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CS/CS/CS/HB 29, Engrossed 1

2009 Legislature

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 first-degree misdemeanor; 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 first-degree
 10 misdemeanor; providing penalties; providing for prima
 11 facie evidence of intent to commit theft of utility
 12 services for the purpose of manufacturing a controlled
 13 substance; 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:

ENROLLED

CS/CS/CS/HB 29, Engrossed 1

2009 Legislature

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

ENROLLED

CS/CS/CS/HB 29, Engrossed 1

2009 Legislature

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,

ENROLLED

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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 misdemeanor of the first degree, punishable as provided in s.
110 775.082 or s. 775.083. Prosecution for a violation of subsection
111 (5) does not preclude prosecution for theft under subsection (8)
112 or s. 812.014.

ENROLLED

CS/CS/CS/HB 29, Engrossed 1

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113 (8) Theft of utility services for the purpose of
 114 facilitating the manufacture of a controlled substance is a
 115 misdemeanor of the first degree, punishable as provided in s.
 116 775.082 or s. 775.083.

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.