~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 10, 2013

**S. 274**

Introduced by Senators L. Martin and Sheheen

S. Printed 4/10/13--S. [SEC 4/11/13 3:10 PM]

Read the first time January 23, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 274) to amend Section 16‑13‑385, Code of Laws of South Carolina, 1976, relating to altering, tampering with, or bypassing electric, gas, or water, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting on page 2, lines 7-24 and inserting:

/ (2) second ~~or subsequent~~ offense, ~~the person~~ is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both; and

(3) for a third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than five years, or both.

(C) A person who violates the provisions of this section for profit or income on behalf of a person in whose name the meter was installed or a person for whose benefit electricity, gas, or water was diverted for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(D) A person who violates the provisions of this section and the violation results in significant property damage or public endangerment for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both. /

Amend the bill further, as and if amended, by striking subsection (F), lines 36-38 on page 2 and inserting:

/ (F) A person who violates the provisions of this section for the purpose of growing or manufacturing controlled substances listed, or to be listed, in the schedules in Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270 is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned for not more than ten years, or both.

(G) This section does not apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards.” /

Amend the bill further, as and if amended, by striking on page 3 lines 24-28 and inserting:

/ (C) A person who violates the provisions of this section and the violation results in significant property damage or public endangerment for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both. /

Amend the bill further, as and if amended, by striking Section 58-7-60(E), on page 3 beginning on line 40 and inserting:

/ (E) ~~Any~~ Notwithstanding the provisions of this section, a person who ~~shall aid, abet or assist such other~~ aids, abets, or assists another person in ~~such~~ withdrawing and appropriating ~~of such~~ gas from ~~such~~ pipes or conduits to or for the use of ~~such other~~ another person or to or for the use of ~~any other~~ another person or corporation ~~shall be~~ is guilty of:

(1) a misdemeanor, for the first offense, and ~~shall~~, upon conviction, must be ~~punished in like manner~~ fined not more than one thousand dollars or imprisoned not more than one year, or both;

(2) for a second offense, a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both; and

(3) for a third or subsequent offense, a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both. /

Amend the bill further, as and if amended, by striking in Section 58-7-70, on page 4 lines 33-43, and on page 5, lines 1-6 and inserting:

/ (C) A person who violates the provisions of this section for profit or income on behalf of a person in whose name the meter was installed or a person for whose benefit electricity, gas, or water was diverted for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(D) A person who violates the provisions of this section and the violation results in significant property damage or public endangerment for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of a misdemeanor and, upon conviction. must be fined not more than three thousand dollars or imprisoned for not more than three years, or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both. /

Renumber sections to conform.

Amend title to conform.

LUKE A RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Judicial Department

The department indicates that this bill will have a minimal impact on the General Fund of the State, which can be absorbed by the agency at their current level of funding.

The Department of Corrections

The department indicates that this bill will have a fiscal impact on the General Fund of the State, but due to the lack of empirical data, the agency is unable to provide a quantitative cost. Due to the potential of having longer sentences for individuals that are convicted under this new law, Corrections contends that their inmate population could significantly increase due to the changes that this bill proposes.

The South Carolina Public Service Commission

The commission indicates that this bill will have no fiscal impact on the state general fund or on federal and/or other funds.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 16‑13‑385, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ALTERING, TAMPERING WITH, OR BYPASSING ELECTRIC, GAS, OR WATER METERS, SECTION 58‑7‑60, RELATING TO THE UNLAWFUL APPROPRIATION OF GAS, AND SECTION 58‑7‑70, RELATING TO THE WRONGFUL USE OF GAS AND INTERFERENCE WITH GAS METERS, ALL SO AS TO RESTRUCTURE THE PENALTIES AND PROVIDE GRADUATED PENALTIES FOR VIOLATIONS OF THE STATUTES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑13‑385 of the 1976 Code is amended to read:

“Section 16‑13‑385. (A) It is unlawful for an unauthorized person to alter, tamper with, or bypass a meter which has been installed for the purpose of measuring the use of electricity, gas, or water.

A meter found in a condition which would cause electricity, gas, or water to be diverted from the recording apparatus of the meter or to cause the meter to inaccurately measure the use of electricity, gas, or water or the attachment to a meter or distribution wire of any device, mechanism, or wire which would permit the use of unmetered electricity, gas, or water or would cause a meter to inaccurately measure the use is prima facie evidence that the person in whose name the meter was installed or the person for whose benefit electricity, gas, or water was diverted caused the electricity, gas, or water to be diverted from going through the meter or the meter to inaccurately measure the use of the electricity, gas, or water.

