

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 criminal penalties for  
 4           permitting a tenant or occupant to use unlawfully  
 5           connected utility services; providing that such violation  
 6           is a third-degree felony; providing for prima facie  
 7           evidence of intent to violate such prohibition; providing  
 8           that theft of utility services for the purpose of  
 9           manufacturing a controlled substance is a third-degree  
 10          felony; providing penalties; providing for prima facie  
 11          evidence of intent to commit theft of utility services for  
 12          the purpose of manufacturing a controlled substance;  
 13          providing an effective date.

14  
 15   Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1.   Section 812.14, Florida Statutes, is amended to  
 18   read:

19           812.14   Trespass and larceny with relation to utility  
 20   fixtures; theft of utility services.--

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

28           (2)   It is unlawful to:

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

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

56           (c) Use or receive the direct benefit from the use of a

57 utility knowing, or under such circumstances as would induce a  
 58 reasonable person to believe, that such direct benefits have  
 59 resulted from any tampering with, altering of, or injury to any  
 60 connection, wire, conductor, meter, pipe, conduit, line, cable,  
 61 transformer, amplifier, or other apparatus or device owned,  
 62 operated, or controlled by such utility, for the purpose of  
 63 avoiding payment.

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

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

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

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

80 (4) Any person who willfully violates paragraph (2) (a),  
 81 paragraph (2) (b), or paragraph (2) (c) commits ~~this section shall~~  
 82 ~~be guilty of~~ a misdemeanor of the first degree, punishable as  
 83 provided in s. 775.082 or s. 775.083.

84 (5) It is unlawful for a person or entity that owns,

85 leases, or subleases a property to permit a tenant or occupant  
86 to use utility services knowing, or under such circumstances as  
87 would induce a reasonable person to believe, that such utility  
88 services have been connected in violation of paragraph (2) (a),  
89 paragraph (2) (b), or paragraph (2) (c).

90 (6) It is prima facie evidence of a person's intent to  
91 violate subsection (5) if:

92 (a) A controlled substance and materials for manufacturing  
93 the controlled substance intended for sale or distribution to  
94 another were found in a dwelling or structure;

95 (b) The dwelling or structure has been visibly modified to  
96 accommodate the use of equipment to grow marijuana indoors,  
97 including, but not limited to, the installation of equipment to  
98 provide additional air conditioning, equipment to provide high-  
99 wattage lighting, or equipment for hydroponic cultivation; and

100 (c) The person or entity that owned, leased, or subleased  
101 the dwelling or structure knew of, or did so under such  
102 circumstances as would induce a reasonable person to believe in,  
103 the presence of a controlled substance and materials for  
104 manufacturing a controlled substance in the dwelling or  
105 structure, regardless of whether the person or entity was  
106 involved in the manufacture or sale of a controlled substance or  
107 was in actual possession of the dwelling or structure.

108 (7) A person who willfully violates subsection (5) commits  
109 a felony of the third degree, punishable as provided in s.  
110 775.082, s. 775.083, or s. 775.084. Prosecution for a violation  
111 of subsection (5) does not preclude prosecution for theft under  
112 subsection (8) or s. 812.014.

113       (8) 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.

117       (9) It is prima facie evidence of a person's intent to  
 118 violate subsection (8) if:

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

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

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

131       (10)-(5) Whoever is found in a civil action to have  
 132 violated the provisions of this section is hereof shall be  
 133 liable to the utility involved in an amount equal to 3 times the  
 134 amount of services unlawfully obtained or \$1,000, whichever is  
 135 greater.

136       (11)-(6) ~~Nothing in~~ This section does not act shall be  
 137 ~~construed to~~ apply to licensed and certified electrical  
 138 contractors while performing usual and ordinary service in  
 139 accordance with recognized standards.

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