

1 A bill to be entitled

2 An act relating to criminal acts committed during a state
3 of emergency; amending s. 810.02, F.S.; providing enhanced
4 penalties for specified burglaries that are committed
5 during a state of emergency; providing that a person
6 arrested for committing a burglary during a state of
7 emergency may not be released until that person appears
8 before a magistrate at a first-appearance hearing;
9 directing that a felony burglary committed during a state
10 of emergency be reclassified one level above the current
11 ranking of the offense committed; amending s. 812.014,
12 F.S.; providing enhanced penalties for the theft of
13 certain property stolen during a state of emergency;
14 directing that a felony theft committed during a state of
15 emergency be reclassified one level above the current
16 ranking of the offense committed; providing an effective
17 date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Subsections (3) and (4) of section 810.02,
22 Florida Statutes, are amended to read:

23 810.02 Burglary.--

24 (3) Burglary is a felony of the second degree, punishable
25 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
26 course of committing the offense, the offender does not make an
27 assault or battery and is not and does not become armed with a

28 | dangerous weapon or explosive, and the offender enters or
29 | remains in a:

30 | (a) Dwelling, and there is another person in the dwelling
31 | at the time the offender enters or remains;

32 | (b) Dwelling, and there is not another person in the
33 | dwelling at the time the offender enters or remains;

34 | (c) Structure, and there is another person in the
35 | structure at the time the offender enters or remains; or

36 | (d) Conveyance, and there is another person in the
37 | conveyance at the time the offender enters or remains.

38 |

39 | However, if the burglary is committed within an area that is
40 | subject to a state of emergency declared by the Governor under
41 | chapter 252, the burglary is a felony of the first degree,
42 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

43 | A person arrested for committing a burglary within an area that
44 | is subject to a state of emergency declared by the Governor
45 | under chapter 252 may not be released until the person appears
46 | before a committing magistrate at a first-appearance hearing.

47 | For purposes of sentencing under chapter 921, a felony offense
48 | that is reclassified under this subsection is ranked one level
49 | above the ranking under s. 921.0022 or s. 921.0023 of the
50 | offense committed.

51 | (4) Burglary is a felony of the third degree, punishable
52 | as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
53 | course of committing the offense, the offender does not make an
54 | assault or battery and is not and does not become armed with a

55 | dangerous weapon or explosive, and the offender enters or
 56 | remains in a:

57 | (a) Structure, and there is not another person in the
 58 | structure at the time the offender enters or remains; or

59 | (b) Conveyance, and there is not another person in the
 60 | conveyance at the time the offender enters or remains.

61 |
 62 | However, if the burglary is committed within an area that is
 63 | subject to a state of emergency declared by the Governor under
 64 | chapter 252, the burglary is a felony of the second degree,
 65 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

66 | A person arrested for committing a burglary within an area that
 67 | is subject to a state of emergency declared by the Governor
 68 | under chapter 252 may not be released until the person appears
 69 | before a committing magistrate at a first-appearance hearing.
 70 | For purposes of sentencing under chapter 921, a felony offense
 71 | that is reclassified under this subsection is ranked one level
 72 | above the ranking under s. 921.0022 or s. 921.0023 of the
 73 | offense committed.

74 | Section 2. Paragraphs (b) and (c) of subsection (2) of
 75 | section 812.014, Florida Statutes, are amended to read:

76 | 812.014 Theft.--

77 | (2)

78 | (b)1. If the property stolen is valued at \$20,000 or more,
 79 | but less than \$100,000;

80 | 2. The property stolen is cargo valued at less than
 81 | \$50,000 that has entered the stream of interstate or intrastate

82 | commerce from the shipper's loading platform to the consignee's
 83 | receiving dock; or

84 | 3. The property stolen is emergency medical equipment,
 85 | valued at \$300 or more, that is taken from a facility licensed
 86 | under chapter 395 or from an aircraft or vehicle permitted under
 87 | chapter 401,

88 |
 89 | the offender commits grand theft in the second degree,
 90 | punishable as a felony of the second degree, as provided in s.
 91 | 775.082, s. 775.083, or s. 775.084. Emergency medical equipment
 92 | means mechanical or electronic apparatus used to provide
 93 | emergency services and care as defined in s. 395.002(10) or to
 94 | treat medical emergencies. However, if the property is stolen
 95 | within an area that is subject to a state of emergency declared
 96 | by the Governor under chapter 252, the offender commits a felony
 97 | of the first degree, punishable as provided in s. 775.082, s.
 98 | 775.083, or s. 775.084. For purposes of sentencing under chapter
 99 | 921, a felony offense that is reclassified under this paragraph
 100 | is ranked one level above the ranking under s. 921.0022 or s.
 101 | 921.0023 of the offense committed.

102 | (c) It is grand theft of the third degree and a felony of
 103 | the third degree, punishable as provided in s. 775.082, s.
 104 | 775.083, or s. 775.084, if the property stolen is:

- 105 | 1. Valued at \$300 or more, but less than \$5,000.
- 106 | 2. Valued at \$5,000 or more, but less than \$10,000.
- 107 | 3. Valued at \$10,000 or more, but less than \$20,000.
- 108 | 4. A will, codicil, or other testamentary instrument.
- 109 | 5. A firearm.

110 6. A motor vehicle, except as provided in paragraph
111 (2) (a).

112 7. Any commercially farmed animal, including any animal of
113 the equine, bovine, or swine class, or other grazing animal, and
114 including aquaculture species raised at a certified aquaculture
115 facility. If the property stolen is aquaculture species raised
116 at a certified aquaculture facility, then a \$10,000 fine shall
117 be imposed.

118 8. Any fire extinguisher.

119 9. Any amount of citrus fruit consisting of 2,000 or more
120 individual pieces of fruit.

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

123 11. Any stop sign.

124 12. Anhydrous ammonia.

125

126 However, if the property is stolen within an area that is
127 subject to a state of emergency declared by the Governor under
128 chapter 252 and the property is valued at \$5,000 or more, but
129 less than \$10,000, as provided under subparagraph 2., or the
130 property is valued at \$10,000 or more, but less than \$20,000, as
131 provided under subparagraph 3., the offender commits a felony of
132 the second degree, punishable as provided in s. 775.082, s.
133 775.083, or s. 775.084. For purposes of sentencing under chapter
134 921, a felony offense that is reclassified under this paragraph
135 is ranked one level above the ranking under s. 921.0022 or s.
136 921.0023 of the offense committed.

137 Section 3. This act shall take effect July 1, 2005.