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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/21/2017	.	
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The Committee on Criminal Justice (Baxley) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 812.14, Florida Statutes, is amended to  
read:

812.14 Trespass and larceny with relation to utility  
fixtures; theft of utility services.—

(1) As used in this section, "utility" includes any person,  
firm, corporation, association, or political subdivision,



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11 whether private, municipal, county, or cooperative, which is  
12 engaged in the sale, generation, provision, or delivery of gas,  
13 electricity, heat, water, oil, sewer service, telephone service,  
14 telegraph service, radio service, or telecommunication service.

15 (2) A person may not ~~It is unlawful to~~:

16 (a) Willfully alter, tamper with, damage ~~injure~~, or  
17 knowingly allow damage to a ~~suffer to be injured~~ any meter,  
18 meter seal, pipe, conduit, wire, line, cable, transformer,  
19 amplifier, or other apparatus or device belonging to a utility  
20 line service in such a manner as to cause loss or damage or to  
21 prevent any meter installed for registering electricity, gas, or  
22 water from registering the quantity which otherwise would pass  
23 through the same; ~~to~~

24 (b) Alter the index or break the seal of any such meter; ~~in~~  
25 ~~any way to~~

26 (c) Hinder or interfere in any way with the proper action  
27 or accurate ~~just~~ registration of any such meter or device; ~~or~~

28 (d) Knowingly ~~to~~ use, waste, or allow ~~suffer~~ the waste, by  
29 any means, of electricity, ~~or~~ gas, or water passing through any  
30 such meter, wire, pipe, or fitting, or other appliance or  
31 appurtenance connected with or belonging to any such utility,  
32 after the ~~such~~ meter, wire, pipe, or fitting, or other appliance  
33 or appurtenance has been tampered with, injured, or altered; ~~or~~

34 (e) ~~(b)~~ Connect ~~Make~~ or cause a ~~to be made~~ any connection  
35 with a ~~any~~ wire, main, service pipe or other pipes, appliance,  
36 or appurtenance in a ~~such~~ manner that uses ~~as to use~~, without  
37 the consent of the utility, any service or any electricity, gas,  
38 or water; ~~or to~~

39 (f) Cause a utility, without its consent, to supply any ~~to~~



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40 ~~be supplied any service or electricity, gas, or water from a~~  
41 ~~utility to any person, firm, or corporation or any lamp, burner,~~  
42 ~~orifice, faucet, or other outlet whatsoever, without reporting~~  
43 ~~the such service being reported for payment; or~~

44 (g) Cause, without the consent of a utility, such  
45 electricity, gas, or water to bypass passing through a meter  
46 provided by the utility and used for measuring and registering  
47 the quantity of electricity, gas, or water passing through the  
48 same; or-

49 (h)-(e) Use or receive the direct benefit from the use of a  
50 utility knowing, or under such circumstances that as would  
51 induce a reasonable person to believe, that the such direct  
52 benefits have resulted from any tampering with, altering of, or  
53 injury to any connection, wire, conductor, meter, pipe, conduit,  
54 line, cable, transformer, amplifier, or other apparatus or  
55 device owned, operated, or controlled by such utility, for the  
56 purpose of avoiding payment.

57 (3) The presence on the property of and in the actual  
58 possession by of a person of any device or alteration that  
59 prevents affects the diversion or use of the services of a  
60 utility so as to avoid the registration of the such use of  
61 services by or on a meter installed by the utility or that  
62 avoids so as to otherwise avoid the reporting of the use of  
63 services such service for payment is prima facie evidence of the  
64 violation of subsection (2) this section by such person.  
65 However, this presumption does not apply unless:

66 (a) The presence of the such a device or alteration can be  
67 attributed only to a deliberate act in furtherance of an intent  
68 to avoid payment for utility services;



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69 (b) The person charged has received the direct benefit of  
70 the reduction of the cost of the ~~such~~ utility services; and

71 (c) The customer or recipient of the utility services has  
72 received the direct benefit of the ~~such~~ utility service for at  
73 least one full billing cycle.

74 (4) A person who willfully violates subsection (2)  
75 ~~paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c)~~ commits  
76 grand theft, punishable as provided in s. 812.014.

77 (5) ~~It is unlawful for~~ A person or entity that owns,  
78 leases, or subleases a property, or a person acting on behalf of  
79 such person, may not ~~to~~ permit a tenant or occupant to use  
80 utility services knowing, or under such circumstances as would  
81 induce a reasonable person to believe, that such utility  
82 services have been connected in violation of subsection (2)  
83 ~~paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c).~~

84 (6) It is prima facie evidence that an owner, lessor, or  
85 sublessor, or a person acting on behalf of such person, intended  
86 ~~It is prima facie evidence of a person's intent to violate~~  
87 subsection (5) if:

88 (a) A controlled substance and materials for manufacturing  
89 the controlled substance intended for sale or distribution to  
90 another were found in a dwelling or structure;

91 (b) The dwelling or structure was ~~has been~~ visibly modified  
92 to accommodate the use of equipment to grow cannabis ~~marijuana~~  
93 indoors, including, but not limited to, the installation of  
94 equipment to provide additional air conditioning, equipment to  
95 provide high-wattage lighting, or equipment for hydroponic  
96 cultivation; and

97 (c) The person or entity that owned, leased, or subleased



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98 the dwelling or structure knew of, or did so under such  
99 circumstances as would induce a reasonable person to believe in,  
100 the presence of a controlled substance and materials for  
101 manufacturing a controlled substance in the dwelling or  
102 structure, regardless of whether the person or entity was  
103 involved in the manufacture or sale of a controlled substance or  
104 was in actual possession of the dwelling or structure.

