

1 HB41
2 176810-1
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 07-FEB-17
6 PFD: 01/11/2017

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8 SYNOPSIS: Under existing law, the diversion of or
9 unauthorized use of gas, electricity, or water
10 utility services constitutes the crimes of theft of
11 services and tampering with the availability of
12 utility services.

13 This bill would specify that the
14 unauthorized use of or diversion of sewer services
15 also constitutes theft of services and tampering
16 with availability of utility services.

17 Amendment 621 of the Constitution of Alabama
18 of 1901, now appearing as Section 111.05 of the
19 Official Recompilation of the Constitution of
20 Alabama of 1901, as amended, prohibits a general
21 law whose purpose or effect would be to require a
22 new or increased expenditure of local funds from
23 becoming effective with regard to a local
24 governmental entity without enactment by a 2/3 vote
25 unless: it comes within one of a number of
26 specified exceptions; it is approved by the
27 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Sections 13A-8-10 and 13A-8-23 of the Code
16 of Alabama 1975, to specify that the diversion of or
17 unauthorized use of sewer services constitutes theft of
18 services and tampering with availability of utility services;
19 and in connection therewith would have as its purpose or
20 effect the requirement of a new or increased expenditure of
21 local funds within the meaning of Amendment 621 of the
22 Constitution of Alabama of 1901, now appearing as Section
23 111.05 of the Official Recompilation of the Constitution of
24 Alabama of 1901, as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 13A-8-10 and 13A-8-23 of the
27 Code of Alabama 1975, are amended to read as follows:

1 "§13A-8-10.

2 "(a) A person commits the crime of theft of services
3 if:

4 "(1) He or she intentionally obtains services known
5 by him or her to be available only for compensation by
6 deception, threat, false token or other means to avoid payment
7 for the services; or

8 "(2) Having control over the disposition of services
9 of others to which he or she is not entitled, he or she
10 knowingly diverts those services to his or her own benefit or
11 to the benefit of another not entitled thereto.

12 "(b) "Services" includes but is not necessarily
13 limited to labor, professional services, transportation,
14 telephone, water, gas, electric, sewer, or other public
15 services, accommodation in motels, hotels, restaurants or
16 elsewhere, admission to exhibitions, computer services and the
17 supplying of equipment for use.

18 "(c) Where compensation for services is ordinarily
19 paid immediately upon the rendering of them, as in the case of
20 motels, hotels, restaurants and the like, absconding without
21 payment or bona fide offer to pay is prima facie evidence
22 under subsection (a) that the services were obtained by
23 deception.

24 "(d) If services are obtained under subdivision (a)
25 (1) from a hotel, motel, inn, restaurant or cafe, no
26 prosecution can be commenced after 120 days from the time of
27 the offense.

1 "§13A-8-23.

2 "(a) The following terms shall have the meanings
3 ascribed thereto unless the context clearly indicates
4 otherwise:

5 "(1) OWNER. Includes any part owner, joint owner,
6 tenant-in-common, joint tenant, or tenant by the entirety of
7 the whole or part of any building.

8 "(2) PERSON. Includes a corporation, firm, company,
9 or association.

10 "(3) TENANT or OCCUPANT. Shall include any person
11 who occupies the whole or a part of any building whether alone
12 or with others and shall include the owner.

13 "(4) UTILITY. Any public or private utility
14 authorized to provide electricity, natural gas, ~~or~~ water, or
15 sewer or any combination thereof for sale to consumers in any
16 particular service area.

17 "(5) UTILITY SERVICES. The products, commodities,
18 and services provided by a utility to its customers.

19 "(b) It shall be unlawful for a tenant, occupant, or
20 any other person to commit any of the following acts which
21 could, or in fact does, make gas, electricity, ~~or~~ water, or
22 sewer unlawfully available to such tenant, occupant, or
23 person, or to another:

24 "(1) To connect any tube, pipe, wire, or other
25 instrument with any meter, device, or other instrument used
26 for conducting gas, electricity, or water in such a manner as
27 to permit the use of ~~said~~ the gas, electricity, or water

1 without the same passing through a meter or other instrument
2 recording the usage for billing.

3 "(2) To alter, injure, turn on, or prevent the
4 action of a meter, valve, stopcock, or other instrument used
5 for measuring quantities of gas, electricity, or water.

6 "(3) To break, deface, or cause to be broken or
7 defaced any seal, locking device, or other parts that make up
8 a metering device for recording usage of gas, electricity, or
9 water or a security system for the recording device.

10 "(4) To remove a metering device for measuring
11 quantities of gas, electricity, or water.

12 "(5) To transfer from one location to another a
13 metering device for measuring utilities of gas, electricity,
14 or water.

15 "(6) To use a metering device belonging to the
16 utility that has not been assigned to the location and
17 installed by the utility.

18 "(7) To adjust the indicated consumption, to jam the
19 measuring device, to bypass the meter or measuring device with
20 a jumper so that it does not indicate use or registers
21 incorrectly, or to otherwise obtain quantities of gas,
22 electricity, or water from the utility without the same
23 passing through a metering device for measuring quantities of
24 consumption for billing.

25 "(8) To fabricate or to use a device to pick or
26 otherwise tamper with the locks used to deter current
27 diversion, meter tampering, and meter thefts.

1 "(9) To otherwise take any action resulting in the
2 diversion or unauthorized use of gas, electricity, or water.

3 "(c) Any property on which it is found to have
4 electric, gas, or water utilities tampered with in violation
5 of this section and capable of receiving gas, electricity, or
6 water as a result of the use of any method of diversion
7 prohibited herein shall be prima facie evidence and create
8 against the tenant, occupant, or other person a presumption of
9 intent to tamper or divert in violation of this section.

10 "(d) Any occupant, tenant, or other person who
11 violates this section, and any person who aids and abets in
12 such prohibited acts, who shall be deemed a principal to such
13 acts, shall be guilty of a Class C felony if the theft amount
14 exceeds five hundred dollars (\$500) in value and a Class A
15 misdemeanor if the theft amount is less than or equal to five
16 hundred dollars (\$500) in value, as provided by the state
17 criminal code, and upon conviction, be punished as prescribed
18 by law.

19 "(e) The provisions of this section are supplemental
20 to the provisions of the offense of theft of services as
21 provided in Section 13A-8-10, and shall in no way repeal or
22 modify Section 13A-8-10."

23 Section 2. Although this bill would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds, the bill is excluded from further
26 requirements and application under Amendment 621, now
27 appearing as Section 111.05 of the Official Recompile of

1 the Constitution of Alabama of 1901, as amended, because the
2 bill defines a new crime or amends the definition of an
3 existing crime.

4 Section 3. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.