or have an office at such address.

3. It shall be a complete defense to any civil action arising out of or involving the arrest or detention of a bailee for the failure to return such property to the bailor within the time set forth in this section if prior to the arrest of detention of the bailee the ten day notice as provided in this section has been given to the bailee in accordance with the provisions of this section, and he has failed to return the property within said ten day period.

§ 2. This act shall take effect July first, nineteen hundred sixty-four.