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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/21/2008	.	
	.	
	.	

1 The Committee on Criminal Justice (Aronberg) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 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, the term:

12 (a) "Manufacture" has the same meaning as in s. 893.02.

13 (b) "Utility" includes any person, firm, corporation,
 14 association, or political subdivision, whether private,
 15 municipal, county, or cooperative, which is engaged in the sale,
 16 generation, provision, or delivery of gas, electricity, heat,



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17 | water, oil, sewer service, telephone service, telegraph service,
18 | radio service, or telecommunication service.

19 | (2) It is unlawful to:

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

35 | (b) Make or cause to be made any connection with any wire,
36 | main, service pipe or other pipes, appliance, or appurtenance in
37 | such manner as to use, without the consent of the utility, any
38 | service or any electricity, gas, or water, or to cause to be
39 | supplied any service or electricity, gas, or water from a utility
40 | to any person, firm, or corporation or any lamp, burner, orifice,
41 | faucet, or other outlet whatsoever, without such service being
42 | reported for payment or such electricity, gas, or water passing
43 | through a meter provided by the utility and used for measuring
44 | and registering the quantity of electricity, gas, or water
45 | passing through the same.



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

54 (d) Violate paragraph (a), paragraph (b), or paragraph (c)
55 for the purpose of facilitating the manufacture of a controlled
56 substance.

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

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

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

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

73 (4) It is prima facie evidence of a person's intent to
74 violate paragraph (2)(d) if:



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75 (a) The person violated paragraph (2)(a), paragraph (2)(b),
76 or paragraph (2)(c), resulting in a structure, as defined in s.
77 810.011, or a dwelling, as defined in s. 810.011, receiving
78 unauthorized access to utility services;

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

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

87 ~~(5)(4)~~ Any person who willfully violates paragraph (2)(a),
88 paragraph (2)(b), or paragraph (2)(c) commits this section shall
89 be guilty of a misdemeanor of the first degree, punishable as
90 provided in s. 775.082 or s. 775.083. Any person who willfully
91 violates paragraph (2)(d) commits a felony of the third degree,
92 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
93 Prosecution of a violation of subsection (2) does not preclude
94 prosecution of theft under subsection (6) or s. 812.014.

95 (6) Theft of utility services for the purpose of
96 facilitating the manufacture of a controlled substance is a
97 felony of the third degree, punishable as provided in s. 775.082,
98 s. 775.083, or s. 775.084. Prosecution pursuant this subsection
99 is in lieu of prosecution for theft under s. 812.014.

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

102 (a) The person committed theft of utility services
103 resulting in a structure, as defined in s. 810.011, or a



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104 dwelling, as defined in s. 810.011, receiving unauthorized access
105 to utility services;

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

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

114 (8)(5) Whoever is found in a civil action to have violated
115 the provisions of this section is hereof shall be liable to the
116 utility involved in an amount equal to 3 times the amount of
117 services unlawfully obtained or \$1,000, whichever is greater.

118 (9)(6) ~~Nothing in This section does not act shall be~~
119 ~~construed to~~ apply to licensed and certified electrical
120 contractors while performing usual and ordinary service in
121 accordance with recognized standards.

122 Section 2. This act shall take effect July 1, 2008.

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

125 And the title is amended as follows:

127 Delete everything before the enacting clause
128 and insert:

129 A bill to be entitled
130 An act relating to unlawful use of utility services;
131 amending s. 812.14, F.S.; providing definitions;
132 prohibiting trespass and larceny in relation to utility
133 fixtures for the purpose of manufacturing a controlled



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134 substance; providing for prima facie evidence of the
135 intent to commit such offense; providing that trespass and
136 larceny in relation to utility fixtures for the purpose of
137 manufacturing a controlled substance is a third-degree
138 felony; providing that prosecution for trespass and
139 larceny in relation to utility fixtures does not preclude
140 prosecution for theft of utility services; providing that
141 theft of utility services for the purpose of manufacturing
142 a controlled substance is a third-degree felony; providing
143 that prosecution of theft of utility services for the
144 purpose of manufacturing a controlled substance is in lieu
145 of prosecution for theft pursuant to s. 812.014, F.S.;
146 providing for prima facie evidence of intent to commit
147 theft of utility services for the purpose of manufacturing
148 a controlled substance; providing an effective date.