

Regular Session, 2012

SENATE BILL NO. 616

BY SENATOR MORRELL AND REPRESENTATIVE LEGER

CRIME/PUNISHMENT. Prohibits automated sales suppression devices. (8/1/12)

1 AN ACT

2 To enact R.S. 47:1641.1, relative to criminal penalties for falsifying retail sales records; to  
3 prohibit automated sales suppression devices; to provide for definitions; to provide  
4 for penalties; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 47:1641.1 is hereby enacted to read as follows:

7 **§1641.1. Automated sales suppression devices; definitions; penalties**

8 **A. It shall be unlawful for any person to knowingly create, design,**  
9 **manufacture, sell, purchase, lease, install, update, repair, service, transfer, use,**  
10 **or possess or otherwise make available any automated sales suppression device,**  
11 **zapper, or phantom-ware.**

12 **B. For purposes of this Section:**

13 **(1) "Automated sales suppression device" or "zapper" means a software**  
14 **program that falsifies the records of electronic cash registers, including**  
15 **transaction data and transaction reports, and that is either:**

16 **(a) Carried on a memory stick or other flash memory data storage**  
17 **device, or on a removable optical disc.**

1                   **(b) Accessed through an Internet link.**

2                   **(c) Accessed or stored via any other means.**

3                   **(2) "Electronic cash register" means a device that keeps an electronic**  
4 **record, register, or supporting documentation, through the use of a computer**  
5 **system, of data for the purpose of computing, compiling, or processing retail**  
6 **sales transaction data, and refers to a cash register or any other point-of-sale**  
7 **system.**

8                   **(3) "Phantom-ware" means a hidden programming option embedded in**  
9 **the operating system of, or hardwired into, an electronic cash register that can**  
10 **be used to create a virtual second or alternate electronic cash register or to**  
11 **eliminate or manipulate transaction records, which may or may not be**  
12 **preserved in digital format, to represent either the actual or the manipulated**  
13 **record of transactions.**

14                   **(4) "Transaction data" includes:**

15                   **(a) A description of items purchased by a customer.**

16                   **(b) The price for each item purchased.**

17                   **(c) A taxability determination for each item.**

18                   **(d) A segregated tax amount for each item taxed.**

19                   **(e) The amount of cash or credit tendered.**

20                   **(f) The net amount returned to the customer in change.**

21                   **(g) The date and time of the purchase.**

22                   **(h) The name, address, and identification number of the vendor.**

23                   **(i) The receipt or invoice number of the transaction.**

24                   **(5) "Transaction report" means:**

25                   **(a) A report that contains, but is not limited to, documentation of the**  
26 **sales, taxes, or fees collected, media totals, and discount voids of an electronic**  
27 **cash register and that is printed on a cash register tape or other hard copy at**  
28 **the end of a day or shift.**

29                   **(b) A report that documents every action performed on or by an**

- 1           **electronic cash register and that is stored electronically.**
- 2                       **C. Whoever violates the provisions of this Section shall be fined not more**
- 3           **than five thousand dollars, or imprisoned with or without hard labor for not**
- 4           **more than five years, or both.**

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

#### DIGEST

Morrell (SB 616)

Proposed law makes it unlawful for any person to knowingly create, design, manufacture, sell, purchase, lease, install, update, repair, service, transfer, use, or possess or otherwise make available any automated sales suppression device ("zapper") or phantom-ware.

Proposed law provides for the following definitions:

1. "Automated sales suppression device" or "zapper" means a software program that falsifies the records of electronic cash registers, including transaction data and transaction reports, and that is either carried on a memory stick or other flash memory data storage device, carried on a removable optical disc, accessed through an Internet link, or accessed or stored via any other means.
2. "Electronic cash register" means a device that keeps an electronic record, register, or supporting documentation, through the use of a computer system, of data for the purpose of computing, compiling, or processing retail sales transaction data, and refers to a cash register or any other point-of-sale system.
3. "Phantom-ware" means a hidden programming option embedded in the operating system of, or hardwired into, an electronic cash register that can be used to create a virtual second or alternate electronic cash register or to eliminate or manipulate transaction records, which may or may not be preserved in digital format, to represent either the actual or the manipulated record of transactions in the electronic cash register.
4. "Transaction data" includes a description of items purchased by a customer, the price for each item purchased, a taxability determination for each item, a segregated tax amount for each item taxed, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.
5. "Transaction report" means either a report that contains, but is not limited to, documentation of the sales, taxes, or fees collected, media totals, and discount voids of an electronic cash register or other point-of-sale system and that is printed on a cash register tape or other hard copy at the end of a day or shift, or a report that documents every action performed on or by an electronic cash register and that is stored electronically.

Proposed law provides that whoever violates the provisions of proposed law is to be fined not more than \$5,000, or imprisoned with or without hard labor for not more than five years, or both.

Effective August 1, 2012.

(Adds R.S. 47:1641.1)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Adds to the list of enumerated unlawful actions creating, designing, manufacturing, leasing, updating, repairing, servicing, or otherwise making available any automated sales suppression device, zapper, or phantom-ware.