



603448

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2017	.	
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The Committee on Communications, Energy, and Public Utilities
(Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

812.14 Trespass and larceny with relation to utility
fixtures; theft of utility services.—

(1) As used in this section, "utility" includes any person,
firm, corporation, association, or political subdivision,



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11 whether private, municipal, county, or cooperative, which is
12 engaged in the sale, generation, provision, or delivery of gas,
13 electricity, heat, water, oil, sewer service, telephone service,
14 telegraph service, radio service, or telecommunication service.

15 (2) A person may not ~~It is unlawful to~~:

16 (a) Willfully alter, tamper with, damage ~~injure~~, or
17 knowingly allow damage to a ~~suffer to be injured~~ any meter,
18 meter seal, pipe, conduit, wire, line, cable, transformer,
19 amplifier, or other apparatus or device belonging to a utility
20 line service in such a manner as to cause loss or damage or to
21 prevent any meter installed for registering electricity, gas, or
22 water from registering the quantity which otherwise would pass
23 through the same; ~~to~~

24 (b) Alter the index or break the seal of any such meter; ~~in~~
25 ~~any way to~~

26 (c) Hinder or interfere in any way with the proper action
27 or accurate ~~just~~ registration of any such meter or device; ~~or~~

28 (d) Knowingly ~~to~~ use, waste, or allow ~~suffer~~ the waste of,
29 by any means, ~~of~~ electricity, ~~or~~ gas, or water passing through
30 any such meter, wire, pipe, or fitting, or other appliance or
31 appurtenance connected with or belonging to any such utility,
32 after the ~~such~~ meter, wire, pipe, or fitting, or other appliance
33 or appurtenance has been tampered with, injured, or altered; ~~or~~

34 (e) ~~(b)~~ Connect ~~Make~~ or cause a to be made ~~any~~ connection
35 with a ~~any~~ wire, main, service pipe or other pipes, appliance,
36 or appurtenance in a ~~such~~ manner that uses ~~as to use~~, without
37 the consent of the utility, any service or any electricity, gas,
38 or water; ~~or to~~

39 (f) Cause a utility, without its consent, to supply any ~~to~~



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40 ~~be supplied any service or electricity, gas, or water from a~~
41 ~~utility to any person, firm, or corporation or any lamp, burner,~~
42 ~~orifice, faucet, or other outlet whatsoever, without reporting~~
43 ~~the such service being reported for payment; or~~

44 (g) Cause, without the consent of a utility, such
45 electricity, gas, or water to bypass passing through a meter
46 provided by the utility; or and used for measuring and
47 registering the quantity of electricity, gas, or water passing
48 through the same.

49 (h)(e) Use or receive the direct benefit from the use of a
50 utility knowing, or under such circumstances that as would
51 induce a reasonable person to believe, that the such direct
52 benefits have resulted from any tampering with, altering of, or
53 injury to any connection, wire, conductor, meter, pipe, conduit,
54 line, cable, transformer, amplifier, or other apparatus or
55 device owned, operated, or controlled by such utility, for the
56 purpose of avoiding payment.

57 (3) The presence on the property of and in the actual
58 possession by of a person of any device or alteration that
59 prevents affects the diversion or use of the services of a
60 utility so as to avoid the registration of the such use of
61 services by or on a meter installed by the utility or that
62 avoids so as to otherwise avoid the reporting of the use of
63 services such service for payment is prima facie evidence of the
64 violation of subsection (2) this section by such person.†
65 However, this presumption does not apply unless:

66 (a) The presence of the such a device or alteration can be
67 attributed only to a deliberate act in furtherance of an intent
68 to avoid payment for utility services;



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69 (b) The person charged has received the direct benefit of
70 the reduction of the cost of the ~~such~~ utility services; and

71 (c) The customer or recipient of the utility services has
72 received the direct benefit of the ~~such~~ utility service for at
73 least one full billing cycle.

74 (4) A person who willfully violates subsection (2)
75 ~~paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c)~~ commits
76 theft, punishable as provided in s. 812.014.

77 (5) ~~It is unlawful for~~ A person or entity that owns,
78 leases, or subleases a property may not ~~to~~ permit a tenant or
79 occupant to use utility services knowing, or under such
80 circumstances as would induce a reasonable person to believe,
81 that such utility services have been connected in violation of
82 subsection (2) ~~paragraph (2) (a), paragraph (2) (b), or paragraph~~
83 ~~(2) (c)~~.

84 (6) It is prima facie evidence that an owner, lessor, or
85 sublessor intended ~~It is prima facie evidence of a person's~~
86 ~~intent~~ to violate subsection (5) if:

87 (a) A controlled substance and materials for manufacturing
88 the controlled substance intended for sale or distribution to
89 another were found in a dwelling or structure;

90 (b) The dwelling or structure was ~~has been~~ visibly modified
91 to accommodate the use of equipment to grow cannabis ~~marijuana~~
92 indoors, including, but not limited to, the installation of
93 equipment to provide additional air conditioning, equipment to
94 provide high-wattage lighting, or equipment for hydroponic
95 cultivation; and

96 (c) The person or entity that owned, leased, or subleased
97 the dwelling or structure knew of, or did so under such



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98 | circumstances as would induce a reasonable person to believe in,
99 | the presence of a controlled substance and materials for
100 | manufacturing a controlled substance in the dwelling or
101 | structure, regardless of whether the person or entity was
102 | involved in the manufacture or sale of a controlled substance or
103 | was in actual possession of the dwelling or structure.

