

1                   A bill to be entitled  
2           An act relating to the unlawful acquisition of utility  
3           services; amending s. 812.14, F.S.; revising the  
4           elements that constitute theft of utilities;  
5           clarifying that the presence of certain devices and  
6           alterations on the property of, and the actual  
7           possession by, a person constitutes a permissive  
8           inference of a violation; clarifying that certain  
9           evidence of controlled substance manufacture in a  
10          leased dwelling constitutes a permissive inference of  
11          a violation by an owner, lessor, sublessor, or a  
12          person acting on behalf of such persons; clarifying  
13          that specified circumstances create a permissive  
14          inference of theft of utility services for the purpose  
15          of facilitating the manufacture of a controlled  
16          substance; revising such circumstances; specifying the  
17          types of damages that may be recovered in a civil  
18          action or as restitution in a criminal case for  
19          damaging property of a utility or for the theft or  
20          diversion of electric services; specifying the methods  
21          and bases used to determine and assess such damages;  
22          making technical changes; amending s. 812.014, F.S.;  
23          conforming provisions to changes made by the act;  
24          providing an effective date.  
25

26 Be It Enacted by the Legislature of the State of Florida:

27

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

30 812.14 Trespass and larceny with relation to utility  
31 fixtures; theft of utility services.—

32 (1) As used in this section, "utility" includes any  
33 person, firm, corporation, association, or political  
34 subdivision, whether private, municipal, county, or cooperative,  
35 which is engaged in the sale, generation, provision, or delivery  
36 of gas, electricity, heat, water, oil, sewer service, telephone  
37 service, telegraph service, radio service, or telecommunication  
38 service.

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

40 (a) Willfully alter, tamper with, damage ~~injure~~, or  
41 knowingly allow damage to a ~~suffer to be injured~~ any meter,  
42 meter seal, pipe, conduit, wire, line, cable, transformer,  
43 amplifier, or other apparatus or device belonging to a utility  
44 line service in such a manner as to cause loss or damage or to  
45 prevent any meter installed for registering electricity, gas, or  
46 water from registering the quantity which otherwise would pass  
47 through the same; ~~to~~

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

50 (c) Hinder or interfere in any way with the proper action

51 or accurate ~~just~~ registration of any such meter or device; ~~or~~

52 (d) Knowingly ~~to~~ use, waste, or allow ~~suffer~~ the waste, by  
 53 any means, of electricity, ~~or~~ gas, or water passing through any  
 54 such meter, wire, pipe, or fitting, or other appliance or  
 55 appurtenance connected with or belonging to any such utility,  
 56 after the ~~such~~ meter, wire, pipe, or fitting, or other appliance  
 57 or appurtenance has been tampered with, injured, or altered; ~~or~~

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

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

68 (g) Cause, without the consent of a utility, such  
 69 electricity, gas, or water to bypass ~~passing through~~ a meter  
 70 provided by the utility ~~and used for measuring and registering~~  
 71 ~~the quantity of electricity, gas, or water passing through the~~  
 72 ~~same; or~~

73 (h) ~~(e)~~ Use or receive the direct benefit from the use of a  
 74 utility knowing, or under ~~such~~ circumstances that ~~as~~ would  
 75 induce a reasonable person to believe, that the ~~such~~ direct

76 benefits have resulted from any tampering with, altering of, or  
77 injury to any connection, wire, conductor, meter, pipe, conduit,  
78 line, cable, transformer, amplifier, or other apparatus or  
79 device owned, operated, or controlled by such utility, for the  
80 purpose of avoiding payment.

81 (3) The presence on the property of and in the actual  
82 possession by ~~of~~ a person of any device or alteration that  
83 prevents ~~affects the diversion or use of the services of a~~  
84 ~~utility so as to avoid~~ the registration of the ~~such~~ use of  
85 services by ~~or on~~ a meter installed by the utility or that  
86 avoids ~~so as to otherwise avoid~~ the reporting of the use of  
87 services ~~such service~~ for payment creates a permissive inference  
88 ~~is prima facie evidence~~ of the violation of subsection (2) ~~this~~  
89 ~~section~~ by such person. However, this inference presumption  
90 does not apply unless:

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

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

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

99 (4) A person who willfully violates subsection (2)  
100 ~~paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c)~~ commits

101 grand theft, punishable as provided in s. 812.014.

102 (5) ~~It is unlawful for~~ A person or entity that owns,  
103 leases, or subleases a property may not ~~to~~ permit a tenant or  
104 occupant to use utility services knowing, or under such  
105 circumstances as would induce a reasonable person to believe,  
106 that such utility services have been connected in violation of  
107 subsection (2) ~~paragraph (2)(a), paragraph (2)(b), or paragraph~~  
108 ~~(2)(c)~~.

