

Council Substitute for Committee Substitute for
Committee Substitute for House Bill No. 29

An act relating to the unlawful use of utility services; amending s. 812.14, F.S.; providing criminal penalties for permitting a tenant or occupant to use unlawfully connected utility services; providing that such violation is a first-degree misdemeanor; providing for prima facie evidence of intent to violate such prohibition; providing that theft of utility services for the purpose of manufacturing a controlled substance is a first-degree misdemeanor; providing penalties; providing for prima facie evidence of intent to commit theft of utility services for the purpose of manufacturing a controlled substance; providing an effective date.

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

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

(2) It is unlawful to:

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

(b) Make or cause to be made any connection with any wire, main, service pipe or other pipes, appliance, or appurtenance in such manner as to use, without the consent of the utility, any service or any electricity, gas, or water, or to cause to be supplied any service or electricity, gas, or water from a utility to any person, firm, or corporation or any lamp, burner, orifice, faucet, or other outlet whatsoever, without such service being reported for payment or such electricity, gas, or water passing through a meter provided

by the utility and used for measuring and registering the quantity of electricity, gas, or water passing through the same.

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

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

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

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

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

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

(5) It is unlawful for a person or entity that owns, leases, or subleases a property to permit a tenant or occupant to use utility services knowing, or under such circumstances as would induce a reasonable person to believe, that such utility services have been connected in violation of paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c).

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

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

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

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

materials for manufacturing a controlled substance in the dwelling or structure, regardless of whether the person or entity was involved in the manufacture or sale of a controlled substance or was in actual possession of the dwelling or structure.

(7) A person who willfully violates subsection (5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Prosecution for a violation of subsection (5) does not preclude prosecution for theft under subsection (8) or s. 812.014.

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

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

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

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

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

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

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

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

Approved by the Governor June 11, 2009.

Filed in Office Secretary of State June 11, 2009.