

1 A bill to be entitled
 2 An act relating to unlawful use of utility services;
 3 amending s. 812.14, F.S.; providing definitions;
 4 prohibiting trespass and larceny in relation to utility
 5 fixtures for the purpose of manufacturing 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 a controlled substance is a third-degree
 10 felony; providing that prosecution for trespass and
 11 larceny in relation to utility fixtures does not preclude
 12 prosecution for theft of utility services; providing that
 13 theft of utility services for the purpose of manufacturing
 14 a controlled substance is a third-degree felony; providing
 15 that prosecution of theft of utility services for the
 16 purpose of manufacturing a controlled substance is in lieu
 17 of prosecution for theft pursuant to s. 812.014, F.S.;
 18 providing for prima facie evidence of intent to commit
 19 theft of utility services for the purpose of manufacturing
 20 a controlled substance; providing an 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.--

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

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

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

36 | (2) It is unlawful to:

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

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

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

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

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

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

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

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

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

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

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

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

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

105 (5)-(4) Any person who willfully violates paragraph (2) (a),
 106 paragraph (2) (b), or paragraph (2) (c) commits ~~this section shall~~
 107 be guilty of a misdemeanor of the first degree, punishable as
 108 provided in s. 775.082 or s. 775.083. Any person who willfully
 109 violates paragraph (2) (d) commits a felony of the third degree,
 110 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

111 Prosecution of a violation of subsection (2) does not preclude
112 prosecution of theft pursuant to subsection (6) or s. 812.014.

113 (6) Theft of utility services for the purpose of
114 facilitating the manufacture of a controlled substance is a
115 felony of the third degree, punishable as provided in s.
116 775.082, s. 775.083, or s. 775.084. Prosecution pursuant this
117 subsection is in lieu of prosecution for theft pursuant to s.
118 812.014.

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

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

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

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

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

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

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

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