105 (7) An owner, lessor, or sublessor, or a person acting on  
106 behalf of such person, A person who willfully violates  
107 subsection (5) commits a misdemeanor of the first degree,  
108 punishable as provided in s. 775.082 or s. 775.083. Prosecution  
109 for a violation of subsection (5) does not preclude prosecution  
110 for theft pursuant to subsection (8) or s. 812.014.

111 (8) Theft of utility services for the purpose of  
112 facilitating the manufacture of a controlled substance is grand  
113 theft, punishable as provided in s. 812.014.

114 (9) It is prima facie evidence of a person's intent to  
115 violate subsection (8) if:

116 (a) The person committed theft of utility services  
117 resulting in a dwelling, as defined in s. 810.011, or a  
118 structure, as defined in s. 810.011, receiving unauthorized  
119 access to utility services;

120 (b) A controlled substance and materials for manufacturing  
121 the controlled substance were found in the dwelling or  
122 structure; and

123 (c) The person knew or should have known of the presence of  
124 the controlled substance and materials for manufacturing the  
125 controlled substance in the dwelling or structure, regardless of  
126 whether the person was involved in the manufacture of the



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127 controlled substance.

128 (10) Whoever is found in a civil action to have violated  
129 this section is liable to the utility involved in an amount  
130 equal to 3 times the amount of services unlawfully obtained or  
131 \$3,000, whichever is greater.

132 (11) (a) For purposes of determining a defendant's liability  
133 for civil damages under subsection (10) or criminal restitution  
134 for the theft of electricity, the amount of civil damages or a  
135 restitution order must include all of the following amounts:

136 1. The costs to repair or replace damaged property owned by  
137 a utility, including reasonable labor costs.

138 2. Reasonable costs for the use of specialized equipment to  
139 investigate or calculate the amount of unlawfully obtained  
140 electricity services, including reasonable labor costs.

141 3. The amount of unlawfully obtained electricity services.

142 (b) A prima facie showing of the amount of unlawfully  
143 obtained electricity services may be based on any methodology  
144 reasonably relied upon by utilities to estimate such losses. The  
145 methodology may consider the estimated start date of the theft  
146 and the estimated daily or hourly use of electricity. Once a  
147 prima facie showing has been made, the burden shifts to the  
148 defendant to demonstrate that the loss is other than that  
149 claimed by the utility.

150 1. The estimated start date of a theft may be based upon  
151 one or more of the following:

152 a. The date of an overload notification from a transformer,  
153 or the tripping of a transformer, that the utility reasonably  
154 believes was overloaded as a result of the theft of electricity.

155 b. The date the utility verified a substantive difference



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156 between the amount of electricity used at a property and the  
157 amount billed to the accountholder.

158 c. The date the utility or a law enforcement officer  
159 located a tap or other device bypassing a meter.

160 d. The date the utility or a law enforcement officer  
161 observed or verified meter tampering.

162 e. The maturity of a cannabis crop found in a dwelling or  
163 structure using unlawfully obtained electricity services the  
164 utility or a law enforcement officer reasonably believes to have  
165 been grown in the dwelling or structure.

166 f. The date the utility or a law enforcement agency  
167 received a report of suspicious activity potentially indicating  
168 the presence of the unlawful cultivation of cannabis in a  
169 dwelling or structure or the date a law enforcement officer or  
170 an employee or contractor of a utility observes such suspicious  
171 activity.

172 g. The date when a utility observes a significant change in  
173 metered energy usage.

174 h. The date when an account with the utility was opened for  
175 a property that receives both metered and unlawfully obtained  
176 electricity services.

177 i. Any other facts or data reasonably relied upon by  
178 utilities to estimate the start date of a theft of electricity.

179 2. The estimated average daily or hourly use of the  
180 electricity may be based upon any, or a combination, of the  
181 following:

182 a. The load imposed by the fixtures, appliances, or  
183 equipment powered by unlawfully obtained electricity services.

184 b. Recordings by the utility of the amount of electricity



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185 used by a property or the difference between the amount used and  
186 the amount billed.

187 c. A comparison of the amount of electricity historically  
188 used by the property and the amount billed while the property  
189 was using unlawfully obtained electricity.

190 d. A reasonable analysis of a meter that was altered or  
191 tampered with to prevent the creation of an accurate record of  
192 the amount of electricity obtained.

193 e. Any other facts or data reasonably relied upon by  
194 utilities to estimate the amount of unlawfully obtained  
195 electricity services.

