

**SUGGESTED GUIDELINES FOR FILING CRIMINAL CASES INVOLVING
THE FAILURE TO RETURN LEASED OR RENTED PROPERTY
CONCERNING RENT-TO-OWN CONTRACTS**

The following guidelines are suggested as a means to govern the filing of criminal charges under **Section 578.150, R.S.Mo. 1993**, for failure to return leased or rented personal property obtained under a rent-to-own contract:

1. The rent-to-own contract (also known as a rental – purchase agreement), must be in compliance with the Missouri Rent-To-Own Law contained in **Section 407.660 et. seq. R.S.Mo. 1990**, and must include and/or contain the following:
 - A. The rental-purchase agreement must be in writing. **(Section 407.622.1)**
 - B. All monetary amounts in the rental purchase agreement must be stated in “numerical figures”. **(Section 407.662.1)**
 - C. The rental purchase agreement must disclose the following items in ten-point boldface type: **(Section 407.662.3)**
 - 1) Whether the merchandise is new or used;
 - 2) The cash price of the merchandise;
 - 3) The total amount and number of payments necessary to acquire ownership of the merchandise;
 - 4) The amount and timing of payments;
 - 5) A statement that the consumer does not acquire ownership rights in the merchandise until all payments have been made under the ownership terms of the agreement;
 - 6) The amount and purpose of any payment, charge, or fee in addition to the regular periodic payments;
 - 7) A statement as to whether the consumer is liable for the loss or damage to the merchandise, provided that the customer’s liability for loss or damage to the merchandise shall be no greater than the disclosed cash price plus any cost allowed by law;
 - 8) A statement of the conditions under which the lessee (consumer) may terminate the lease;

- 9) A statement of whether any part of the manufacturer's warranty continues to cover the rental property at the time the consumer acquires ownership of the property;
 - 10) Notice of the right to reinstate a rental purchase agreement and a statement of the reinstatement rights provided for in **Section 407.664**.
2. Under **Section 407.662.2**, a rental purchase agreement to be in compliance with the Missouri Rent-To-Own Law may not contain any of the following:
- A. A provision requiring a confession of judgement;
 - B. A provision authorizing a merchant or an agent of the merchant to commit a breach of the peace in the repossession of the merchandise;
 - C. A provision waiving a defense, counterclaim, or right the consumer may have against the merchant or an agent of the merchant;
 - D. A provision requiring the purchase of insurance from the merchant to cover the merchandise;
 - E. A provision requiring the payment of a late charge greater than five dollars for each payment in default;
 - F. A provision requiring a payment at the end of the scheduled rental-purchase term in excess of, or in addition to, a regular, periodic payment in order to acquire ownership of the merchandise; or
 - G. A provision requiring the consumer to pay rental payments greater than the total amount to paid to acquire ownership.
3. The rental purchase agreement must be in writing and must contain both the name and bear the signature of the person to whom the property was rented. It must also contain the date the agreement was entered into and contain a description of the property rented, including a serial number (if any).
4. The complainant must be able to provide a witness who can make positive identification of the defendant as the person to whom the property was rented. This will normally be the employee who actually rented the property to the customer.
5. The rental company, at the time the rental purchase agreement is made, should obtain additional identifying information concerning the renter such as place of employment, address and telephone number of employer. Should also obtain

residence address and telephone number of renter, driver's license number of renter, social security number of renter, date of birth of renter, etc.

6. A written demand letter demanding return of the property to the business must be sent to the renter before the rent-to-own company makes a complaint to the police department. The demand letter must be addressed and mailed by certified or registered mail to the lessee (customer) at the address given by the lessee at the time of making the lease or rental agreement. This written notice must contain a statement that the failure to return the property may subject the lessee to criminal prosecution. The business must be able to prove that the written demand letter was sent in this manner as required under **Section 578.150**. The renter must be allowed ten days from delivery of the letter to make payment and/or return the property before the rental company should make a complaint to the police department. The requirement of the written demand letter may in some cases be disregarded where there is clear evidence that the renter does not intend to return the property, such as where he has sold it to a third party.
7. The limits for making a complaint to the police department.
 - A. Where the contract calls for weekly or monthly payments, the rent-to-own company ordinarily should present a complaint to the police department not less than thirty nor more than 120 days from the due date of the last paid rental period;
 - B. The minimum time limit may be disregarded if there is clear evidence that the lessee does not intend to return the leased or rented property, such as where the customer has sold or pawned the rental property to a third party, or moved the property without notification of the business;
 - C. The maximum time limit may be disregarded provided the applicable statute of limitations has not expired.
8. Failure to return leased or rented property in a Class A Misdemeanor unless the property involved has a value of \$150.00 or more, in which case failing to return leased or rented property is a Class C Felony.
9. The prosecuting attorney may use greater discretion in filing cases where the defendant has paid greater than the "cash price" disclosed on the rental-purchase agreement.
10. In most instances, failure to return leased or rented property cases will NOT be accepted for filing in the following instances:
 - A. Cases in which the above requirements are not followed.

- B. Cases involving rental purchase agreements where the term of the agreement has not yet expired. However, if the rental purchase agreement contains a termination provision, exercise of the termination option can cure this problem.
 - C. Cases in which the rent-to-own company has rented item “A” to an individual who falls behind in his payments and the business thereafter rents item “B” to the same individual while being past due on item “A”. The business assumes the risk of the collection of the rental on item “B” and no criminal charge will ordinarily be filed for any unpaid rent on item “A”. Charges may be considered on an individual basis if there is proof that the lessee has disposed of the items to a third party such as by selling or pawning them.
 - D. Cases in which the property rented was the subject of a theft or burglary by a third party during the term of the rental agreement. The business should report the theft to the police department and should encourage the customer to make a report if the customer has not already done so. Criminal charges may be filed against the third party if apprehended, but the rent-to-own business must seek redress against its rental client through a civil action only, unless there is adequate proof that the customer was fraudulently involved in the third party’s offense.
11. Ordinarily, criminal charges for a failure to return leased or rented property will not be filed when the customer has failed to pay rentals for personal property obtained under a rental-purchase contract. But has returned the property to the business at least by the end of the ten day period following receipt of the written letter demanding return of the property.
 12. **Section 578.150.5** further provides that any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner shall be guilty of property damage pursuant to **Section 569.100** or **560.120, R.S.Mo.**, in addition to being in violation of this section.
 13. Once criminal charges have been filed by the Prosecuting Attorney under **Section 578.150**, the rent-to-own company should not accept either full or partial payment from the defendant on any past due accounts which are the subject of the criminal prosecution.
 14. Venue for the filing of criminal charges shall lie in the county where the personal property was originally rented or leased.