



780206

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2009	.	
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The Committee on Judiciary (Haridopolos) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

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

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

(1) As used in this section, "utility" includes any person, firm, corporation, association, or political subdivision, whether private, municipal, county, or cooperative, which is



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12 engaged in the sale, generation, provision, or delivery of gas,  
13 electricity, heat, water, oil, sewer service, telephone service,  
14 telegraph service, radio service, or telecommunication service.

15 (2) It is unlawful to:

16 (a) Willfully alter, tamper with, injure, or knowingly  
17 suffer to be injured any meter, meter seal, pipe, conduit, wire,  
18 line, cable, transformer, amplifier, or other apparatus or  
19 device belonging to a utility line service in such a manner as  
20 to cause loss or damage or to prevent any meter installed for  
21 registering electricity, gas, or water from registering the  
22 quantity which otherwise would pass through the same; ~~or~~ to  
23 alter the index or break the seal of any such meter; ~~or~~ in any  
24 way to hinder or interfere with the proper action or just  
25 registration of any such meter or device; or knowingly to use,  
26 waste, or suffer the waste, by any means, of electricity or gas  
27 or water passing through any such meter, wire, pipe, or fitting,  
28 or other appliance or appurtenance connected with or belonging  
29 to any such utility, after such meter, wire, pipe or fitting, or  
30 other appliance or appurtenance has been tampered with, injured,  
31 or altered.

32 (b) Make or cause to be made any connection with any wire,  
33 main, service pipe or other pipes, appliance, or appurtenance in  
34 such manner as to use, without the consent of the utility, any  
35 service or any electricity, gas, or water, or to cause to be  
36 supplied any service or electricity, gas, or water from a  
37 utility to any person, firm, or corporation or any lamp, burner,  
38 orifice, faucet, or other outlet whatsoever, without such  
39 service being reported for payment or such electricity, gas, or  
40 water passing through a meter provided by the utility and used



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41 for measuring and registering the quantity of electricity, gas,  
42 or water passing through the same.

43 (c) Use or receive the direct benefit from the use of a  
44 utility knowing, or under such circumstances as would induce a  
45 reasonable person to believe, that such direct benefits have  
46 resulted from any tampering with, altering of, or injury to any  
47 connection, wire, conductor, meter, pipe, conduit, line, cable,  
48 transformer, amplifier, or other apparatus or device owned,  
49 operated, or controlled by such utility, for the purpose of  
50 avoiding payment.

51 (3) The presence on property in the actual possession of a  
52 person of any device or alteration that ~~which~~ affects the  
53 diversion or use of the services of a utility so as to avoid the  
54 registration of such use by or on a meter installed by the  
55 utility or so as to otherwise avoid the reporting of use of such  
56 service for payment is ~~shall be~~ prima facie evidence of the  
57 violation of this section by such person; however, this  
58 presumption does ~~shall~~ not apply unless:

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

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

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

67 (4) A rebuttable presumption of a person's or entity's  
68 intent to violate paragraph (2)(b) exists if:

69 (a) A controlled substance and materials for manufacturing



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70 the controlled substance intended for sale or distribution to  
71 another were found in a structure or dwelling;

72 (b) Materials or equipment for manufacturing the controlled  
73 substance have been in the structure or dwelling for at least 1  
74 year;

75 (c) The dwelling or structure has been visibly modified to  
76 accommodate the use of equipment to grow marijuana indoors,  
77 including, but not limited to, the installation of equipment to  
78 provide additional air conditioning, equipment to provide high-  
79 wattage lighting, or equipment for hydroponic cultivation; and

80 (d) The person or entity who owned, leased, or subleased  
81 the structure or dwelling knew or should have known, through the  
82 exercise of due diligence, of the presence of the controlled  
83 substance and materials for manufacturing the controlled  
84 substance in the structure or dwelling, regardless of whether  
85 the person or entity was involved in the manufacture or sale of  
86 the controlled substance or was in actual possession of the  
87 structure or dwelling.

88 (5) ~~(4)~~ Any person who willfully violates paragraph (2) (a)  
89 or paragraph (2) (c) commits ~~this section shall be guilty of a~~  
90 misdemeanor of the first degree, punishable as provided in s.  
91 775.082 or s. 775.083. Any person who willfully violates  
92 paragraph (2) (b) commits a felony of the third degree,  
93 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
94 Prosecution of a violation of subsection (2) does not preclude  
95 prosecution of theft under subsection (6) or s. 812.014.

96 (6) Theft of utility services for the purpose of  
97 facilitating the manufacture of a controlled substance is a  
98 felony of the third degree, punishable as provided in s.



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99 775.082, s. 775.083, or s. 775.084.

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

102 (a) The person committed theft of utility services  
103 resulting in a structure, as defined in s. 810.011, or a  
104 dwelling, as defined in s. 810.011, receiving unauthorized  
105 access to utility services;

106 (b) A controlled substance and materials for manufacturing  
107 the controlled substance were found in the structure or  
108 dwelling; and

109 (c) The person knew of the presence of the controlled  
110 substance and materials for manufacturing the controlled  
111 substance in the structure or dwelling, regardless of whether  
112 the person was involved in the manufacture of the controlled  
113 substance.

114 (8)(5) Whoever is found in a civil action to have violated  
115 the provisions of this section is hereof shall be liable to the  
116 utility involved in an amount equal to 3 times the amount of  
117 services unlawfully obtained or \$1,000, whichever is greater.

118 (9)(6) Nothing in This section does not act shall be  
119 construed to apply to licensed and certified electrical  
120 contractors while performing usual and ordinary service in  
121 accordance with recognized standards.

122 Section 2. This act shall take effect July 1, 2009.

123  
124 ===== T I T L E A M E N D M E N T =====

125 And the title is amended as follows:

126 Delete everything before the enacting clause  
127 and insert:



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128                   A bill to be entitled  
129           An act relating to the unlawful use of utility  
130           services; amending s. 812.14, F.S.; providing that a  
131           rebuttable presumption of a person's or entity's  
132           intent to unlawfully use utility services exists under  
133           certain circumstances; providing penalties; providing  
134           that theft of utility services for the purpose of  
135           manufacturing a controlled substance is a third-degree  
136           felony; providing that prosecution of theft of utility  
137           services for the purpose of manufacturing a controlled  
138           substance is in lieu of prosecution for theft pursuant  
139           to s. 812.014, F.S.; providing for prima facie  
140           evidence of intent to commit theft of utility services  
141           for the purpose of manufacturing a controlled  
142           substance; providing an effective date.