

By Senator Dean

3-00014C-09

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

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26           Section 1. Section 812.14, Florida Statutes, is amended to  
27           read:

28           812.14 Trespass and larceny with relation to utility  
29           fixtures; theft of utility services.-

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30 (1) As used in this section, the term:

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

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

38 (2) It is unlawful to:

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

55 (b) Make or cause to be made any connection with any wire,  
56 main, service pipe or other pipes, appliance, or appurtenance in  
57 such manner as to use, without the consent of the utility, any  
58 service or any electricity, gas, or water, or to cause to be

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59 supplied any service or electricity, gas, or water from a  
60 utility to any person, firm, or corporation or any lamp, burner,  
61 orifice, faucet, or other outlet whatsoever, without such  
62 service being reported for payment or such electricity, gas, or  
63 water passing through a meter provided by the utility and used  
64 for measuring and registering the quantity of electricity, gas,  
65 or water passing through the same.

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

74 (d) Violate paragraph (a), paragraph (b), or paragraph (c)  
75 for the purpose of facilitating the manufacture of a controlled  
76 substance.

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

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

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

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

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

95 (a) The person violated paragraph (2) (a), paragraph (2) (b),  
96 or paragraph (2) (c), resulting in a structure, as defined in s.  
97 810.011, or a dwelling, as defined in s. 810.011, receiving  
98 unauthorized access to utility services;

99 (b) A controlled substance and materials for manufacturing  
100 the controlled substance were found in the structure or  
101 dwelling; and

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

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

115 (6) Theft of utility services for the purpose of  
116 facilitating the manufacture of a controlled substance is a

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117 felony of the third degree, punishable as provided in s.  
118 775.082, s. 775.083, or s. 775.084. Prosecution pursuant this  
119 subsection is in lieu of prosecution for theft under s. 812.014.

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

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

126 (b) A controlled substance and materials for manufacturing  
127 the controlled substance were found in the structure or  
128 dwelling; and

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

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

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

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