104 | (7) An owner, lessor, or sublessor ~~A person~~ who willfully
105 | violates subsection (5) commits a misdemeanor of the first
106 | degree, punishable as provided in s. 775.082 or s. 775.083.
107 | Prosecution for a violation of subsection (5) does not preclude
108 | prosecution for theft pursuant to subsection (8) or s. 812.014.

109 | (8) Theft of utility services for the purpose of
110 | facilitating the manufacture of a controlled substance is theft,
111 | punishable as provided in s. 812.014.

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

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

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

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

126 | (10) Whoever is found in a civil action to have violated



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127 this section is liable to the utility involved in an amount
128 equal to 3 times the amount of services unlawfully obtained or
129 \$3,000, whichever is greater.

130 (11) (a) For purposes of determining a defendant's liability
131 for civil damages under subsection (10) or criminal restitution
132 for the theft of electricity, the amount of civil damages or a
133 restitution order must include all of the following amounts:

134 1. The costs to repair or replace damaged property owned by
135 a utility, including reasonable labor costs.

136 2. Reasonable costs for the use of specialized equipment to
137 investigate or calculate the amount of unlawfully obtained
138 electricity services, including reasonable labor costs.

139 3. The amount of unlawfully obtained electricity services.

140 (b) A prima facie showing of the amount of unlawfully
141 obtained electricity services may be based on any methodology
142 reasonably relied upon by a utility to estimate such loss. The
143 methodology may consider the estimated start date of the theft
144 and the estimated daily or hourly use of electricity. Once a
145 prima facie showing has been made, the burden shifts to the
146 defendant to demonstrate that the loss is other than that
147 claimed by the utility.

148 1. The estimated start date of a theft may be based upon
149 one or more of the following:

150 a. The date of an overload notification from a transformer,
151 or the tripping of a transformer, which the utility reasonably
152 believes was overloaded as a result of the theft of electricity.

153 b. The date the utility verified a substantive difference
154 between the amount of electricity used at a property and the
155 amount billed to the account holder.



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156 c. The date the utility or a law enforcement officer
157 located a tap or other device bypassing a meter.

158 d. The date the utility or a law enforcement officer
159 observed or verified meter tampering.

160 e. The maturity of a cannabis crop found in a dwelling or
161 structure using unlawfully obtained electricity services the
162 utility or a law enforcement officer reasonably believes to have
163 been grown in the dwelling or structure.

164 f. The date the utility or a law enforcement agency
165 received a report of suspicious activity potentially indicating
166 the presence of the unlawful cultivation of cannabis in a
167 dwelling or structure or the date a law enforcement officer or
168 an employee or contractor of a utility observed such suspicious
169 activity.

170 g. The date when a utility observed a significant change in
171 metered energy usage.

172 h. The date when an account with the utility was opened for
173 a property that receives both metered and unlawfully obtained
174 electricity services.

175 i. Any other fact or data reasonably relied upon by the
176 utility to estimate the start date of a theft of electricity.

177 2. The estimated average daily or hourly use of the
178 electricity may be based upon any, or a combination, of the
179 following:

180 a. The load imposed by the fixtures, appliances, or
181 equipment powered by unlawfully obtained electricity services.

182 b. Recordings by the utility of the amount of electricity
183 used by a property or the difference between the amount used and
184 the amount billed.



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185 c. A comparison of the amount of electricity historically
186 used by the property and the amount billed while the property
187 was using unlawfully obtained electricity.

188 d. A reasonable analysis of a meter that was altered or
189 tampered with to prevent the creation of an accurate record of
190 the amount of electricity obtained.

191 e. Any other fact or data reasonably relied upon by
192 utilities to estimate the amount of unlawfully obtained
193 electricity services.

194 (12) A court order requiring a defendant to pay restitution
195 for damages to the property of a utility or for the theft of
196 electricity need only be based on a conviction for a criminal
197 offense that is causally connected to the damages or losses and
198 bears a significant relationship to those damages or losses. A
199 conviction for a violation of this section is not a prerequisite
200 for a restitution order. Criminal offenses that bear a
201 significant relationship and are causally connected to a
202 violation of this section include, but are not limited to,
203 offenses relating to the unlawful cultivation of cannabis in a
204 dwelling or structure if the theft of electricity was used to
205 facilitate the growth of the cannabis.

206 (13) The amount of restitution that a defendant may be
207 ordered to pay is not limited by the monetary threshold of any
208 criminal charge on which the restitution order is based.

209 (14) ~~(11)~~ This section does not apply to licensed and
210 certified electrical contractors while such persons are
211 performing usual and ordinary service in accordance with
212 recognized standards.

213 Section 2. This act shall take effect October 1, 2017.



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214
215 ===== T I T L E A M E N D M E N T =====

216 And the title is amended as follows:

217 Delete everything before the enacting clause
218 and insert:

219 A bill to be entitled
220 An act relating to the unlawful acquisition of utility
221 services; amending s. 812.14, F.S.; revising the
222 elements that constitute theft of utilities;
223 clarifying that the presence of certain devices and
224 alterations on the property of, and the actual
225 possession by, a person constitutes prima facie
226 evidence of a violation; clarifying that certain
227 evidence of the manufacturing of a controlled
228 substance in a leased dwelling constitutes prima facie
229 evidence of a violation by an owner, lessor,
230 sublessor; clarifying that specified circumstances
231 create prima facie evidence of theft of utility
232 services for the purpose of facilitating the
233 manufacture of a controlled substance; revising such
234 circumstances; specifying the types of damages that
235 may be recovered as civil damages or restitution in a
236 criminal case for damaging property of a utility or
237 for the theft of electricity services; specifying the
238 methods and bases used to determine and assess damages
239 in a civil action or restitution in a criminal case
240 for damaging property of a utility or for the theft of
241 electricity services; providing an effective date.