

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: SB 338

INTRODUCER: Senator Simpson

SUBJECT: Theft of Utility Services

DATE: February 1, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.			CJ	
3.			ACJ	
4.			AP	
5.				
6.				

I. Summary:

SB 338 amends section 812.14, F.S., to make all thefts of utility services subject to prosecution under section 812.014, F.S. This will change the penalty from the current consistent first-degree misdemeanor regardless of the amount of utility services stolen to a penalty varying dependent upon the amount stolen and potentially other factors as well, such as whether the theft is a first offense.

The bill also increases the civil penalty for a person found in a civil action to have violated the statute on utility theft from the current 3 times the amount of services stolen or \$1,000, whichever is greater, to 3 times the amount stolen or \$3,000, whichever is greater.

The bill takes effect October 1, 2013.

This bill substantially amends section 812.14 of the Florida Statutes.

II. Present Situation:

Section 812.14, F.S., provides for theft of utility services. The term "utility" is defined to include any person, firm, corporation, association, or political subdivision, whether private, municipal, county, or cooperative, which is engaged in the sale, generation, provision, or delivery of gas, electricity, heat, water, oil, sewer service, telephone service, telegraph service, radio service, or telecommunication service.

Subsection (2) of this section makes it unlawful to:

- willfully alter, tamper with, injure, or knowingly suffer to be injured any meter, meter seal, pipe, conduit, wire, line, cable, transformer, amplifier, or other apparatus or device belonging to a utility line service in such a manner as to cause loss or damage or to prevent any meter installed for registering electricity, gas, or water from registering the quantity which otherwise would pass through the same; to alter the index or break the seal of any such meter; in any way hinder or interfere with the proper action or just registration of any such meter or device; or knowingly use, waste, or suffer the waste, by any means, of electricity or gas or water passing through any such meter, wire, pipe, or fitting, or other appliance or appurtenance connected with or belonging to any such utility, after such meter, wire, pipe or fitting, or other appliance or appurtenance has been tampered with, injured, or altered;
- make or cause to be made any connection with any wire, main, service pipe or other pipes, appliance, or appurtenance in such manner as to use, without the consent of the utility, any service or any electricity, gas, or water, or to cause to be supplied any service or electricity, gas, or water from a utility to any person, firm, or corporation or any lamp, burner, orifice, faucet, or other outlet whatsoever, without such service being reported for payment or such electricity, gas, or water passing through a meter provided by the utility and used for measuring and registering the quantity of electricity, gas, or water passing through the same; or
- use or receive the direct benefit from the use of a utility knowing, or under such circumstances as would induce a reasonable person to believe, that such direct benefits have resulted from any tampering with, altering of, or injury to any connection, wire, conductor, meter, pipe, conduit, line, cable, transformer, amplifier, or other apparatus or device owned, operated, or controlled by such utility, for the purpose of avoiding payment.

Subsection (4) states that any person who willfully violates paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Subsection (5) makes it unlawful for a person or entity that owns, leases, or subleases a property to permit a tenant or occupant to use utility services knowing, or under such circumstances as would induce a reasonable person to believe, that such utility services have been connected in violation of paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c).

Subsection (7) states that a person who willfully violates subsection (5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Prosecution for a violation of subsection (5) does not preclude prosecution for theft under subsection (8) or s. 812.014.

Subsection (8) states that theft of utility services for the purpose of facilitating the manufacture of a controlled substance is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Subsection (10) states that whoever is found in a civil action to have violated the provisions of this section is liable to the utility involved in an amount equal to 3 times the amount of services unlawfully obtained or \$1,000, whichever is greater.

Section 812.014, F.S., provides various levels of charges for theft, with accompanying varied levels of penalties, depending on the amount or type of property stolen. In general:

- If the property stolen is valued at \$100,000 or more; or if the offender commits any grand theft and in the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another or in the course of committing the offense the offender causes damage to the real or personal property of another in excess of \$1,000, the offender commits grand theft in the first degree, punishable as a felony of the first degree, as provided in s. 775.082, s. 775.083, or s. 775.084.
- If the property stolen is valued at \$20,000 or more, but less than \$100,000 or is of specified types of property, the offender commits grand theft in the second degree, punishable as a felony of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084.
- If the property stolen is valued at \$300 or more, but less than \$20,000, or is of specified types of property, it is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- If the property stolen is valued at \$100 or more, but less than \$300, and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling, it is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- Except as provided in immediately above, if the property stolen is valued at \$100 or more, but less than \$300, the offender commits petit theft of the first degree, punishable as a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.
- Theft of any other property is petit theft of the second degree and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- A person who commits petit theft and who has previously been convicted of any theft commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
- A person who commits petit theft and who has previously been convicted two or more times of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.
- A person who individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing theft under this section where the stolen property has a value in excess of \$3,000 commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

III. Effect of Proposed Changes:

The bill amends section 812.14, F.S., to make all thefts of utility services subject to prosecution under section 812.014, F.S. Under section 812.14, F.S., all thefts are a first-degree misdemeanor, regardless of the amount of utility services stolen. Subjecting these thefts to prosecution under section 812.014, F.S., means that the penalty will vary dependent upon the amount stolen, and potentially other factors as well, such as whether the theft is a first offense.

The bill also increases the civil penalty for a person found in a civil action to have violated the statute on utility theft from the current 3 times the amount of services stolen or \$1,000, whichever is greater, to 3 times the amount stolen or \$3,000, whichever is greater.

The bill takes effect October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable; this bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Not applicable; this bill does not appear to have any effect on public records or open meetings.

C. Trust Funds Restrictions:

Not applicable; this bill does not appear to have any effect on trust funds.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None; SB 338 does not appear to affect taxes or fees.

B. Private Sector Impact:

The enhanced penalties should better dissuade theft of utility services, thus better protecting providers of those services. Also, the increased civil penalty should better compensate these providers, and their customers, for the losses to theft.

C. Government Sector Impact:

The enhanced penalties should better dissuade theft of utility services, including those of government-owned utilities, thus better protecting providers of those services. Also, the increased civil penalty should better compensate these providers, and their customers, for the losses to theft.

If the enhanced penalties do better dissuade theft, there should be no increase in costs associated with prosecution or incarceration. However, if thefts are not dissuaded, these costs may rise.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
