



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB6156

by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

35 ILCS 105/14	from Ch. 120, par. 439.14
35 ILCS 110/15	from Ch. 120, par. 439.45
35 ILCS 115/15	from Ch. 120, par. 439.115
35 ILCS 120/13	from Ch. 120, par. 452

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act. Provides that a person who knowingly sells, purchases, installs, transfers, possesses, uses, or accesses any automated sales device, zapper, or phantom-ware for use in an electronic cash register or other point-of-sale system in this State is guilty of a Class 3 felony.

LRB097 21080 HLH 68437 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Use Tax Act is amended by changing Section
5 14 as follows:

6 (35 ILCS 105/14) (from Ch. 120, par. 439.14)

7 Sec. 14. When the amount due is under \$300, any person
8 subject to the provisions hereof who fails to file a return, or
9 who violates any other provision of Section 9 or Section 10
10 hereof, or who fails to keep books and records as required
11 herein, or who files a fraudulent return, or who wilfully
12 violates any rule or regulation of the Department for the
13 administration and enforcement of the provisions hereof, or any
14 officer or agent of a corporation or manager, member, or agent
15 of a limited liability company subject hereto who signs a
16 fraudulent return filed on behalf of such corporation or
17 limited liability company, or any accountant or other agent who
18 knowingly enters false information on the return of any
19 taxpayer under this Act, or any person who violates any of the
20 provisions of Sections 3, 5 or 7 hereof, or any purchaser who
21 obtains a registration number or resale number from the
22 Department through misrepresentation, or who represents to a
23 seller that such purchaser has a registration number or a

1 resale number from the Department when he knows that he does
2 not, or who uses his registration number or resale number to
3 make a seller believe that he is buying tangible personal
4 property for resale when such purchaser in fact knows that this
5 is not the case, is guilty of a Class 4 felony.

6 Any person who violates any provision of Section 6 hereof,
7 or who engages in the business of selling tangible personal
8 property at retail after his Certificate of Registration under
9 this Act has been revoked in accordance with Section 12 of this
10 Act, is guilty of a Class 4 felony. Each day any such person is
11 engaged in business in violation of Section 6, or after his
12 Certificate of Registration under this Act has been revoked,
13 constitutes a separate offense.

14 When the amount due is under \$300, any person who accepts
15 money that is due to the Department under this Act from a
16 taxpayer for the purpose of acting as the taxpayer's agent to
17 make the payment to the Department, but who fails to remit such
18 payment to the Department when due is guilty of a Class 4
19 felony. Any such person who purports to make such payment by
20 issuing or delivering a check or other order upon a real or
21 fictitious depository for the payment of money, knowing that it
22 will not be paid by the depository, shall be guilty of a
23 deceptive practice in violation of Section 17-1 of the Criminal
24 Code of 1961, as amended.

25 When the amount due is \$300 or more any person subject to
26 the provisions hereof who fails to file a return or who

1 violates any other provision of Section 9 or Section 10 hereof
2 or who fails to keep books and records as required herein or
3 who files a fraudulent return, or who wilfully violates any
4 rule or regulation of the Department for the administration and
5 enforcement of the provisions hereof, or any officer or agent
6 of a corporation or manager, member, or agent of a limited
7 liability company subject hereto who signs a fraudulent return
8 filed on behalf of such corporation or limited liability
9 company, or any accountant or other agent who knowingly enters
10 false information on the return of any taxpayer under this Act
11 or any person who violates any of the provisions of Sections 3,
12 5 or 7 hereof or any purchaser who obtains a registration
13 number or resale number from the Department through
14 misrepresentation, or who represents to a seller that such
15 purchaser has a registration number or a resale number from the
16 Department when he knows that he does not or who uses his
17 registration number or resale number to make a seller believe
18 that he is buying tangible personal property for resale when
19 such purchaser in fact knows that this is not the case, is
20 guilty of a Class 3 felony.

21 When the amount due is \$300 or more any person who accepts
22 money that is due to the Department under this Act from a
23 taxpayer for the purpose of acting as the taxpayer's agent to
24 make the payment to the Department, but who fails to remit such
25 payment to the Department when due is guilty of a Class 3
26 felony. Any such person who purports to make such payment by

1 issuing or delivering a check or other order upon a real or
2 fictitious depository for the payment of money, knowing that it
3 will not be paid by the depository shall be guilty of a
4 deceptive practice in violation of Section 17-1 of the Criminal
5 Code of 1961, as amended.

