

# The Criminal Law Evaluation of Sharing Bicycle "deposit pool" Phenomenon

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**Abstract:** The shared bicycle deposit profit model is beneficial to improve the allocation efficiency of financial resources and has a certain promotion effect on social and economic development, but it may also invade the social public interest and the national financial order. Although it has the nature of financing under Internet conditions and has certain negative externalities, it does not necessarily mean illegal fund-raising. It is a special form of money pledge. Its function is to protect the safety of the leased property in the lease legal relationship. The government should regulate it by encouraging innovation and inclusiveness.

## 1. Introduction

With the continuous development of China's shared economy, the market size of the sharing industry represented by shared bicycles continues to expand. Convenient and simple procedures make sharing bicycles an indispensable part of people's daily lives. However, the issue of sharing bicycle deposits has always been a concern and concern. In recent days, the news also reported that some shared bicycle companies in China have experienced a difficult deposit refund, and some shared bicycle companies even have no answer. A series of news reports have caused consumers to worry about the return of shared bicycle deposits. At the same time, it is also an urgent problem to understand how the nature of shared bicycle deposits is.

## 2. The nature of the shared bicycle deposit

As we all know, the deposit is a way that both parties to the contract, especially the parties to the lease contract, often use. Before the tenant uses the lease item, it must prepay the part of the lessor to guarantee that the lease will not be damaged during the use. From this, it is seen that the deposit is actually a responsibility for the risk guarantee, and is a deposit that is paid in advance to prevent possible damage in the future [1].

## 3. Status of shared bicycle deposits

Billions of deposits, the total amount is currently high, the user's deposit standard for the use of the bicycle is 99 yuan, the standard for using the Mobike bicycle is 299 yuan, in addition to each account there are as little as one yuan, up to several hundred yuan of recharge. And a user may download a variety of bicycle clients, pay multiple deposits, and prepay multiple recharges. The bicycle company promises that the deposit can be refunded in seconds, but the recharge is not refundable. In fact, very few users apply for a refund immediately after using the car, and the deposit is basically in medium and long-term storage [1]. It is reported that the total deposit of shared bicycles has reached 6 billion yuan. The deposit is a single item. The funds collected by bicycle companies are already amazing. Coupled with the recharge amount of different amounts, the bicycle company has formed a huge pool of funds.

Concerning the issue of the prepayment of deposits when using shared bicycles has also attracted widespread attention in society. Because some companies provide a shared bicycle deposit that cannot be refunded or is a complicated procedure, many people have questioned it. They believe that the shared bicycle company is using the user's deposit to engage in financing activities, that is, sharing the bicycle surface to engage in the rental of shared bicycles. In fact, it is not based on the cost of each

ride, but by using the huge amount of users [2]. The deposit goes to engage in financial activities such as investment, wealth management and so on. Although this kind of behavior is understandable from the perspective of enterprises, sharing bicycles is a model that integrates social interests and corporate interests. If there is a break in the capital chain, the company goes bankrupt, and when the money is running, it will definitely be the masses. The interests of the damage. At present, because there is no corresponding regulatory laws and regulations, the shared bicycle deposit is in a gray area.

#### **4. Criminal law evaluation triggered by shared bicycle deposit model**

##### **4.1 The knowledge change meaning of the shared bicycle deposit model.**

As a new bicycle time-sharing business based on modern Internet technology, the commonality between shared bicycle and traditional rental business lies in the deposit front, that is, the user needs to inject a certain amount of deposit before sharing the bicycle as a shared bicycle member, as a shared bicycle [1]. The warranty used. In the pre-development process of shared bicycles, the deposits are basically in a state of natural growth, that is, each shared bicycle operating enterprise determines the deposit rules according to the market judgment and its own scale, including the deposit quota, deposit method, return procedure and so on. For example, the standard amount of the deposit is not the same, such as Moby bicycle 299 yuan, ofo bicycle 99 yuan, Haro bicycle 199 yuan, small blue bicycle 99 yuan, riding bicycle 200 yuan, excellent bicycle 298 yuan, Xiaoming Bicycle 199 yuan and so on. However, because of the modern Internet payment methods and environment, the effect of sharing the bicycle deposit and the effect of the traditional deposit are significantly different, and even have some meaning of knowledge change.

First of all, the deposit for sharing bicycles is set by people. In the traditional leasing business, the deposit is set for the lease item, and one lease item corresponds to a deposit, that is, the purpose of the deposit is to ensure the return and normal use of the lease item [2]. However, the deposit for sharing bicycles is charged by people instead of by car. This forms a new deposit form, which breaks the structure of “one thing and one pledge” under the traditional leasing mode and forms “one person and one pledge”. The structure of the realization of the transition from the object to the person. The asset utilization and operation pattern of “one asset, multiple deposits” can be said to be the core value of the shared bicycle model.

