

1 H.511

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Crimes; frauds; automated sales suppression devices

5 Statement of purpose of bill as introduced: This bill proposes to prohibit the
6 sale, purchase, installation, transfer, or possession of automated sales
7 suppression devices, which are also known as “zappers.”

8 An act relating to “zappers” and automated sales suppression devices

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 Sec. 1. 13 V.S.A. § 2032 is added to read:

11 § 2032. SALES SUPPRESSION DEVICES

12 (a) As used in this section:

13 (1) “Automated sales suppression device” or “zapper” means a software
14 program, carried on a memory stick or removable compact disc, accessed
15 through an Internet link, or accessed through any other means, that falsifies
16 transaction data, transaction reports, or any other electronic records of
17 electronic cash registers and other point-of-sale systems.

18 (2) “Electronic cash register” means a device that keeps a register or
19 supporting documents through the means of an electronic device or computer

1 system designed to record transaction data for the purpose of computing,
2 compiling, or processing retail sales transaction data in any manner.

3 (3) “Phantom-ware” means a hidden programming option, whether
4 preinstalled or installed at a later time, embedded in the operating system of an
5 electronic cash register or hardwired into the electronic cash register that:

6 (A) can be used to create a virtual second till; or

7 (B) may eliminate or manipulate transaction records.

8 (4) “Transaction data” includes items purchased by a customer, the price
9 for each item, a taxability determination for each item, a segregated tax amount
10 for each of the taxed items, the amount of cash or credit tendered, the net
11 amount returned to the customer in change, the date and time of the purchase,
12 the name, address, and identification number of the vendor, and the receipt or
13 invoice number of the transaction.

14 (5) “Transaction reports” means a report documenting, but not limited
15 to, the sales, taxes collected, media totals, and discount voids at an electronic
16 cash register that is printed on cash register tape at the end of a day or shift, or
17 a report documenting every action at an electronic cash register that is stored
18 electronically.

19 (b) A person shall not knowingly sell, purchase, install, transfer, or possess
20 an automated sales suppression device or phantom-ware. A person who

1 violates this subsection shall be imprisoned for not less than one year and not
2 more than five years and fined not more than \$100,000.00, or both.

3 (c) A person who violates subsection (b) of this section shall be liable to
4 the State for:

5 (1) all taxes, interest, and penalties due as the result of the person's use
6 of an automated sales suppression device or phantom-ware; and

7 (2) all profits associated with the person's sale of an automated sales
8 suppression device or phantom-ware.

9 (d) An automated sales suppression device or phantom-ware and any
10 device containing such device or software shall be deemed contraband and
11 shall be subject to seizure by the Commissioner of Taxes or by a law
12 enforcement officer when directed to do so by the Commissioner of Taxes.

13 Sec. 2. EFFECTIVE DATE

14 This act shall take effect on passage.