6 Any seller who collects or attempts to collect use tax
7 measured by receipts which such seller knows are not subject to
8 use tax, or any seller who knowingly over-collects or attempts
9 to over-collect use tax in a transaction which is subject to
10 the tax that is imposed by this Act, shall be guilty of a Class
11 4 felony for each such offense. This paragraph does not apply
12 to an amount collected by the seller as use tax on receipts
13 which are subject to tax under this Act as long as such
14 collection is made in compliance with the tax collection
15 brackets prescribed by the Department in its Rules and
16 Regulations.

17 Any taxpayer or agent of a taxpayer who with the intent to
18 defraud purports to make a payment due to the Department by
19 issuing or delivering a check or other order upon a real or
20 fictitious depository for the payment of money, knowing that it
21 will not be paid by the depository, shall be guilty of a
22 deceptive practice in violation of Section 17-1 of the Criminal
23 Code of 1961, as amended.

24 Any person who knowingly sells, purchases, installs,
25 transfers, possesses, uses, or accesses any automated sales
26 device, zapper, or phantom-ware in this State is guilty of a

1 Class 3 felony.

2 For the purposes of this Section:

3 "Automated sales suppression device" or "zapper" means a
4 software program that falsifies the electronic records of an
5 electronic cash register or other point-of-sale system,
6 including, but not limited to, transaction data and transaction
7 reports. The term includes the software program, any device
8 that carries the software program, or an Internet link to the
9 software program.

10 "Phantom-ware" means a hidden programming option embedded
11 in the operating system of an electronic cash register or
12 hardwired into an electronic cash register that can be used to
13 create a second set of records or that can eliminate or
14 manipulate transaction records in an electronic cash register.

15 "Electronic cash register" means a device that keeps a
16 register or supporting documents through the use of an
17 electronic device or computer system designed to record
18 transaction data for the purpose of computing, compiling, or
19 processing retail sales transaction data in any manner.

20 "Transaction data" includes: items purchased by a
21 customer; the price of each item; a taxability determination
22 for each item; a segregated tax amount for each taxed item; the
23 amount of cash or credit tendered; the net amount returned to
24 the customer in change; the date and time of the purchase; the
25 name, address, and identification number of the vendor; and the
26 receipt or invoice number of the transaction.

1 "Transaction report" means a report that documents,
2 without limitation, the sales, taxes, or fees collected, media
3 totals, and discount voids at an electronic cash register and
4 that is printed on a cash register tape and the end of a day or
5 shift, or a report that documents every action at an electronic
6 cash register and is stored electronically.

7 A prosecution for any act in violation of this Section may
8 be commenced at any time within 3 years of the commission of
9 that Act.

10 This Section does not apply if the violation in a
11 particular case also constitutes a criminal violation of the
12 Retailers' Occupation Tax Act.

13 (Source: P.A. 88-480.)

14 Section 10. The Service Use Tax Act is amended by changing
15 Section 15 as follows:

16 (35 ILCS 110/15) (from Ch. 120, par. 439.45)

17 Sec. 15. When the amount due is under \$300, any person
18 subject to the provisions hereof who fails to file a return, or
19 who violates any other provision of Section 9 or Section 10
20 hereof, or who fails to keep books and records as required
21 herein, or who files a fraudulent return, or who wilfully
22 violates any Rule or Regulation of the Department for the
23 administration and enforcement of the provisions hereof, or any
24 officer or agent of a corporation, or manager, member, or agent

1 of a limited liability company, subject hereto who signs a
2 fraudulent return filed on behalf of such corporation or
3 limited liability company, or any accountant or other agent who
4 knowingly enters false information on the return of any
5 taxpayer under this Act, or any person who violates any of the
6 provisions of Sections 3 and 5 hereof, or any purchaser who
7 obtains a registration number or resale number from the
8 Department through misrepresentation, or who represents to a
9 seller that such purchaser has a registration number or a
10 resale number from the Department when he knows that he does
11 not, or who uses his registration number or resale number to
12 make a seller believe that he is buying tangible personal
13 property for resale when such purchaser in fact knows that this
14 is not the case, is guilty of a Class 4 felony.

