

1 A bill to be entitled
 2 An act relating to the unlawful use of utility services;
 3 amending s. 812.14, F.S.; providing that prima facie
 4 evidence of a person's or entity's intent to unlawfully
 5 use utility services exists under certain circumstances;
 6 providing penalties; providing that theft of utility
 7 services for the purpose of manufacturing a controlled
 8 substance is a third-degree felony; providing for prima
 9 facie evidence of intent to commit theft of utility
 10 services for the purpose of manufacturing a controlled
 11 substance; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 812.14, Florida Statutes, is amended to
 16 read:

17 812.14 Trespass and larceny with relation to utility
 18 fixtures; theft of utility services.--

19 (1) As used in this section, "utility" includes any
 20 person, firm, corporation, association, or political
 21 subdivision, whether private, municipal, county, or cooperative,
 22 which is engaged in the sale, generation, provision, or delivery
 23 of gas, electricity, heat, water, oil, sewer service, telephone
 24 service, telegraph service, radio service, or telecommunication
 25 service.

26 (2) It is unlawful to:

27 (a) Willfully alter, tamper with, injure, or knowingly
 28 suffer to be injured any meter, meter seal, pipe, conduit, wire,

29 | line, cable, transformer, amplifier, or other apparatus or
30 | device belonging to a utility line service in such a manner as
31 | to cause loss or damage or to prevent any meter installed for
32 | registering electricity, gas, or water from registering the
33 | quantity which otherwise would pass through the same; ~~or~~ to
34 | alter the index or break the seal of any such meter; ~~or~~ in any
35 | way to hinder or interfere with the proper action or just
36 | registration of any such meter or device; or knowingly to use,
37 | waste, or suffer the waste, by any means, of electricity or gas
38 | or water passing through any such meter, wire, pipe, or fitting,
39 | or other appliance or appurtenance connected with or belonging
40 | to any such utility, after such meter, wire, pipe or fitting, or
41 | other appliance or appurtenance has been tampered with, injured,
42 | or altered.

43 | (b) Make or cause to be made any connection with any wire,
44 | main, service pipe or other pipes, appliance, or appurtenance in
45 | such manner as to use, without the consent of the utility, any
46 | service or any electricity, gas, or water, or to cause to be
47 | supplied any service or electricity, gas, or water from a
48 | utility to any person, firm, or corporation or any lamp, burner,
49 | orifice, faucet, or other outlet whatsoever, without such
50 | service being reported for payment or such electricity, gas, or
51 | water passing through a meter provided by the utility and used
52 | for measuring and registering the quantity of electricity, gas,
53 | or water passing through the same.

54 | (c) Use or receive the direct benefit from the use of a
55 | utility knowing, or under such circumstances as would induce a
56 | reasonable person to believe, that such direct benefits have

57 | resulted from any tampering with, altering of, or injury to any
 58 | connection, wire, conductor, meter, pipe, conduit, line, cable,
 59 | transformer, amplifier, or other apparatus or device owned,
 60 | operated, or controlled by such utility, for the purpose of
 61 | avoiding payment.

62 | (3) The presence on property in the actual possession of a
 63 | person of any device or alteration that ~~which~~ affects the
 64 | diversion or use of the services of a utility so as to avoid the
 65 | registration of such use by or on a meter installed by the
 66 | utility or so as to otherwise avoid the reporting of use of such
 67 | service for payment ~~is shall be~~ prima facie evidence of the
 68 | violation of this section by such person; however, this
 69 | presumption does ~~shall~~ not apply unless:

70 | (a) The presence of such a device or alteration can be
 71 | attributed only to a deliberate act in furtherance of an intent
 72 | to avoid payment for utility services;

73 | (b) The person charged has received the direct benefit of
 74 | the reduction of the cost of such utility services; and

75 | (c) The customer or recipient of the utility services has
 76 | received the direct benefit of such utility service for at least
 77 | one full billing cycle.

78 | (4) It is prima facie evidence of a person's intent to
 79 | violate paragraph (2)(b) if:

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

83 | (b) Materials or equipment for manufacturing the
 84 | controlled substance have been in the structure or dwelling for

85 at least 1 year;

86 (c) The dwelling or structure has been visibly modified to
 87 accommodate the use of equipment to grow marijuana indoors,
 88 including, but not limited to, the installation of equipment to
 89 provide additional air conditioning, equipment to provide high-
 90 wattage lighting, or equipment for hydroponic cultivation; and

91 (d) The person or entity who owned, leased, or subleased
 92 the structure or dwelling knew or should have known, through the
 93 exercise of due diligence, of the presence of the controlled
 94 substance and materials for manufacturing the controlled
 95 substance in the structure or dwelling, regardless of whether
 96 the person or entity was involved in the manufacture or sale of
 97 the controlled substance or was in actual possession of the
 98 structure or dwelling.

99 (5)~~(4)~~ Any person who willfully violates paragraph (2) (a)
 100 or paragraph (2) (c) commits ~~this section shall be guilty of a~~
 101 misdemeanor of the first degree, punishable as provided in s.
 102 775.082 or s. 775.083. Any person who willfully violates
 103 paragraph (2) (b) commits a felony of the third degree,
 104 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 105 Prosecution of a violation of subsection (2) does not preclude
 106 prosecution of theft under subsection (6) or s. 812.014.

107 (6) Theft of utility services for the purpose of
 108 facilitating the manufacture of a controlled substance is a
 109 felony of the third degree, punishable as provided in s.
 110 775.082, s. 775.083, or s. 775.084.

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

CS/HB 29

2009

113 (a) The person committed theft of utility services
114 resulting in a structure, as defined in s. 810.011, or a
115 dwelling, as defined in s. 810.011, receiving unauthorized
116 access to utility services;

117 (b) A controlled substance and materials for manufacturing
118 the controlled substance were found in the structure or
119 dwelling; and

120 (c) The person knew or should have known of the presence
121 of the controlled substance and materials for manufacturing the
122 controlled substance in the structure or dwelling, regardless of
123 whether the person was involved in the manufacture of the
124 controlled substance.

125 (8)-(5) Whoever is found in a civil action to have violated
126 the provisions of this section is ~~hereof shall be~~ liable to the
127 utility involved in an amount equal to 3 times the amount of
128 services unlawfully obtained or \$1,000, whichever is greater.

129 (9)-(6) ~~Nothing in This section does not act shall be~~
130 ~~construed to~~ apply to licensed and certified electrical
131 contractors while performing usual and ordinary service in
132 accordance with recognized standards.

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