(B) A person who violates the provisions of this section for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days~~. For a~~;

(2) second or subsequent offense, ~~the person~~ is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both; and

(3) for a third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than five years, or both.

(C) A person who violates the provisions of this section for profit or income on behalf of a person in whose name the meter was installed or a person for whose benefit electricity, gas, or water was diverted is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned for not more than ten years, or both.

(D) A person who violates the provisions of this section and the violation results in significant property damage or public endangerment is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned for not more than ten years, or both.

(E) A person who violates the provisions of this section and the violation results in:

(1) great bodily injury to another person is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than fifteen years, or both. For purposes of this item, ‘great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ; and

(2) the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(F) This section does not apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards.”

SECTION 2. Section 58‑7‑60 of the 1976 Code is amended to read:

“Section 58‑7‑60. (A) ~~Any~~ It is unlawful for a person who has no contract, agreement, license, or permission with or from ~~any~~ a person or corporation authorized to manufacture, sell, or use gas for the purpose of light, heat, or power or with or from ~~any~~ an authorized agent of ~~such~~ a person or corporation for the use of gas belonging to, or produced or furnished by, ~~any such~~ a person or corporation who shall wilfully withdraw or cause to be withdrawn in any manner and appropriate ~~such~~ gas from the pipes or conduits of ~~any such~~ a person or corporation for his own use or for the use of ~~any other~~ another person or corporation ~~shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not exceeding one hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment~~.

(B) A person who violates the provisions of this section:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

(2) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both; and

(3) for a third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than five years, or both.

(C) A person who violates the provisions of this section and the violation results in significant property damage or public endangerment is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than ten years, or both.

(D) A person who violates the provisions of this section and the violation results in:

(1) great bodily injury to another person is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than fifteen years, or both. For purposes of this item, ‘great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ; and

(2) the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(E) ~~Any~~ Notwithstanding the provisions of this section, a person who ~~shall aid, abet or assist such other~~ aids, abets, or assists another person in ~~such~~ withdrawing and appropriating of ~~such~~ gas from ~~such~~ pipes or conduits to or for the use of ~~such other~~ another person or to or for the use of ~~any other~~ another person or corporation ~~shall be~~ is guilty of a ~~misdemeanor~~ felony and ~~shall~~, upon conviction, must be ~~punished in like manner~~ fined not more than fifteen thousand dollars or imprisoned not more than ten years, or both.

(F) This section does not apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards.”

SECTION 3. Section 58‑7‑70 of the 1976 Code is amended to read:

“Section 58‑7‑70. (A) ~~Any~~ It is unlawful for a person who has a contract, agreement, license, or permission, oral or written, with or from ~~any~~ a person or corporation authorized to manufacture, sell or use gas for the purpose of light, heat, or power or with or from ~~any~~ an authorized agent of ~~any such~~ a person or corporation for the use of the gas belonging to, or produced or furnished by, ~~any such~~ a person or corporation for certain specified purposes who shall wilfully and intentionally withdraw, or cause to be withdrawn, ~~any such~~ gas in any manner and appropriate it to his own use or to the use of ~~any other~~ another person or corporation for purposes other than those specified ~~shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in Section 58‑7‑60~~.

(B) ~~And any such~~ It is unlawful for a person to whom ~~such~~ gas is furnished from or by means of a meter who shall wilfully and with intention to cheat and defraud ~~any such~~ a person or corporation alter or interfere with ~~such~~ a meter or by any contrivance whatsoever withdraw or take off gas in any manner except through ~~such~~ a meter ~~shall be guilty of a misdemeanor and be punished as provided in Section 58‑7‑60~~.

(C) A person who violates the provisions of this section:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

(2) for a second offense, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both; and

(3) for a third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than five years, or both.

(D) A person who violates the provisions of this section for profit or income on behalf of a person in whose name the meter was installed or a person for whose benefit electricity, gas, or water was diverted is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than ten years, or both.

(E) A person who violates the provisions of this section and the violation results in significant property damage or public endangerment is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than ten years, or both.

(F) A person who violates the provisions of this section and the violation results in:

(1) great bodily injury to another person is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than fifteen years, or both. For purposes of this item, ‘great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ; and

(2) the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) This section does not apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards.”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect upon approval by the Governor.

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