

By the Committee on Domestic Security; and Senators Aronberg and Fasano

583-2093-05

1                                   A bill to be entitled  
2                    An act relating to criminal acts committed  
3                    during a state of emergency; amending s.  
4                    810.02, F.S.; providing enhanced penalties for  
5                    specified burglaries that are committed during  
6                    a state of emergency; providing that a person  
7                    arrested for committing a burglary during a  
8                    state of emergency may not be released until  
9                    that person appears before a magistrate at a  
10                   first-appearance hearing; directing that a  
11                   felony burglary committed during a state of  
12                   emergency be reclassified one level above the  
13                   current ranking of the offense committed;  
14                   amending s. 812.014, F.S.; providing enhanced  
15                   penalties for the theft of certain property  
16                   stolen during a state of emergency; directing  
17                   that a felony theft committed during a state of  
18                   emergency be reclassified one level above the  
19                   current ranking of the offense committed;  
20                   providing an effective date.  
21  
22    Be It Enacted by the Legislature of the State of Florida:  
23  
24                    Section 1. Subsections (3) and (4) of section 810.02,  
25    Florida Statutes, are amended to read:  
26                    810.02 Burglary.--  
27                    (3) Burglary is a felony of the second degree,  
28    punishable as provided in s. 775.082, s. 775.083, or s.  
29    775.084, if, in the course of committing the offense, the  
30    offender does not make an assault or battery and is not and  
31

1 does not become armed with a dangerous weapon or explosive,  
2 and the offender enters or remains in a:

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

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

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

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

11  
12 However, if the burglary is committed within an area that is  
13 subject to a state of emergency declared by the Governor under  
14 chapter 252, the burglary is a felony of the first degree,  
15 punishable as provided in s. 775.082, s. 775.083, or s.  
16 775.084. A person arrested for committing a burglary within an  
17 area that is subject to a state of emergency declared by the  
18 Governor under chapter 252 may not be released until the  
19 person appears before a committing magistrate at a  
20 first-appearance hearing. For purposes of sentencing under  
21 chapter 921, a felony offense that is reclassified under this  
22 subsection is ranked one level above the ranking under s.  
23 921.0022 or s. 921.0023 of the offense committed.

24 (4) Burglary is a felony of the third degree,  
25 punishable as provided in s. 775.082, s. 775.083, or s.  
26 775.084, if, in the course of committing the offense, the  
27 offender does not make an assault or battery and is not and  
28 does not become armed with a dangerous weapon or explosive,  
29 and the offender enters or remains in a:

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

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

3  
4 However, if the burglary is committed within an area that is  
5 subject to a state of emergency declared by the Governor under  
6 chapter 252, the burglary is a felony of the second degree,  
7 punishable as provided in s. 775.082, s. 775.083, or s.  
8 775.084. A person arrested for committing a burglary within an  
9 area that is subject to a state of emergency declared by the  
10 Governor under chapter 252 may not be released until the  
11 person appears before a committing magistrate at a  
12 first-appearance hearing. For purposes of sentencing under  
13 chapter 921, a felony offense that is reclassified under this  
14 subsection is ranked one level above the ranking under s.  
15 921.0022 or s. 921.0023 of the offense committed.

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

18 812.014 Theft.--

19 (2)

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

22 2. The property stolen is cargo valued at less than  
23 \$50,000 that has entered the stream of interstate or  
24 intrastate commerce from the shipper's loading platform to the  
25 consignee's receiving dock; or

26 3. The property stolen is emergency medical equipment,  
27 valued at \$300 or more, that is taken from a facility licensed  
28 under chapter 395 or from an aircraft or vehicle permitted  
29 under chapter 401,

30  
31

1 | the offender commits grand theft in the second degree,  
2 | punishable as a felony of the second degree, as provided in s.  
3 | 775.082, s. 775.083, or s. 775.084. Emergency medical  
4 | equipment means mechanical or electronic apparatus used to  
5 | provide emergency services and care as defined in s.  
6 | 395.002(10) or to treat medical emergencies. However, if the  
7 | property is stolen within an area that is subject to a state  
8 | of emergency declared by the Governor under chapter 252, the  
9 | offender commits a felony of the first degree, punishable as  
10 | provided in s. 775.082, s. 775.083, or s. 775.084. For  
11 | purposes of sentencing under chapter 921, a felony offense  
12 | that is reclassified under this paragraph is ranked one level  
13 | above the ranking under s. 921.0022 or s. 921.0023 of the  
14 | offense committed.

15 |       (c) It is grand theft of the third degree and a felony  
16 | of the third degree, punishable as provided in s. 775.082, s.  
17 | 775.083, or s. 775.084, if the property stolen is:

- 18 |       1. Valued at \$300 or more, but less than \$5,000.
- 19 |       2. Valued at \$5,000 or more, but less than \$10,000.
- 20 |       3. Valued at \$10,000 or more, but less than \$20,000.
- 21 |       4. A will, codicil, or other testamentary instrument.
- 22 |       5. A firearm.
- 23 |       6. A motor vehicle, except as provided in paragraph  
24 | (2)(a).
- 25 |       7. Any commercially farmed animal, including any  
26 | animal of the equine, bovine, or swine class, or other grazing  
27 | animal, and including aquaculture species raised at a  
28 | certified aquaculture facility. If the property stolen is  
29 | aquaculture species raised at a certified aquaculture  
30 | facility, then a \$10,000 fine shall be imposed.
- 31 |       8. Any fire extinguisher.

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

3           10. Taken from a designated construction site  
4 identified by the posting of a sign as provided for in s.  
5 810.09(2)(d).

6           11. Any stop sign.

7           12. Anhydrous ammonia.

8  
9 However, if the property is stolen within an area that is  
10 subject to a state of emergency declared by the Governor under  
11 chapter 252, and the property is valued at \$5,000 or more, but  
12 less than \$10,000, as provided under subparagraph 2., or the  
13 property is valued at \$10,000 or more, but less than \$20,000,  
14 as provided under subparagraph 3., the offender commits a  
15 felony of the second degree, punishable as provided in s.  
16 775.082, s. 775.083, or s. 775.084. For purposes of sentencing  
17 under chapter 921, a felony offense that is reclassified under  
18 this paragraph is ranked one level above the ranking under s.  
19 921.0022 or s. 921.0023 of the offense committed.

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

21  
22                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
23                   COMMITTEE SUBSTITUTE FOR  
24                   Senate Bill 282

25 The bill requires that a person arrested for committing a  
26 burglary within a declared state of emergency area may not be  
27 released before appearing before a committing magistrate at a  
28 first-appearance hearing.

29 The substitute also incorporate a technical amendment that  
30 removes language that is irrelevant to the reclassified  
31 offenses in the bill.