

By the Committee on Criminal Justice; and Senator Aronberg

591-08236-08

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1 A bill to be entitled

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

29 (a) "Manufacture" has the same meaning as in s. 893.02.

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30        (b) "Utility" includes any person, firm, corporation,  
31 association, or political subdivision, whether private,  
32 municipal, county, or cooperative, which is engaged in the sale,  
33 generation, provision, or delivery of gas, electricity, heat,  
34 water, oil, sewer service, telephone service, telegraph service,  
35 radio service, or telecommunication service.

36        (2) It is unlawful to:

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

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

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59 | reported for payment or such electricity, gas, or water passing  
60 | through a meter provided by the utility and used for measuring  
61 | and registering the quantity of electricity, gas, or water  
62 | passing through the same.

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

71 | (d) Violate paragraph (a), paragraph (b), or paragraph (c)  
72 | for the purpose of facilitating the manufacture of a controlled  
73 | substance.

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

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

85 | (b) The person charged has received the direct benefit of  
86 | the reduction of the cost of such utility services; and

87 | (c) The customer or recipient of the utility services has

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88 received the direct benefit of such utility service for at least  
89 one full billing cycle.

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

92 (a) The person violated paragraph (2)(a), paragraph (2)(b),  
93 or paragraph (2)(c), resulting in a structure, as defined in s.  
94 810.011, or a dwelling, as defined in s. 810.011, receiving  
95 unauthorized access to utility services;

96 (b) A controlled substance and materials for manufacturing  
97 the controlled substance were found in the structure or dwelling;  
98 and

99 (c) The person knew of the presence of the controlled  
100 substance and materials for manufacturing the controlled  
101 substance in the structure or dwelling, regardless of whether the  
102 person was involved in the manufacture of the controlled  
103 substance.

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

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

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

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

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

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

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

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

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