Second, the total deposit for shared bicycles may be much higher than the total value of the vehicle. In the traditional leasing business, because a lease item corresponds to a deposit, the general deposit determination standard is to cover the value of the lease item, which is equal to or slightly higher than the value of the lease item [2]. However, in the shared bicycle mode, because the deposit is charged by people rather than by car, the number of registered users may be large for platforms with relatively large market volume and relatively large operating scale (such as Moby, ofo). As the number of vehicles is put in, the total amount of deposits received may also be much larger than the total value of vehicles placed in the market. This is the operating profit base of the shared bicycle model.

Finally, the deposit refund for shared bicycles is separated from the rental business. In the traditional leasing business, the deposit has a dependency on the contract from the main contract, that is, the deposit is collected and occupied on the premise that the lease and the lease relationship are continued. Once the lessee returns the lease, the lease relationship is terminated or terminated. The lessor should return the deposit at the same time [3]. However, in the shared bicycle mode, because the shared bicycle belongs to the intermittent lease, that is, the intermittent and continuous rental mode, which is characterized by a short single rental time and a high rental frequency, therefore, for the user, one for one The use of each deposit and refund of the deposit for each use obviously increases the cost of use and does not meet the efficiency considerations that should be shared by the shared bicycle travel mode, so basically the deposit will remain in the registered account for the next bicycle use. For shared bicycle operators, the user's pursuit of convenience is in line with their profitability. They will also increase the threshold of deposit refund or increase the refund of deposits on the basis of operational convenience and business sustainability [3]. The degree, that is, after each lease is completed, the deposit will not be refunded voluntarily, and the user is often required to

submit the application manually, and the application for the user often extends the return time on the basis of the bank's turnover time difference.

According to the analysis of the above three points, the shared bicycle operating enterprise changed the deposit mode to "one person, one pledge" and "one person, one pledge", which brought a deposit amount far higher than the asset cost, and passed the deposit. The switch of the refund mechanism, with the "one person, one pledge" to break the "one use and one pledge", created a huge deposit pool for themselves.

#### **4.2 A qualitative controversy over the sharing of bicycle deposit models in the criminal law community.**

From the perspective of criminal law scholars, mainstream scholars seem to have a cautious attitude towards the sharing of the "deposit pool" of bicycles. There is little attention and vocalization. The author believes that this is undoubtedly a demeanor in the Chinese criminal law community, reflecting the criminal law scholars' innovative things. Goodwill and patience. From the specific results that have been formed, the current research papers on the nature of shared bicycle deposits in the criminal law community are quite rare and mostly relatively close [4]. The researchers are mostly young researchers after the 1980s. The publication positions are mainly second- and third-line academic journals or new media. platform. As far as the only sporadic results are concerned, most of them follow the pace of the public opinion circles. They tend to think that the sharing of bicycle deposits to create a "deposit pool" model is suspected of illegal fund-raising. In other words, it is suspected of illegally absorbing public deposit crimes and even raising funds. crime. For example, Yanye Tiger and Liu Tianxin believe that the shared bicycle enterprises form a huge "funding pool" through deposit rules. On the surface, it seems to be a rental service, and in fact has financial functions [4].

Relatively speaking, the lawyers' attention to social hotspots or frontier issues is relatively active, and the views are quite diverse. Of course, most people also believe that the sharing of deposits by bicycle companies is suspected of illegally absorbing public deposits. According to the relevant legal principles and the trading practices of deposits in leases, the premise of deposits and deposits are guaranteed by the rental behavior and the existence of the lease. If the lease has been terminated or terminated, the lessor will continue to have a deposit and lack an objective premise and factual basis. Therefore, during the period when the user does not rent and use the shared bicycle, the behavior of the shared bicycle company occupying the registered user deposit may be suspected of illegally absorbing the public deposit behavior [5]. However, there are also objections: from the analysis of the elements of crime, the sharing of bicycle companies does not constitute the crime of illegally absorbing public deposits. From the objective aspect of crime, the behavior of collecting the deposit by the shared bicycle company is very different from the illegal absorption of the public deposit. The illegal absorption of public deposits is mainly characterized by debt service or similar returns, and the shared bicycle enterprise will not pay the deposit. Interest, it will not pay back, and objectively it will not damage or disrupt the financial order. From the subjective aspect of crime, the subjective motive of the shared bicycle company to collect the deposit includes at least a reasonable component to ensure that the bicycle is quickly and effectively compensated for loss or damage during use, and not for the purpose of illegally occupying the deposit, and does not disturb the financial order. The meaning [6].

