

HB 837

2008

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.--

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

35 (2) It is unlawful to:

36 (a) Willfully alter, tamper with, injure, or knowingly
37 suffer to be injured any meter, meter seal, pipe, conduit, wire,
38 line, cable, transformer, amplifier, or other apparatus or
39 device belonging to a utility line service in such a manner as
40 to cause loss or damage or to prevent any meter installed for
41 registering electricity, gas, or water from registering the
42 quantity which otherwise would pass through the same; or to
43 alter the index or break the seal of any such meter; or in any
44 way to hinder or interfere with the proper action or just
45 registration of any such meter or device; or knowingly to use,
46 waste, or suffer the waste, by any means, of electricity or gas
47 or water passing through any such meter, wire, pipe, or fitting,
48 or other appliance or appurtenance connected with or belonging
49 to any such utility, after such meter, wire, pipe or fitting, or
50 other appliance or appurtenance has been tampered with, injured,
51 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
 57 | utility to any person, firm, or corporation or any lamp, burner,
 58 | orifice, faucet, or other outlet whatsoever, without such
 59 | service being reported for payment or such electricity, gas, or
 60 | water passing through a meter provided by the utility and used
 61 | for measuring and registering the quantity of electricity, gas,
 62 | or water 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, growth, or
 73 | cultivation of a controlled 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
 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
 93 (2)(b), or paragraph (2)(c), resulting in a structure, as
 94 defined in s. 810.011, or a dwelling, as defined in s. 810.011,
 95 receiving unauthorized access to utility services;

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

99 (c) The person knew of the presence of the controlled
 100 substance and materials for manufacturing, growing, or
 101 cultivating the controlled substance in the structure or
 102 dwelling, regardless of whether the person was involved in the
 103 manufacture, growth, or cultivation of the controlled 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 pursuant to subsection (6) or s. 812.014.

112 (6) Theft of utility services for the purpose of
 113 facilitating the manufacture, growth, or cultivation of a
 114 controlled substance is a felony of the third degree, punishable
 115 as provided in s. 775.082, s. 775.083, or s. 775.084.

116 Prosecution pursuant this subsection is in lieu of prosecution
 117 for theft pursuant to s. 812.014.

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

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

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

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

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

136 (9)-(6) Nothing in This section does not act shall be
 137 construed to apply to licensed and certified electrical

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138 | contractors while performing usual and ordinary service in
139 | accordance with recognized standards.

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