109 (6) There exists a permissive inference that an owner,  
110 lessor, or sublessor, or a person acting on behalf of such  
111 person, intended ~~It is prima facie evidence of a person's intent~~  
112 to violate subsection (5) if:

113 (a) A controlled substance and materials for manufacturing  
114 the controlled substance intended for sale or distribution to  
115 another were found in a dwelling or structure;

116 (b) The dwelling or structure was ~~has been~~ visibly  
117 modified to accommodate the use of equipment to grow cannabis  
118 ~~marijuana~~ indoors, including, but not limited to, the  
119 installation of equipment to provide additional air  
120 conditioning, equipment to provide high-wattage lighting, or  
121 equipment for hydroponic cultivation; and

122 (c) The person or entity that owned, leased, or subleased  
123 the dwelling or structure knew of, or did so under such  
124 circumstances as would induce a reasonable person to believe in,  
125 the presence of a controlled substance and materials for

126 manufacturing a controlled substance in the dwelling or  
 127 structure, regardless of whether the person or entity was  
 128 involved in the manufacture or sale of a controlled substance or  
 129 was in actual possession of the dwelling or structure.

130 (7) An owner, lessor, or sublessor, or a person acting on  
 131 behalf of such person, ~~A person~~ who willfully violates  
 132 subsection (5) commits a misdemeanor of the first degree,  
 133 punishable as provided in s. 775.082 or s. 775.083. Prosecution  
 134 for a violation of subsection (5) does not preclude prosecution  
 135 for theft pursuant to subsection (8) or s. 812.014.

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

139 (9) A permissive inference ~~It is Prima facie evidence~~ of a  
 140 person's intent to violate subsection (8) exists if:

141 (a) The person committed theft of utility services  
 142 resulting in a dwelling, as defined in s. 810.011, or a  
 143 structure, as defined in s. 810.011, receiving unauthorized  
 144 access to utility services;

145 (b) A controlled substance and materials for manufacturing  
 146 the controlled substance were found in the dwelling or  
 147 structure; and

148 (c) The person knew or should have known of the presence  
 149 of the controlled substance and materials for manufacturing the  
 150 controlled substance in the dwelling or structure, regardless of

151 whether the person was involved in the manufacture of the  
152 controlled substance.

153 (10) Whoever is found in a civil action to have violated  
154 this section is liable to the utility involved in an amount  
155 equal to 3 times the amount of services unlawfully obtained or  
156 \$3,000, whichever is greater.

157 (11) (a) For purposes of determining a defendant's  
158 liability for civil damages or criminal restitution for the  
159 theft or diversion of electricity, the amount of civil damages  
160 or a restitution order must include all of the following  
161 amounts:

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

164 2. Reasonable costs for the use of specialized equipment  
165 to investigate or calculate the amount of unlawfully obtained  
166 electric services, including reasonable labor costs.

167 3. The amount of any applicable taxes.

168 4. The amount of unlawfully obtained electric services.

169 (b) A prima facie showing of the amount of unlawfully  
170 obtained electric services may be based on any methodology  
171 reasonably relied upon by utilities to estimate such losses. The  
172 methodology may consider the estimated start date of the theft  
173 or diversion and the estimated daily or hourly use of  
174 electricity. Once a prima facie showing has been made, the  
175 burden shifts to the defendant to demonstrate that the loss is

176 other than that claimed by the utility.

177 1. The estimated start date of a theft or diversion may be  
178 based upon one or more of the following:

179 a. The date of an overload notification from a  
180 transformer, or the tripping of a transformer, that the utility  
181 reasonably believes was overloaded as a result of the theft or  
182 diversion of electricity.

183 b. The date the utility verified a substantive difference  
184 between the amount of electricity used at a property and the  
185 amount billed to the accountholder.

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

188 d. The date the utility or a law enforcement officer  
189 observed or verified meter tampering.

190 e. The maturity of a cannabis crop found in a grow house  
191 or other structure using unlawfully obtained electric services  
192 or the number of cannabis crops the utility or a law enforcement  
193 officer reasonably believes to have been grown in the grow house  
194 or other structure.

195 f. The date the utility or a law enforcement agency  
196 received a report of suspicious activity potentially indicating  
197 the presence of the unlawful cultivation of cannabis in a grow  
198 house or other structure or when a law enforcement officer or an  
199 employee or contractor of a utility observes such suspicious  
200 activity.



201 g. The date when a utility observes a significant change  
202 in metered energy usage.

203 h. The date when an account with the utility was opened  
204 for a property that receives both metered and unlawfully  
205 obtained electric services.

