

By the Committee on Criminal Justice and Senator Dean

591-01104-09

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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 for prima facie evidence of intent
17 to commit theft of utility services for the purpose of
18 manufacturing a controlled substance; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 812.14, Florida Statutes, is amended to
24 read:

25 812.14 Trespass and larceny with relation to utility
26 fixtures; theft of utility services.-

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

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

29 (b) "Utility" includes any person, firm, corporation,

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30 association, or political subdivision, whether private,
31 municipal, county, or cooperative, which is engaged in the sale,
32 generation, provision, or delivery of gas, electricity, heat,
33 water, oil, sewer service, telephone service, telegraph service,
34 radio service, or telecommunication 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

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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 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
98 dwelling; 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
102 the 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.
115 775.082, s. 775.083, or s. 775.084.

116 (7) It is prima facie evidence of a person's intent to

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117 violate subsection (6) if:

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

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

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

130 (8)~~(5)~~ Whoever is found in a civil action to have violated
131 the provisions of this section is hereof shall be liable to the
132 utility involved in an amount equal to 3 times the amount of
133 services unlawfully obtained or \$1,000, whichever is greater.

134 (9)~~(6)~~ Nothing in This section does not act shall be
135 ~~construed to~~ apply to licensed and certified electrical
136 contractors while performing usual and ordinary service in
137 accordance with recognized standards.

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