

By Senator Aronberg

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1 A bill to be entitled

2 An act relating to the unlawful use of utility services;
3 amending s. 812.14, F.S.; prohibiting trespass and larceny
4 in relation to utility fixtures for the purpose of
5 manufacturing, growing, or cultivating a controlled
6 substance; providing for prima facie evidence of the
7 intent to commit such offense; providing that trespass and
8 larceny in relation to utility fixtures for the purpose of
9 manufacturing, growing, or cultivating a controlled
10 substance is a third-degree felony; providing that
11 prosecution for trespass and larceny in relation to
12 utility fixtures does not preclude prosecution for theft
13 of utility services; providing that theft of utility
14 services for the purpose of manufacturing, growing, or
15 cultivating a controlled substance is a third-degree
16 felony; providing that prosecution of theft of utility
17 services is in lieu of prosecution for theft pursuant to
18 s. 812.014, F.S.; providing for prima facie evidence of
19 intent to commit theft of utility services; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 812.14, Florida Statutes, is amended to
25 read:

26 812.14 Trespass and larceny with relation to utility
27 fixtures; theft of utility services.--

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

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30 private, municipal, county, or cooperative, which is engaged in
31 the sale, generation, provision, or delivery of gas, electricity,
32 heat, water, oil, sewer service, telephone service, telegraph
33 service, radio service, or telecommunication service.

34 (2) It is unlawful to:

35 (a) Willfully alter, tamper with, injure, or knowingly
36 suffer to be injured any meter, meter seal, pipe, conduit, wire,
37 line, cable, transformer, amplifier, or other apparatus or device
38 belonging to a utility line service in such a manner as to cause
39 loss or damage or to prevent any meter installed for registering
40 electricity, gas, or water from registering the quantity which
41 otherwise would pass through the same; or to alter the index or
42 break the seal of any such meter; or in any way to hinder or
43 interfere with the proper action or just registration of any such
44 meter or device; or knowingly to use, waste, or suffer the waste,
45 by any means, of electricity or gas or water passing through any
46 such meter, wire, pipe, or fitting, or other appliance or
47 appurtenance connected with or belonging to any such utility,
48 after such meter, wire, pipe or fitting, or other appliance or
49 appurtenance has been tampered with, injured, or altered.

50 (b) Make or cause to be made any connection with any wire,
51 main, service pipe or other pipes, appliance, or appurtenance in
52 such manner as to use, without the consent of the utility, any
53 service or any electricity, gas, or water, or to cause to be
54 supplied any service or electricity, gas, or water from a utility
55 to any person, firm, or corporation or any lamp, burner, orifice,
56 faucet, or other outlet whatsoever, without such service being
57 reported for payment or such electricity, gas, or water passing
58 through a meter provided by the utility and used for measuring

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59 and registering the quantity of electricity, gas, or water
60 passing through the same.

61 (c) Use or receive the direct benefit from the use of a
62 utility knowing, or under such circumstances as would induce a
63 reasonable person to believe, that such direct benefits have
64 resulted from any tampering with, altering of, or injury to any
65 connection, wire, conductor, meter, pipe, conduit, line, cable,
66 transformer, amplifier, or other apparatus or device owned,
67 operated, or controlled by such utility, for the purpose of
68 avoiding payment.

69 (d) Violate paragraph (a), paragraph (b), or paragraph (c)
70 for the purpose of facilitating the manufacture, growth, or
71 cultivation of a controlled substance.

72 (3) The presence on property in the actual possession of a
73 person of any device or alteration that ~~which~~ affects the
74 diversion or use of the services of a utility so as to avoid the
75 registration of such use by or on a meter installed by the
76 utility or so as to otherwise avoid the reporting of use of such
77 service for payment is ~~shall be~~ prima facie evidence of the
78 violation of this section by such person; however, this
79 presumption does ~~shall~~ not apply unless:

80 (a) The presence of such a device or alteration can be
81 attributed only to a deliberate act in furtherance of an intent
82 to avoid payment for utility services;

83 (b) The person charged has received the direct benefit of
84 the reduction of the cost of such utility services; and

85 (c) The customer or recipient of the utility services has
86 received the direct benefit of such utility service for at least
87 one full billing cycle.

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88 (4) It is prima facie evidence of a person's intent to
89 violate paragraph (2)(d) if:

90 (a) The person violated paragraph (2)(a), paragraph (2)(b),
91 or paragraph (2)(c), resulting in a structure, as defined in s.
92 810.011(1), or a dwelling, as defined in s. 810.011(2), receiving
93 unauthorized access to utility services;

94 (b) A controlled substance and materials for manufacturing,
95 growing, or cultivating the controlled substance were found in
96 the structure or dwelling; and

97 (c) The person knew of the presence of the controlled
98 substance and materials for manufacturing, growing, or
99 cultivating the controlled substance in the structure or
100 dwelling, regardless of whether the person was involved in the
101 manufacture, growth, or cultivation of the controlled substance.

102 (5)(4) Any person who willfully violates paragraph (2)(a),
103 paragraph (2)(b), or paragraph (2)(c) commits ~~this section shall~~
104 ~~be guilty of~~ a misdemeanor of the first degree, punishable as
105 provided in s. 775.082 or s. 775.083. Any person who willfully
106 violates paragraph (2)(d) commits a felony of the third degree,
107 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
108 Prosecution of a violation of subsection (2) does not preclude
109 prosecution of theft pursuant to subsection (6) or s. 812.014.

110 (6) Theft of utility services for the purpose of
111 facilitating the manufacture, growth, or cultivation of a
112 controlled substance is a felony of the third degree, punishable
113 as provided in s. 775.082, s. 775.083, or s. 775.084. Prosecution
114 pursuant this subsection is in lieu of prosecution for theft
115 pursuant to s. 812.014.

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116 (7) It is prima facie evidence of a person's intent to
117 violate subsection (6) if:

118 (a) The person committed theft of utility services,
119 resulting in a structure, as defined in s. 810.011(1), or a
120 dwelling, as defined in s. 810.011(2), receiving unauthorized
121 access to utility services;

122 (b) A controlled substance and materials for manufacturing,
123 growing, or cultivating the controlled substance were found in
124 the structure or dwelling; and

125 (c) The person knew of the presence of the controlled
126 substance and materials for manufacturing, growing, or
127 cultivating the controlled substance in the structure or
128 dwelling, regardless of whether the person was involved in the
129 manufacture, growth, or cultivation of the controlled substance.

130 (8)(5) Whoever is found in a civil action to have violated
131 the provisions of this section is ~~hereof shall be~~ liable to the
132 utility involved in an amount equal to 3 times the amount of
133 services unlawfully obtained or \$1,000, whichever is greater.

134 (9)(6) ~~Nothing in This section does not act shall be~~
135 ~~construed to~~ apply to licensed and certified electrical
136 contractors while performing usual and ordinary service in
137 accordance with recognized standards.

138 Section 2. This act shall take effect July 1, 2008.