

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 prima facie  
8           evidence of a violation; clarifying that certain  
9           evidence of the manufacturing of a controlled  
10          substance in a leased dwelling constitutes prima facie  
11          evidence of a violation by an owner, lessor,  
12          sublessor; clarifying that specified circumstances  
13          create prima facie evidence of theft of utility  
14          services for the purpose of facilitating the  
15          manufacture of a controlled substance; revising such  
16          circumstances; specifying the types of damages that  
17          may be recovered as civil damages or restitution in a  
18          criminal case for damaging property of a utility or  
19          for the theft of electricity services; specifying the  
20          methods and bases used to determine and assess damages  
21          in a civil action or restitution in a criminal case  
22          for damaging property of a utility or for the theft of  
23          electricity services; providing an effective date.

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

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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) A person may not ~~It is unlawful to~~:

(a) Willfully alter, tamper with, damage ~~injure~~, or knowingly allow damage to a ~~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; ~~to~~

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

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

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

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

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

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

72            (h)-(e) Use or receive the direct benefit from the use of a  
 73 utility knowing, or under ~~such~~ circumstances that ~~as~~ would  
 74 induce a reasonable person to believe, that the ~~such~~ direct  
 75 benefits have resulted from any tampering with, altering of, or

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

80 (3) The presence on the property of and ~~in~~ the actual  
 81 possession by ~~of~~ a person of any device or alteration that  
 82 prevents ~~affects the diversion or use of the services of a~~  
 83 ~~utility so as to avoid~~ the registration of the ~~such~~ use of  
 84 services by ~~or on~~ a meter installed by the utility or that  
 85 avoids ~~so as to otherwise avoid~~ the reporting of the use of  
 86 services ~~such service~~ for payment is prima facie evidence of the  
 87 violation of subsection (2) ~~this section~~ by such person.†

88 However, this presumption does not apply unless:

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

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

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

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

100 (5) ~~It is unlawful for~~ A person or entity that owns,

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

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

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

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

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

126 | was in actual possession of the dwelling or structure.

127 |       (7) An owner, lessor, or sublessor ~~A person~~ who willfully  
128 | violates subsection (5) commits a misdemeanor of the first  
129 | degree, punishable as provided in s. 775.082 or s. 775.083.

130 | Prosecution for a violation of subsection (5) does not preclude  
131 | prosecution for theft pursuant to subsection (8) or s. 812.014.

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

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

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

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

144 |           (c) The person knew or should have known of the presence  
145 | of the controlled substance and materials for manufacturing the  
146 | controlled substance in the dwelling or structure, regardless of  
147 | whether the person was involved in the manufacture of the  
148 | controlled substance.

149 |       (10) Whoever is found in a civil action to have violated  
150 | this section is liable to the utility involved in an amount

151 equal to 3 times the amount of services unlawfully obtained or  
152 \$3,000, whichever is greater.

153 (11) (a) For purposes of determining a defendant's  
154 liability for civil damages under subsection (10) or criminal  
155 restitution for the theft of electricity, the amount of civil  
156 damages or a restitution order must include all of the following  
157 amounts:

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

160 2. Reasonable costs for the use of specialized equipment  
161 to investigate or calculate the amount of unlawfully obtained  
162 electricity services, including reasonable labor costs.

163 3. The amount of unlawfully obtained electricity services.

164 (b) A prima facie showing of the amount of unlawfully  
165 obtained electricity services may be based on any methodology  
166 reasonably relied upon by a utility to estimate such loss. The  
167 methodology may consider the estimated start date of the theft  
168 and the estimated daily or hourly use of electricity. Once a  
169 prima facie showing has been made, the burden shifts to the  
170 defendant to demonstrate that the loss is other than that  
171 claimed by the utility.

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

174 a. The date of an overload notification from a  
175 transformer, or the tripping of a transformer, which the utility

176 reasonably believes was overloaded as a result of the theft of  
177 electricity.

178 b. The date the utility verified a substantive difference  
179 between the amount of electricity used at a property and the  
180 amount billed to the account holder.

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

183 d. The date the utility or a law enforcement officer  
184 observed or verified meter tampering.

185 e. The maturity of a cannabis crop found in a dwelling or  
186 structure using unlawfully obtained electricity services the  
187 utility or a law enforcement officer reasonably believes to have  
188 been grown in the dwelling or structure.

189 f. The date the utility or a law enforcement agency  
190 received a report of suspicious activity potentially indicating  
191 the presence of the unlawful cultivation of cannabis in a  
192 dwelling or structure or the date a law enforcement officer or  
193 an employee or contractor of a utility observed such suspicious  
194 activity.

195 g. The date when a utility observed a significant change  
196 in metered energy usage.

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

200 i. Any other fact or data reasonably relied upon by the



201 utility to estimate the start date of a theft of electricity.

202 2. The estimated average daily or hourly use of the  
203 electricity may be based upon any, or a combination, of the  
204 following:

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

207 b. Recordings by the utility of the amount of electricity  
208 used by a property or the difference between the amount used and  
209 the amount billed.

210 c. A comparison of the amount of electricity historically  
211 used by the property and the amount billed while the property  
212 was using unlawfully obtained electricity.

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

216 e. Any other fact or data reasonably relied upon by  
217 utilities to estimate the amount of unlawfully obtained  
218 electricity services.

219 (12) A court order requiring a defendant to pay  
220 restitution for damages to the property of a utility or for the  
221 theft of electricity need only be based on a conviction for a  
222 criminal offense that is causally connected to the damages or  
223 losses and bears a significant relationship to those damages or  
224 losses. A conviction for a violation of this section is not a  
225 prerequisite for a restitution order. Criminal offenses that

226 | bear a significant relationship and are causally connected to a  
227 | violation of this section include, but are not limited to,  
228 | offenses relating to the unlawful cultivation of cannabis in a  
229 | dwelling or structure if the theft of electricity was used to  
230 | facilitate the growth of the cannabis.

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

234 | (14)~~(11)~~ This section does not apply to licensed and  
235 | certified electrical contractors while such persons are  
236 | performing usual and ordinary service in accordance with  
237 | recognized standards.

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