

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Justice Appropriations
 2 Subcommittee

3 Representative Burgess offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 812.14 Trespass and larceny with relation to utility
 10 fixtures; theft of utility services.-

11 (1) As used in this section, "utility" includes any
 12 person, firm, corporation, association, or political
 13 subdivision, whether private, municipal, county, or cooperative,
 14 which is engaged in the sale, generation, provision, or delivery
 15 of gas, electricity, heat, water, oil, sewer service, telephone

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16 service, telegraph service, radio service, or telecommunication
17 service.

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

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

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

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

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

37 (e) ~~(b)~~ Connect ~~Make~~ or cause a ~~to be made~~ any connection
38 with a ~~any~~ wire, main, service pipe or other pipes, appliance,
39 or appurtenance in a ~~such~~ manner that uses ~~as to use~~, without

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40 the consent of the utility, any service or any electricity, gas,
41 or water; ~~or to~~

42 (f) Cause a utility, without its consent, to supply any ~~to~~
43 ~~be supplied any~~ service or electricity, gas, or water ~~from a~~
44 ~~utility~~ to any person, firm, or corporation or any lamp, burner,
45 orifice, faucet, or other outlet ~~whatsoever,~~ without reporting
46 the such service ~~being reported~~ for payment; ~~or~~

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

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

60 (3) The presence on the property of and in the actual
61 possession by ~~of~~ a person of any device or alteration that
62 prevents ~~affects the diversion or use of the services of a~~
63 ~~utility so as to avoid~~ the registration of the ~~such~~ use of
64 services by ~~or on~~ a meter installed by the utility or that

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65 ~~avoids so as to otherwise avoid~~ the reporting of the use of
66 services ~~such service~~ for payment is prima facie evidence of the
67 violation of subsection (2) ~~this section~~ by such person.†

68 However, this presumption does not apply unless:

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

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

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

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

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

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

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

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

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

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

112 (8) Theft of utility services for the purpose of
113 facilitating the manufacture of a controlled substance is theft,
114 punishable as provided in s. 812.014.

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

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

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

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

129 (10) Whoever is found in a civil action to have violated
130 this section is liable to the utility involved in an amount
131 equal to 3 times the amount of services unlawfully obtained or
132 \$3,000, whichever is greater.

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

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

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140 2. Reasonable costs for the use of specialized equipment
141 to investigate or calculate the amount of unlawfully obtained
142 electricity services, including reasonable labor costs.

143 3. The amount of unlawfully obtained electricity services.

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

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

154 a. The date of an overload notification from a
155 transformer, or the tripping of a transformer, which the utility
156 reasonably believes was overloaded as a result of the theft of
157 electricity.

158 b. The date the utility verified a substantive difference
159 between the amount of electricity used at a property and the
160 amount billed to the account holder.

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

163 d. The date the utility or a law enforcement officer
164 observed or verified meter tampering.

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165 e. The maturity of a cannabis crop found in a dwelling or
166 structure using unlawfully obtained electricity services the
167 utility or a law enforcement officer reasonably believes to have
168 been grown in the dwelling or structure.

169 f. The date the utility or a law enforcement agency
170 received a report of suspicious activity potentially indicating
171 the presence of the unlawful cultivation of cannabis in a
172 dwelling or structure or the date a law enforcement officer or
173 an employee or contractor of a utility observed such suspicious
174 activity.

175 g. The date when a utility observed a significant change
176 in metered energy usage.

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

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

182 2. The estimated average daily or hourly use of the
183 electricity may be based upon any, or a combination, of the
184 following:

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

187 b. Recordings by the utility of the amount of electricity
188 used by a property or the difference between the amount used and
189 the amount billed.

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190 c. A comparison of the amount of electricity historically
191 used by the property and the amount billed while the property
192 was using unlawfully obtained electricity.

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

196 e. Any other fact or data reasonably relied upon by
197 utilities to estimate the amount of unlawfully obtained
198 electricity services.

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

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

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214 ~~(14)~~(11) This section does not apply to licensed and
215 certified electrical contractors while such persons are
216 performing usual and ordinary service in accordance with
217 recognized standards.

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

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T I T L E A M E N D M E N T

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Remove everything before the enacting clause and insert:

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A bill to be entitled

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An act relating to the unlawful acquisition of utility

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services; amending s. 812.14, F.S.; revising the

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elements that constitute theft of utilities;

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clarifying that the presence of certain devices and

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alterations on the property of, and the actual

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possession by, a person constitutes prima facie

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evidence of a violation; clarifying that certain

232

evidence of the manufacturing of a controlled

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substance in a leased dwelling constitutes prima facie

234

evidence of a violation by an owner, lessor,

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sublessor; clarifying that specified circumstances

236

create prima facie evidence of theft of utility

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services for the purpose of facilitating the

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manufacture of a controlled substance; revising such

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239 | circumstances; specifying the types of damages that
240 | may be recovered as civil damages or restitution in a
241 | criminal case for damaging property of a utility or
242 | for the theft of electricity services; specifying the
243 | methods and bases used to determine and assess damages
244 | in a civil action or restitution in a criminal case
245 | for damaging property of a utility or for the theft of
246 | electricity services; providing an effective date.