#### **5. A criminal law review of the phenomenon of sharing the "deposit pool" of bicycles**

Regarding the criminal law significance of the shared bicycle "deposit pool", it may be appropriate to start with the civil law evaluation of the deposit.

First of all, it should be clear that the deposit is not a strict legal concept or legal term. It is not used in the Property Law of the People's Republic of China (hereinafter referred to as the Property Law) and the Guarantee Law of the People's Republic of China (hereinafter referred to as the "Guarantee Law"). The term "deposit" is a paradigm or expression, and thus the concept of "deposit" lacks the necessary normative quality and legal positivism [5]. However, for a long time, the deposit has been

widely used in China's business scenarios and trading activities, especially in leasing contracts, such as books, houses, vehicles and other movable property or real estate leasing, the shadow of the deposit is almost everywhere. It can be said that the deposit is a habitual mechanism formed by the market participants in the practice of transactions to maintain the security value of transactions. It is a product of spontaneous self-generated forces in the market. It also contains rich historical and cultural information and legislation on property rights. And the guarantee legislation also has considerable reference value and should be concerned and reviewed by the academics of law.

Judging from the trading habits and the spirit of civil law, the deposit, as a form of market habit, can effectively reduce the transaction risk and ensure the security of the transaction. It has historical and realistic rationality. Especially in the reality of China's current lack of integrity awareness and credit system, the shared bicycle operating enterprise requires registered users to provide the necessary deposit before using the bicycle, which is undoubtedly a reinforcing means to safeguard their own interests and resolve their own risks [6]. It should not be a problem. On the other hand, if it is absolutely forbidden for the shared bicycle operating enterprise to restrict and control the risk through the deposit rules in the growth period, then the shared bicycle operating industry will inevitably face unbearable cost loss and moral hazard, which will be heavy and unsustainable.

## **6. Review of the return to criminal law**

In fact, the problem of sharing bicycles in public opinion circles and academic circles is not in fact the rationality of the deposit itself, but in the deposit model mentioned above, including the design of the deposit collection, management, refund, etc. From the explicit guarantee method to the implicit financial product, the ultimate goal is to form a "fund pool", which is in line with the characteristics of the illegal absorption of public deposit crimes [7]. For this martyrdom, the author did not dare to agree. In the shared bicycle mode, a large amount of funds is deposited as the "deposit pool", which of course contains the motivation for careful financial product design, but it is also the result of reasonable business model operation. As far as the latter is concerned, it can be said that the vast majority of Internet leasing businesses in the name of "sharing the economy" and "sharing economy" will cause this problem [7]. In fact, not only in the Internet leasing business, but also most of them the Internet business platform will have the problem of "funding pool", even if Taobao is difficult to stay out of the way (Alipay itself is a huge pool of funds, it uses the time difference from buyer to seller), if in the Internet If the phenomenon of "funding pool" is absolutely forbidden in the commercial field, it will inevitably lead to difficulties in the modern Internet business. Even in the former case, it is undoubted that the shared bicycle operating company should have a very clear profitable route from the beginning of its planning operation.

The design of the map, that is, the accumulation and use of deposits, through the collection of deposits to gather funds, not only ease the financial pressure on vehicles invested in the grass-roots period, but more importantly, use the deposit account period to form and expand cash flow, and ultimately achieve profitability, because of active cash flow It is of vital importance to the company. It is in this sense [8]. The deposit funds can be said to be the core resource for the innovation of the profit model of shared bicycle operating enterprises. The deposit mechanism is also the driving force in the shared bicycle operation mode. At the government and legislative level, at least the shared bicycle operating enterprise should not be prohibited from using the deposit method to provide rental services, and the shared bicycle operating enterprises should use part of the deposit funds to reasonably carry out low-risk business activities and revitalize the deposit resources to promote sharing. The benign development of bicycles. Of course, considering the financial property or financial color of the shared bicycle model, it is easy to trigger the risk of capital security and public interest. Legislation should also establish a sound deposit supervision mechanism to prevent deposit risks, especially to prevent fraudulent use of funds in the name of deposits. The resulting redemption crisis and the phenomenon of running the money [8].

## 7. Summary

The sharing economy is a prospective industry for the current development. Shared bicycles are also expanding from the domestic market to the international market. The supervision of shared bicycle deposits is not only related to the vital interests of the users, but also affects the international image of China. Therefore, all kinds of supervision means for the comprehensive supervision of the shared bicycle deposit, especially the deposit supervision of the deposit, can effectively avoid future risks, dispel the concerns of the deposit, and purify the development market of shared bicycles. The development of a total bicycle has created a better space for development and provides better and faster service to people.

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