

CHAPTER 49-04.1

ACTIONS FOR BYPASSING, TAMPERING OR UNAUTHORIZED METERING

49-04.1-01. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Bypassing" means the act of attaching, connecting, or in any manner affixing any wire, cord, socket, motor or other instrument, device, or contrivance to the utility supply system or any part thereof in a manner as to transmit, supply, or use any utility service without passing through an authorized meter for measuring or registering the amount of utility service.
2. "Customer" means the person responsible for payment for utility services for the premises and includes employees and agents of the customer.
3. "Tampering" means damaging, altering, adjusting, or in any manner interfering with or obstructing the action or operation of any meter provided for measuring or registering the amount of utility service passing through the meter.
4. "Unauthorized metering" means removing, moving, installing, connecting, reconnecting, or disconnecting any meter or metering device for utility service by a person other than an authorized employee or agent of a utility.
5. "Utility" means any public utility, municipally owned utility, or cooperative utility which provides electricity, gas, or water, or any combination thereof, for sale to consumers.
6. "Utility service" means the provision of electricity, gas, water, or any other service or commodity furnished by the utility for compensation.
7. "Utility supply system" includes all wires, conduits, pipes, cords, sockets, motors, meters, instruments, and all other devices used by the utility for the purpose of providing utility service.

49-04.1-02. Civil action allowed.

1. A utility may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts any of the following acts which results in loss to the utility:
 - a. Bypassing.
 - b. Tampering.
 - c. Unauthorized metering.
2. A utility may bring a civil action for damages pursuant to this section against any person who knowingly receives utility service through means of bypassing, tampering, or unauthorized metering.
3. In any civil action brought pursuant to this section, the utility is entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering, to recover one thousand dollars or three times the amount of the actual loss, whichever is greater, caused by the bypassing, tampering, or unauthorized metering, plus all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering. Reasonable expenses and costs include expenses and costs for investigation, disconnection, reconnection, service calls, employees and equipment, expert witnesses, costs of the suit, and reasonable attorneys' fees.

49-04.1-03. Disputable presumptions of bypassing, tampering, or unauthorized metering.

1. It is a disputable presumption that a tenant or occupant of premises where bypassing, tampering, or unauthorized metering occurred, caused or had knowledge of the bypassing, tampering, or unauthorized metering if the tenant or occupant had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering occurred, and if the tenant or occupant was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility service to the premises.
2. It is a disputable presumption that a utility customer at premises where bypassing, tampering, or unauthorized metering occurred, caused or had knowledge of the bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering occurred.

49-04.1-04. Reservation. This chapter does not limit or control any other statutory rights or claims for relief which may be brought by a utility.