

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:

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 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 of the presence of the controlled  
 93 substance and materials for manufacturing the controlled  
 94 substance in the structure or dwelling, regardless of whether  
 95 the person or entity was involved in the manufacture or sale of  
 96 the controlled substance or was in actual possession of the  
 97 structure or dwelling.

98 (5)~~(4)~~ Any person who willfully violates paragraph (2) (a)  
 99 or paragraph (2) (c) commits this section shall be guilty of a  
 100 misdemeanor of the first degree, punishable as provided in s.  
 101 775.082 or s. 775.083. Any person who willfully violates  
 102 paragraph (2) (b) commits a felony of the third degree,  
 103 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
 104 Prosecution of a violation of subsection (2) does not preclude  
 105 prosecution of theft under subsection (6) or s. 812.014.

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

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

112 (a) The person committed theft of utility services

113 resulting in a structure, as defined in s. 810.011, or a  
 114 dwelling, as defined in s. 810.011, receiving unauthorized  
 115 access to utility services;

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

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

124 (8)-(5) Whoever is found in a civil action to have violated  
 125 the provisions of this section is hereof shall be liable to the  
 126 utility involved in an amount equal to 3 times the amount of  
 127 services unlawfully obtained or \$1,000, whichever is greater.

128 (9)-(6) ~~Nothing in This section does not act shall be~~  
 129 ~~construed to~~ apply to licensed and certified electrical  
 130 contractors while performing usual and ordinary service in  
 131 accordance with recognized standards.

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