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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2009	.	
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The Committee on Criminal and Civil Justice Appropriations
(Jones) 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) Any person who willfully violates paragraph (2) (a),
68 paragraph (2) (b), or paragraph (2) (c) commits ~~this section shall~~
69 ~~be guilty of~~ a misdemeanor of the first degree, punishable as



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70 provided in s. 775.082 or s. 775.083.

71 (5) It is unlawful for a person or entity that owns,
72 leases, or subleases a property to permit a tenant or occupant
73 to use utility services knowing, or under such circumstances as
74 would induce a reasonable person to believe, that such utility
75 services have been connected in violation of paragraph (2) (a),
76 paragraph (2) (b), or paragraph (2) (c).

77 (6) It is prima facie evidence of a person's intent to
78 violate subsection (5) if:

79 (a) A controlled substance and materials for manufacturing
80 the controlled substance intended for sale or distribution to
81 another were found in a dwelling or structure;

82 (b) The dwelling or structure has been visibly modified to
83 accommodate the use of equipment to grow marijuana indoors,
84 including, but not limited to, the installation of equipment to
85 provide additional air conditioning, equipment to provide high-
86 wattage lighting, or equipment for hydroponic cultivation; and

87 (c) The person or entity that owned, leased, or subleased
88 the dwelling or structure knew of, or did so under such
89 circumstances as would induce a reasonable person to believe in,
90 the presence of a controlled substance and materials for
91 manufacturing a controlled substance in the dwelling or
92 structure, regardless of whether the person or entity was
93 involved in the manufacture or sale of a controlled substance or
94 was in actual possession of the dwelling or structure.

95 (7) A person who willfully violates subsection (5) commits
96 a misdemeanor of the first degree, punishable as provided in s.
97 775.082, s. 775.083, or s. 775.084. Prosecution for a violation
98 of subsection (5) does not preclude prosecution for theft under



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99 subsection (8) or s. 812.014.

100 (8) Theft of utility services for the purpose of
101 facilitating the manufacture of a controlled substance is a
102 misdemeanor of the first degree, punishable as provided in s.
103 775.082, s. 775.083, or s. 775.084.

104 (9) It is prima facie evidence of a person's intent to
105 violate subsection (8) if:

106 (a) The person committed theft of utility services
107 resulting in a dwelling, as defined in s. 810.011, or a
108 structure, as defined in s. 810.011, receiving unauthorized
109 access to utility services;

110 (b) A controlled substance and materials for manufacturing
111 the controlled substance were found in the dwelling or
112 structure; and

113 (c) The person knew of the presence of the controlled
114 substance and materials for manufacturing the controlled
115 substance in the dwelling or structure, regardless of whether
116 the person was involved in the manufacture of the controlled
117 substance.

118 (10) ~~(5)~~ Whoever is found in a civil action to have violated
119 the provisions of this section is hereof shall be liable to the
120 utility involved in an amount equal to 3 times the amount of
121 services unlawfully obtained or \$1,000, whichever is greater.

122 (11) ~~(6)~~ Nothing in This section does not act shall be
123 construed to apply to licensed and certified electrical
124 contractors while performing usual and ordinary service in
125 accordance with recognized standards.

126 Section 2. This act shall take effect October 1, 2009.

127



128 ===== T I T L E A M E N D M E N T =====

129 And the title is amended as follows:

130 Delete everything before the enacting clause
131 and insert:

132 A bill to be entitled
133 An act relating to the unlawful use of utility
134 services; amending s. 812.14, F.S.; providing criminal
135 penalties for permitting a tenant or occupant to use
136 unlawfully connected utility services; providing that
137 such violation is a first-degree misdemeanor;
138 providing for prima facie evidence of intent to
139 violate such prohibition; providing that theft of
140 utility services for the purpose of manufacturing a
141 controlled substance is a first-degree misdemeanor;
142 providing penalties; providing for prima facie
143 evidence of intent to commit theft of utility services
144 for the purpose of manufacturing a controlled
145 substance; providing an effective date.