

Criminal procedure: other; violation of tampering with utility shut-off procedures; decriminalize under certain circumstances. Criminal procedure: other; Water supply: systems and utilities; Public utilities: consumer services; Public utilities: public service commission; Crimes: other;

SENATE BILL NO. _____

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending the title and sections 282 and 383a (MCL 750.282 and 750.383a), the title as amended by 2010 PA 107, section 282 as amended by 1987 PA 32, and section 383a as amended by 2008 PA 413.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to revise, consolidate, codify, and add to the statutes
3 relating to crimes; to define crimes **and certain state civil**



1 **infractions** and prescribe the penalties, **sanctions**, and remedies;
2 to provide for restitution under certain circumstances; to provide
3 for the competency of evidence at the trial of persons accused of
4 crime; to provide immunity from prosecution for certain witnesses
5 appearing at criminal trials; to provide for liability for damages;
6 and to repeal certain acts and parts of acts inconsistent with or
7 contravening any of the provisions of this act.

8 Sec. 282. (1) A person shall not do any of the following:

9 (a) Willfully or fraudulently injure, or fraudulently allow to
10 be injured, a meter, wire, line, pipe, or appliance belonging to a
11 water, steam, electric, or gas company, or propane gas dealer or
12 distributor.

13 (b) Willfully or fraudulently prevent a water, steam,
14 electric, gas, or propane gas meter belonging to a water, steam,
15 electric, or gas company, or propane gas dealer or distributor from
16 duly registering the quantity of water, steam, electric current,
17 gas, or propane gas measured through the meter, or in any way
18 hinder or interfere with the meter's proper action or just
19 registration.

20 (c) Attach a line, wire, or pipe to a line, wire, pipe, or
21 main belonging to a water, steam, electric, or gas company, or
22 propane gas dealer or distributor. This subdivision does not apply
23 to the use of a ground wire to ground an electrical system.

24 (d) Willfully or fraudulently interfere with a pressure
25 regulator device on a propane gas tank or incorporated into a
26 propane gas system.

27 (e) Use or burn or cause to be used or burned any water,
28 steam, electric current, gas, or propane gas supplied by a water,
29 steam, electric, or gas company, or propane gas dealer or

distributor, without the written consent of the company or the propane gas dealer or distributor, or the authorized agent or officer of the company or the propane gas dealer or distributor, unless the water, steam, electric current, gas, or propane gas passes through a meter or is measured by a meter set by the company or the propane gas dealer or distributor; fraudulently use the water, steam, electric current, gas, or propane gas, or fraudulently waste the water, steam, electric current, gas, or propane gas supplied by a water, steam, electric, or gas company, or propane gas dealer or distributor.

(2) A person ~~who~~**that** violates subsection (1) is **guilty of a crime or responsible for a state civil infraction as follows:**

(a) **The person is** guilty of a misdemeanor if the value of the water, steam, electric current, gas, or propane gas used, burned, or wasted, or the damage caused, as a result of the violation, is not more than \$500.00.

~~(b) A person who violates subsection (1)~~ **The person** is guilty of a felony if the value of the water, steam, electric current, gas, or propane gas used, burned, or wasted, or the damage caused, as a result of the violation, is more than \$500.00.

(c) **A person that violates subsection (1) by restoring water service to the person's lawfully occupied residence after a water service shutoff to the residence due to an inability to pay for water and sewer service, provided that no metering device or backflow prevention device is damaged, bypassed, or rendered inoperable by the restoration, is responsible for a state civil infraction as follows:**

(i) **For a first offense, the person may be ordered to perform not more than 25 hours of community service.**



1 (ii) For a second offense, the person may be fined not more
2 than \$250.00 or ordered to perform not more than 50 hours of
3 community service, or both.

4 (iii) For a third or subsequent offense, the person may be fined
5 not more than \$500.00 or ordered to perform not more than 100 hours
6 of community service, or both.

7 (3) A ~~criminal~~ prosecution under this section ~~shall~~ **must** not
8 in any way impair the right of the company or the propane gas
9 dealer or distributor to full compensation in damages by civil
10 action.

11 (4) ~~The provisions of this~~ **This** section ~~shall extend and apply~~
12 **applies** to all offenses against all water, steam, electric, or gas
13 companies, or propane gas dealers or distributors, and boards or
14 municipalities owning or operating plants for producing,
15 manufacturing, furnishing, transmitting, or conducting water,
16 steam, electricity, or gas, either natural, liquefied, or
17 artificial.

18 (5) A person ~~who~~ **that** attaches any line, wire, or pipe or any
19 other device or process to any line, wire, or pipe of a water,
20 steam, electric, or gas company, or propane gas dealer or
21 distributor which interferes with the proper operation and just
22 registration of a meter within the meaning of this section, or ~~who~~
23 **that** interferes with a pressure regulator device on a propane gas
24 tank or incorporated into a propane gas system, is presumed to do
25 so with intent to avoid, or to enable another to avoid, payment for
26 the service involved.

27 (6) In all prosecutions under this section, proof that the
28 defendant, other than a lessor, had control of or occupied the
29 premises where the offense was committed, or received the benefit



1 of the water, steam, electric current, gas, or propane gas used or
2 consumed, ~~shall be~~ **is** prima facie evidence of a violation of this
3 section.

4 **(7) A person that is issued a citation for a violation under**
5 **subsection (2) (c) must be referred to a water assistance or**
6 **affordability program, if eligible.**

7 Sec. 383a. **(1)** A person, without lawful authority, shall not
8 willfully cut, break, obstruct, injure, destroy, tamper with or
9 manipulate, deface, or steal any machinery, tools, equipment,
10 telephone line or post, telegraph line or post, telecommunication
11 line, tower, or post, electric line, post, tower or supporting
12 structures, electric wire, insulator, switch, or signal, natural
13 gas pipeline, water pipeline, steam heat pipeline or the valves or
14 other appliances or equipment appertaining to or used in connection
15 with those lines, or any other appliance or component of the
16 electric, telecommunication, **water**, or natural gas infrastructure
17 that is the property of a utility. ~~A-Except as provided in~~
18 **subsection (2), a person who-that** violates this section is guilty
19 of a felony punishable by imprisonment for not more than 5 years or
20 a fine of not more than \$5,000.00, or both.

21 **(2) A person that violates subsection (1) by restoring water**
22 **service to the person's lawfully occupied residence after a water**
23 **service shutoff to the residence due to an inability to pay for**
24 **water and sewer service, provided that no metering device or**
25 **backflow prevention device is damaged, bypassed, or rendered**
26 **inoperable by the restoration, is responsible for a state civil**
27 **infraction as follows:**

28 **(a) For a first offense, the person may be ordered to perform**
29 **not more than 25 hours of community service.**



1 (b) For a second offense, the person may be fined not more
2 than \$250.00 or ordered to perform not more than 50 hours of
3 community service, or both.

4 (c) For a third or subsequent offense, the person may be fined
5 not more than \$500.00 or ordered to perform not more than 100 hours
6 of community service, or both.

7 (3) A person that is issued a citation for a violation under
8 subsection (2) must be referred to a water assistance or
9 affordability program, if eligible.

10 (4) As used in this section, "utility" includes any pipeline,
11 gas, electric, heat, water, oil, sewer, telephone, telegraph,
12 telecommunication, radio, railway, railroad, airplane,
13 transportation, communication, or other system, whether or not
14 publicly owned, that is operated for the public use.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.