Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 97

HOUSE BILL 2386

AN ACT

AMENDING SECTIONS 13-1601, 13-1602 AND 40-491, ARIZONA REVISED STATUTES; RELATING TO UTILITY TAMPERING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-1601, Arizona Revised Statutes, is amended to read:

13-1601. Definitions

In this chapter, unless the context otherwise requires:

1. "Damaging" means damage as defined in section 13-1701.

2. "Defacing" means any unnecessary act of substantially marring any surface or place, by any means, or any act of putting up, affixing, fastening, printing or painting any notice on any structure, without permission from the owner.

3. "Litter" includes any rubbish, refuse, waste material, offal, paper, glass, cans, bottles, organic or inorganic trash, debris, filthy or odoriferous objects, dead animals or any foreign substance of whatever kind or description, including junked or abandoned vehicles, whether or not any of these items are of value.

4. "Property of another" means property in which any person other than the defendant has an interest, including community property and other property in which the defendant also has an interest and, for damage caused by theft of scrap metal, the property of other persons damaged directly or indirectly as a result of the acts of the defendant.

5. "Tamper" means any act of interference.

6. "TAMPERING WITH UTILITY PROPERTY" MEANS ANY OF THE FOLLOWING IF COMMITTED AGAINST PROPERTY THAT IS OWNED OR OPERATED BY A UTILITY FOR THE PURPOSES OF TRANSMISSION OR DISTRIBUTION:

(a) REARRANGING, DAMAGING, ALTERING, INTERFERING WITH OR OTHERWISE PREVENTING THE PERFORMANCE OF A NORMAL OR CUSTOMARY FUNCTION OF UTILITY PROPERTY.

(b) CONNECTING ANY WIRE, CONDUIT OR DEVICE TO ANY UTILITY PROPERTY WITHOUT AUTHORIZATION.

(c) DEFACING, PUNCTURING, REMOVING, REVERSING OR ALTERING ANY UTILITY PROPERTY.

(d) PREVENTING ANY METER FROM PROPERLY MEASURING OR REGISTERING.

(e) TAKING, RECEIVING, USING OR CONVERTING TO PERSONAL USE OR THE USE OF ANOTHER ANY UTILITY SERVICE THAT HAS NOT BEEN MEASURED OR AUTHORIZED.

(f) DIVERTING OR CHANGING THE INTENDED COURSE OR PATH OF THE UTILITY SERVICE WITHOUT THE AUTHORIZATION OR CONSENT OF THE UTILITY.

(g) CAUSING, PROCURING, PERMITTING, AIDING OR ABETTING ANY PERSON TO DO ANY OF THE ACTS LISTED IN THIS PARAGRAPH.

~~6.~~ 7. "Utility" means any enterprise, public or private, that provides gas, electric, irrigation, steam, water, water conservation, sewer or communications services, as well as any common carrier on land, rail, sea or air.

Sec. 2. Section 13-1602, Arizona Revised Statutes, is amended to read:

13-1602. Criminal damage; classification

A. A person commits criminal damage by ~~recklessly~~:

1. RECKLESSLY defacing or damaging property of another person; or

2. RECKLESSLY tampering with property of another person so as substantially to impair its function or value; or

3. ~~Tampering with or~~ RECKLESSLY damaging the property of a utility.

4. RECKLESSLY parking any vehicle in such a manner as to deprive livestock of access to the only reasonably available water.

5. RECKLESSLY drawing or inscribing a message, slogan, sign or symbol that is made on any public or private building, structure or surface, except the ground, and that is made without permission of the owner.

6. INTENTIONALLY TAMPERING WITH UTILITY PROPERTY.

B. Criminal damage is punished as follows:

1. Criminal damage is a class 4 felony if the person recklessly damages property of another in an amount of ten thousand dollars or more.

2. Criminal damage is a class 4 felony if the person recklessly damages the property of a utility in an amount of five thousand dollars or more or if the person ~~recklessly causes impairment of the functioning of any~~ INTENTIONALLY TAMPERS WITH utility PROPERTY AND THE DAMAGE CAUSES AN IMMINENT SAFETY HAZARD TO ANY PERSON.

3. Criminal damage is a class 5 felony if the person recklessly damages property of another in an amount of two thousand dollars or more but less than ten thousand dollars.

4. Criminal damage is a class 6 felony if the person recklessly damages the property of another in an amount of one thousand dollars or more but less than two thousand dollars.

5. Criminal damage is a class 1 misdemeanor if the person recklessly damages property of another in an amount of more than two hundred fifty dollars but less than one thousand dollars.

6. In all other cases criminal damage is a class 2 misdemeanor.

Sec. 3. Section 40-491, Arizona Revised Statutes, is amended to read:

40-491 Definitions

In this article, unless the context otherwise requires:

1. "Customer" means the person in whose name a utility service is provided.

2. "Person" means an individual, partnership, firm, association or corporation.

3. "Reconnection" means the restoration of utility service to a customer or other person after service has been legally disconnected by the utility.

4. "TAMPER" OR "tampering" means ~~if the utility service is measured or registered by a meter and any of the following actions are taken prior to or at the point at which the meter registers or measures the utility service or if the utility service is not measured or registered by a meter if~~ any of the

following ~~action is~~ IF committed against property THAT IS owned or operated by the utility for transmission ~~of utility service~~ OR DISTRIBUTION:

(a) REARRANGING, DAMAGING, ALTERING, INTERFERING WITH OR OTHERWISE PREVENTING THE PERFORMANCE OF A NORMAL OR CUSTOMARY FUNCTION OF UTILITY PROPERTY.

~~(a)~~ (b) Connecting any wire, conduit or device to any ~~service or transmission line owned by a utility~~ UTILITY PROPERTY.

~~(b)~~ (c) Defacing, puncturing, removing, reversing or altering any ~~meter or any connections to secure unauthorized or unmeasured utility service~~ UTILITY PROPERTY.

~~(c)~~ (d) Preventing any meter from properly measuring or registering.

~~(d)~~ (e) Knowingly taking, receiving, using or converting to personal use or the use of another any utility service ~~which~~ THAT has not been measured or authorized.

~~(e)~~ (f) Diverting or changing the intended course or path of the utility service without the authorization or consent of the utility.

~~(f)~~ (g) Causing, procuring, permitting, aiding or abetting any person to do any of the acts LISTED in ~~subdivisions (a) through (f)~~ THIS PARAGRAPH.

5. "Utility" means any public service corporation, licensed cable television system, telephone line or telegraph line corporation or person engaged in the generation, transmission or delivery of electricity, gas, telephone, cable television, telegraph or water service, including this state or any political subdivision or agency of this state.

6. "Utility service" means the provision of services or commodities by the utility for compensation.

APPROVED BY THE GOVERNOR APRIL 11, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2013.

Passed the House March 4, 2013

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Pro Tempore

Cheryl Laub

Chief Clerk of the House

Passed the Senate April 4, 2013

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

President of the Senate

Chapman Billington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2386

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

April 10, 2013,

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

10 day of April, 2013,

at 3:20 o'clock P M.

Mikhaila Howard
Secretary to the Governor

Approved this 11th day of

April, 2013.,

at 12:31 o'clock P. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 11 th day of April, 2013,

at 4:34 o'clock P M.

Ken Bennett
Secretary of State

H.B. 2386