196 (12) A court order requiring a defendant to pay restitution  
197 for damages to the property of a utility or for the theft of  
198 electricity need only be based on a conviction for a criminal  
199 offense that is causally connected to the damages or losses and  
200 bears a significant relationship to those damages or losses. A  
201 conviction for a violation of this section is not a prerequisite  
202 for a restitution order. Criminal offenses that bear a  
203 significant relationship and are causally connected to a  
204 violation of this section include, but are not limited to,  
205 offenses relating to the unlawful cultivation of cannabis in a  
206 dwelling or structure if the theft of electricity was used to  
207 facilitate the growth of the cannabis.

208 (13) The amount of restitution that a defendant may be  
209 ordered to pay is not limited by the monetary threshold of any  
210 criminal charge on which the restitution order is based.

211 (14)~~(11)~~ This section does not apply to licensed and  
212 certified electrical contractors while such persons are  
213 performing usual and ordinary service in accordance with



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214 recognized standards.

215 Section 2. Paragraph (c) of subsection (2) of section  
216 812.014, Florida Statutes, is amended to read:

217 812.014 Theft.—

218 (2)

219 (c) It is grand theft of the third degree and a felony of  
220 the third degree, punishable as provided in s. 775.082, s.  
221 775.083, or s. 775.084, if the property stolen is:

222 1. Valued at \$300 or more, but less than \$5,000.

223 2. Valued at \$5,000 or more, but less than \$10,000.

224 3. Valued at \$10,000 or more, but less than \$20,000.

225 4. A will, codicil, or other testamentary instrument.

226 5. A firearm.

227 6. A motor vehicle, except as provided in paragraph (a).

228 7. Any commercially farmed animal, including any animal of  
229 the equine, bovine, or swine class or other grazing animal; a  
230 bee colony of a registered beekeeper; and aquaculture species  
231 raised at a certified aquaculture facility. If the property  
232 stolen is aquaculture species raised at a certified aquaculture  
233 facility, then a \$10,000 fine shall be imposed.

234 8. Any fire extinguisher.

235 9. Any amount of citrus fruit consisting of 2,000 or more  
236 individual pieces of fruit.

237 10. Taken from a designated construction site identified by  
238 the posting of a sign as provided for in s. 810.09(2)(d).

239 11. Any stop sign.

240 12. Anhydrous ammonia.

241 13. Any amount of a controlled substance as defined in s.  
242 893.02. Notwithstanding any other law, separate judgments and



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243 sentences for theft of a controlled substance under this  
244 subparagraph and for any applicable possession of controlled  
245 substance offense under s. 893.13 or trafficking in controlled  
246 substance offense under s. 893.135 may be imposed when all such  
247 offenses involve the same amount or amounts of a controlled  
248 substance.

249 14. Utility services, in a manner as specified in s.  
250 812.14.

251  
252 However, if the property is stolen within a county that is  
253 subject to a state of emergency declared by the Governor under  
254 chapter 252, the property is stolen after the declaration of  
255 emergency is made, and the perpetration of the theft is  
256 facilitated by conditions arising from the emergency, the  
257 offender commits a felony of the second degree, punishable as  
258 provided in s. 775.082, s. 775.083, or s. 775.084, if the  
259 property is valued at \$5,000 or more, but less than \$10,000, as  
260 provided under subparagraph 2., or if the property is valued at  
261 \$10,000 or more, but less than \$20,000, as provided under  
262 subparagraph 3. As used in this paragraph, the term "conditions  
263 arising from the emergency" means civil unrest, power outages,  
264 curfews, voluntary or mandatory evacuations, or a reduction in  
265 the presence of or the response time for first responders or  
266 homeland security personnel. For purposes of sentencing under  
267 chapter 921, a felony offense that is reclassified under this  
268 paragraph is ranked one level above the ranking under s.  
269 921.0022 or s. 921.0023 of the offense committed.

270 Section 3. This act shall take effect October 1, 2017.

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272 ===== T I T L E A M E N D M E N T =====

273 And the title is amended as follows:

274 Delete everything before the enacting clause

275 and insert:

276 A bill to be entitled

277 An act relating to the unlawful acquisition of utility  
278 services; amending s. 812.14, F.S.; revising the  
279 elements that constitute theft of utilities;  
280 clarifying that the presence of certain devices and  
281 alterations on the property of, and the actual  
282 possession by, a person constitutes prima facie  
283 evidence of a violation; clarifying that certain  
284 evidence of controlled substance manufacture in a  
285 leased dwelling constitutes prima facie evidence of a  
286 violation by an owner, lessor, sublessor, or a person  
287 acting on behalf of such persons; clarifying that  
288 specified circumstances create prima facie evidence of  
289 theft of utility services for the purpose of  
290 facilitating the manufacture of a controlled  
291 substance; revising such circumstances; specifying the  
292 types of damages that may be recovered in as civil  
293 damages or restitution in a criminal case for damaging  
294 property of a utility or for the theft of electricity  
295 services; specifying the methods and bases used to  
296 determine and assess damages in a civil action or  
297 restitution in a criminal case for damaging property  
298 of a utility or for the theft of electricity services;  
299 making technical changes; amending s. 812.014, F.S.;  
300 conforming provisions to changes made by the act;



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301

providing an effective date.