206 i. Any other facts or data reasonably relied upon by  
207 utilities to estimate the start date of a theft or diversion of  
208 electricity.

209 2. The estimated average daily or hourly use of the  
210 electricity may be based upon any, or a combination, of the  
211 following:

212 a. The load imposed by the fixtures, appliances, or  
213 equipment powered by unlawfully obtained electric services.

214 b. Recordings by the utility of the amount of electricity  
215 used by a property or the difference between the amount used and  
216 the amount billed.

217 c. A comparison of the amount of electricity historically  
218 used by the property and the amount billed while the property  
219 was using unlawfully obtained electricity.

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

223 e. Any other facts or data reasonably relied upon by  
224 utilities to estimate the amount of unlawfully obtained electric  
225 services.

226        (c) A court order requiring a defendant to pay restitution  
 227 for damages to the property of a utility or for the theft or  
 228 diversion of electricity need only be based on a criminal  
 229 offense that is causally connected to the damages or losses and  
 230 bears a significant relationship to those damages or losses. A  
 231 conviction for a violation of this section is not a prerequisite  
 232 to a restitution order. Criminal offenses that bear a  
 233 significant relationship and are causally connected to a  
 234 violation of this section include, but are not limited to,  
 235 offenses relating to the unlawful cultivation of cannabis in a  
 236 grow house or other structure if the theft or diversion of  
 237 electricity was used to facilitate the growth of the cannabis.

238        (d) The amount of restitution that a defendant may be  
 239 ordered to pay is not limited by the monetary threshold of any  
 240 criminal charge on which the restitution order is based.

241        (12)~~(11)~~ This section does not apply to licensed and  
 242 certified electrical contractors while such persons are  
 243 performing usual and ordinary service in accordance with  
 244 recognized standards.

245        Section 2. Paragraph (c) of subsection (2) of section  
 246 812.014, Florida Statutes, is amended to read:

247        812.014 Theft.—

248        (2)

249        (c) It is grand theft of the third degree and a felony of  
 250 the third degree, punishable as provided in s. 775.082, s.

251 775.083, or s. 775.084, if the property stolen is:

252 1. Valued at \$300 or more, but less than \$5,000.

253 2. Valued at \$5,000 or more, but less than \$10,000.

254 3. Valued at \$10,000 or more, but less than \$20,000.

255 4. A will, codicil, or other testamentary instrument.

256 5. A firearm.

257 6. A motor vehicle, except as provided in paragraph (a).

258 7. Any commercially farmed animal, including any animal of

259 the equine, bovine, or swine class or other grazing animal; a

260 bee colony of a registered beekeeper; and aquaculture species

261 raised at a certified aquaculture facility. If the property

262 stolen is aquaculture species raised at a certified aquaculture

263 facility, then a \$10,000 fine shall be imposed.

264 8. Any fire extinguisher.

265 9. Any amount of citrus fruit consisting of 2,000 or more

266 individual pieces of fruit.

267 10. Taken from a designated construction site identified

268 by the posting of a sign as provided for in s. 810.09(2)(d).

269 11. Any stop sign.

270 12. Anhydrous ammonia.

271 13. Any amount of a controlled substance as defined in s.

272 893.02. Notwithstanding any other law, separate judgments and

273 sentences for theft of a controlled substance under this

274 subparagraph and for any applicable possession of controlled

275 substance offense under s. 893.13 or trafficking in controlled

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276 substance offense under s. 893.135 may be imposed when all such  
277 offenses involve the same amount or amounts of a controlled  
278 substance.

279 14. Utility services, in a manner as specified in s.  
280 812.14.

281  
282 However, if the property is stolen within a county that is  
283 subject to a state of emergency declared by the Governor under  
284 chapter 252, the property is stolen after the declaration of  
285 emergency is made, and the perpetration of the theft is  
286 facilitated by conditions arising from the emergency, the  
287 offender commits a felony of the second degree, punishable as  
288 provided in s. 775.082, s. 775.083, or s. 775.084, if the  
289 property is valued at \$5,000 or more, but less than \$10,000, as  
290 provided under subparagraph 2., or if the property is valued at  
291 \$10,000 or more, but less than \$20,000, as provided under  
292 subparagraph 3. As used in this paragraph, the term "conditions  
293 arising from the emergency" means civil unrest, power outages,  
294 curfews, voluntary or mandatory evacuations, or a reduction in  
295 the presence of or the response time for first responders or  
296 homeland security personnel. For purposes of sentencing under  
297 chapter 921, a felony offense that is reclassified under this  
298 paragraph is ranked one level above the ranking under s.  
299 921.0022 or s. 921.0023 of the offense committed.

300 Section 3. This act shall take effect July 1, 2017.