

Act 595 of the 1989 Regular Session.

Act 595

HB1607

By: Representative Wilson

"AN ACT CONCERNING CREATION OF A CAUSE OF ACTION BY UTILITY SUPPLIERS AGAINST UTILITY CUSTOMERS WHO TAMPER WITH METERING DEVICES OR OTHERWISE COMMIT THEFT OF UTILITY SERVICE; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Definitions. (a) "Utility customer" means the person or persons occupying the premises and receiving the benefits of utility service from a utility supplier, whether or not that person is listed on the records of the utility supplier as the customer liable for charges or payment for utility service received with or without charge; or the manager, superintendent, officer, or other responsible official of a corporation, partnership, proprietorship, association or other business organization that has received utility service with or without proper charge.

(b) "Utility Supplier or Supplier" means any regulated public or private utility authorized to provide electricity, natural gas or water for sale to utility customers in any particular service area.

(c) "Person" means an individual, a corporation, firm, company or association.

(d) "Meter tampering" means removing metering devices; connecting wires or other instruments to bypass a meter recording usage for billing; breaking or defacing any seal, locking device or other part that makes up the metering device; preventing or retarding the action of a meter or other instrument used for measuring utility service; transferring from one location to another a metering device; using a metering device belonging to the utility supplier that has not been assigned to the utility customer's location and has not been installed by the utility supplier; and any other means of tampering with or bypassing a metering device that deprives a supplier from receiving proper charges or payment for utility service.

(e) "Divert" means to change the intended course or path of gas, water or electricity without the authorization or consent of the utility supplier.

(f) "Unauthorized reconnection" means the commencement of gas, water or electric service, other than by the supplier, to a utility customer or any other person after utility service has been discontinued by the supplier.

SECTION 2. Presumption. (a) The receipt of benefits because of meter tampering or unauthorized reconnection of utility services by a utility customer without incurring proper charges therefor shall be evidence creating presumption of an intent to defraud or deprive a utility supplier from receiving proper charge or payment for such utility service.

(b) The presence upon property served by a utility supplier of a metering device altered to improperly monitor the amount of utility service used on or by such property shall be evidence creating a presumption that the utility customer has diverted or obtained utility service with the intent to deprive or defraud a supplier from receiving proper charges or payment for such utility service.

SECTION 3. Creation of a civil cause of action. (a) Any utility

supplier damaged through meter tampering or other acts by any person; including any acts which divert, or cause to be diverted, any utility service by any means whatsoever; or which make, or cause to be made, any unauthorized reconnection with property owned or used by the supplier to provide utility services without the authorization or consent of the supplier; shall have a cause

of action against any such person found in violation of this section in the circuit courts of this State for all damages resulting therefrom, including actual, consequential and punitive damages.

(b) Such supplier shall be entitled to no less than three (3) times the amount of damages and shall also be entitled to reasonable attorneys fees.

(c) The cause of action created by this section exists regardless of any criminal charge against a utility customer for defrauding or depriving a supplier of proper charges or payment for utility service or damaged metering devices.

SECTION 4. Statute of limitations. Civil actions pursuant to the provisions of this Act shall be commenced within two (2) years following the date of discovery of the violation.

SECTION 5. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 6. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 7. Emergency. It is hereby found and determined by the General Assembly that utility suppliers are presently inadequately protected from theft of their utility services by utility customers who tamper with metering devices or who otherwise divert utility services; that the utility suppliers have no cause of action for this theft; and that this Act is immediately necessary to provide such a cause of action. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: March 15, 1989

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