

By the Committee on Military Affairs and Domestic Security;
and Senators Aronberg and Lynn

583-2222-07

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A bill to be entitled
An act relating to criminal acts committed during a state of emergency; amending s. 810.02, F.S.; providing enhanced penalties for specified burglaries that are committed during a state of emergency declared by the Governor and facilitated by conditions arising from the emergency; prohibiting the release of a person arrested for committing a burglary during such a state of emergency until that person appears before a magistrate at a first-appearance hearing; requiring that a felony burglary committed during a state of emergency declared by the Governor be reclassified one level above the current ranking of the offense committed; amending s. 812.014, F.S.; providing enhanced penalties for the theft of certain property stolen during a state of emergency declared by the Governor and facilitated by conditions arising from the emergency; requiring that a felony theft committed during such a state of emergency be reclassified one level above the current ranking of the offense committed; providing an effective date.

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

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

810.02 Burglary.--

1 (3) Burglary is a felony of the second degree,
2 punishable as provided in s. 775.082, s. 775.083, or s.
3 775.084, if, in the course of committing the offense, the
4 offender does not make an assault or battery and is not and
5 does not become armed with a dangerous weapon or explosive,
6 and the offender enters or remains in a:

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

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

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

13 (d) Conveyance, and there is another person in the
14 conveyance at the time the offender enters or remains.
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16 However, if the burglary is committed within a county that is
17 subject to a state of emergency declared by the Governor under
18 chapter 252 after the declaration of emergency is made and the
19 perpetration of the burglary is facilitated by conditions
20 arising from the emergency, the burglary is a felony of the
21 first degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084. As used in this subsection, the term
23 "conditions arising from the emergency" means civil unrest,
24 power outages, curfews, voluntary or mandatory evacuations, or
25 a reduction in the presence of or response time for first
26 responders or homeland security personnel. A person arrested
27 for committing a burglary within a county that is subject to
28 such a state of emergency may not be released until the person
29 appears before a committing magistrate at a first-appearance
30 hearing. For purposes of sentencing under chapter 921, a
31 felony offense that is reclassified under this subsection is

1 ranked one level above the ranking under s. 921.0022 or s.
2 921.0023 of the offense committed.

3 (4) Burglary is a felony of the third degree,
4 punishable as provided in s. 775.082, s. 775.083, or s.
5 775.084, if, in the course of committing the offense, the
6 offender does not make an assault or battery and is not and
7 does not become armed with a dangerous weapon or explosive,
8 and the offender enters or remains in a:

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

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

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14 However, if the burglary is committed within a county that is
15 subject to a state of emergency declared by the Governor under
16 chapter 252 after the declaration of emergency is made and the
17 perpetration of the burglary is facilitated by conditions
18 arising from the emergency, the burglary is a felony of the
19 second degree, punishable as provided in s. 775.082, s.
20 775.083, or s. 775.084. As used in this subsection, the term
21 "conditions arising from the emergency" means civil unrest,
22 power outages, curfews, voluntary or mandatory evacuations, or
23 a reduction in the presence of or response time for first
24 responders or homeland security personnel. A person arrested
25 for committing a burglary within a county that is subject to
26 such a state of emergency may not be released until the person
27 appears before a committing magistrate at a first-appearance
28 hearing. For purposes of sentencing under chapter 921, a
29 felony offense that is reclassified under this subsection is
30 ranked one level above the ranking under s. 921.0022 or s.
31 921.0023 of the offense committed.

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

3 812.014 Theft.--

4 (2)

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

7 2. The property stolen is cargo valued at less than
8 \$50,000 that has entered the stream of interstate or
9 intrastate commerce from the shipper's loading platform to the
10 consignee's receiving dock; or

11 3. The property stolen is emergency medical equipment,
12 valued at \$300 or more, that is taken from a facility licensed
13 under chapter 395 or from an aircraft or vehicle permitted
14 under chapter 401,

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16 the offender commits grand theft in the second degree,
17 punishable as a felony of the second degree, as provided in s.
18 775.082, s. 775.083, or s. 775.084. Emergency medical
19 equipment means mechanical or electronic apparatus used to
20 provide emergency services and care as defined in s.

21 395.002(10) or to treat medical emergencies. However, if the
22 property is stolen within a county that is subject to a state
23 of emergency declared by the Governor under chapter 252, the
24 theft is committed after the declaration of emergency is made,
25 and the perpetration of the theft is facilitated by conditions
26 arising from the emergency, the theft is a felony of the first
27 degree, punishable as provided in s. 775.082, s. 775.083, or
28 s. 775.084. As used in this subsection, the term "conditions
29 arising from the emergency" means civil unrest, power outages,
30 curfews, voluntary or mandatory evacuations, or a reduction in
31 the presence of or response time for first responders or

1 homeland security personnel. For purposes of sentencing under
2 chapter 921, a felony offense that is reclassified under this
3 paragraph is ranked one level above the ranking under s.
4 921.0022 or s. 921.0023 of the offense committed.

5 (c) It is grand theft of the third degree and a felony
6 of the third degree, punishable as provided in s. 775.082, s.
7 775.083, or s. 775.084, if the property stolen is:

- 8 1. Valued at \$300 or more, but less than \$5,000.
- 9 2. Valued at \$5,000 or more, but less than \$10,000.
- 10 3. Valued at \$10,000 or more, but less than \$20,000.
- 11 4. A will, codicil, or other testamentary instrument.
- 12 5. A firearm.
- 13 6. A motor vehicle, except as provided in paragraph
14 (2)(a).
- 15 7. Any commercially farmed animal, including any
16 animal of the equine, bovine, or swine class, or other grazing
17 animal, and including aquaculture species raised at a
18 certified aquaculture facility. If the property stolen is
19 aquaculture species raised at a certified aquaculture
20 facility, then a \$10,000 fine shall be imposed.
- 21 8. Any fire extinguisher.
- 22 9. Any amount of citrus fruit consisting of 2,000 or
23 more individual pieces of fruit.
- 24 10. Taken from a designated construction site
25 identified by the posting of a sign as provided for in s.
26 810.09(2)(d).
- 27 11. Any stop sign.
- 28 12. Anhydrous ammonia.

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30 However, if the property is stolen within a county that is
31 subject to a state of emergency declared by the Governor under

1 chapter 252, the property is stolen after the declaration of
2 emergency is made, and the perpetration of the theft is
3 facilitated by conditions arising from the emergency, the
4 offender commits a felony of the second degree, punishable as
5 provided in s. 775.082, s. 775.083, or s. 775.084, if the
6 property is valued at \$5,000 or more, but less than \$10,000,
7 as provided under subparagraph 2., or if the property is
8 valued at \$10,000 or more, but less than \$20,000, as provided
9 under subparagraph 3. As used in this subsection, the term
10 "conditions arising from the emergency" means civil unrest,
11 power outages, curfews, voluntary or mandatory evacuations, or
12 a reduction in the presence of or the response time for first
13 responders or homeland security personnel. For purposes of
14 sentencing under chapter 921, a felony offense that is
15 reclassified under this paragraph is ranked one level above
16 the ranking under s. 921.0022 or s. 921.0023 of the offense
17 committed.

18 Section 3. This act shall take effect July 1, 2007.

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20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 Senate Bill 214

23 This committee substitute incorporates a traveling technical
24 amendment that conforms the bill language to the bill
25 sponsor's intent to elevate all o/fc/e burglary and theft
26 crimes effected by the bill by one felony degree.
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