15 Any person who violates any provision of Section 6 hereof,
16 or who engages in the business of making sales of service after
17 his Certificate of Registration under this Act has been revoked
18 in accordance with Section 12 of this Act, is guilty of a Class
19 4 felony. Each day any such person is engaged in business in
20 violation of Section 6, or after his Certificate of
21 Registration under this Act has been revoked, constitutes a
22 separate offense.

23 When the amount due is under \$300, any person who accepts
24 money that is due to the Department under this Act from a
25 taxpayer for the purpose of acting as the taxpayer's agent to
26 make the payment to the Department, but who fails to remit such

1 payment to the Department when due is guilty of a Class 4
2 felony. Any such person who purports to make such payment by
3 issuing or delivering a check or other order upon a real or
4 fictitious depository for the payment of money, knowing that it
5 will not be paid by the depository, shall be guilty of a
6 deceptive practice in violation of Section 17-1 of the Criminal
7 Code of 1961, as amended.

8 When the amount due is \$300 or more, any person subject to
9 the provisions hereof who fails to file a return, or who
10 violates any other provision of Section 9 or Section 10 hereof,
11 or who fails to keep books and records as required herein or
12 who files a fraudulent return, or who willfully violates any
13 rule or regulation of the Department for the administration and
14 enforcement of the provisions hereof, or any officer or agent
15 of a corporation, or manager, member, or agent of a limited
16 liability company, subject hereto who signs a fraudulent return
17 filed on behalf of such corporation or limited liability
18 company, or any accountant or other agent who knowingly enters
19 false information on the return of any taxpayer under this Act,
20 or any person who violates any of the provisions of Sections 3
21 and 5 hereof, or any purchaser who obtains a registration
22 number or resale number from the Department through
23 misrepresentation, or who represents to a seller that such
24 purchaser has a registration number or a resale number from the
25 Department when he knows that he does not, or who uses his
26 registration number or resale number to make a seller believe

1 that he is buying tangible personal property for resale when
2 such purchaser in fact knows that this is not the case, is
3 guilty of a Class 3 felony.

4 When the amount due is \$300 or more, any person who accepts
5 money that is due to the Department under this Act from a
6 taxpayer for the purpose of acting as the taxpayer's agent to
7 make the payment to the Department, but who fails to remit such
8 payment to the Department when due is guilty of a Class 3
9 felony. Any such person who purports to make such payment by
10 issuing or delivering a check or other order upon a real or
11 fictitious depository for the payment of money, knowing that it
12 will not be paid by the depository, shall be guilty of a
13 deceptive practice in violation of Section 17-1 of the Criminal
14 Code of 1961, as amended.

15 Any serviceman who collects or attempts to collect Service
16 Use Tax measured by receipts or selling prices which such
17 serviceman knows are not subject to Service Use Tax, or any
18 serviceman who knowingly over-collects or attempts to
19 over-collect Service Use Tax in a transaction which is subject
20 to the tax that is imposed by this Act, shall be guilty of a
21 Class 4 felony for each offense. This paragraph does not apply
22 to an amount collected by the serviceman as Service Use Tax on
23 receipts or selling prices which are subject to tax under this
24 Act as long as such collection is made in compliance with the
25 tax collection brackets prescribed by the Department in its
26 Rules and Regulations.

1 Any taxpayer or agent of a taxpayer who with the intent to
2 defraud purports to make a payment due to the Department by
3 issuing or delivering a check or other order upon a real or
4 fictitious depository for the payment of money, knowing that it
5 will not be paid by the depository, shall be guilty of a
6 deceptive practice in violation of Section 17-1 of the Criminal
7 Code of 1961, as amended.

8 Any person who knowingly sells, purchases, installs,
9 transfers, possesses, uses, or accesses any automated sales
10 device, zapper, or phantom-ware in this State is guilty of a
11 Class 3 felony.

12 For the purposes of this Section:

13 "Automated sales suppression device" or "zapper" means a
14 software program that falsifies the electronic records of an
15 electronic cash register or other point-of-sale system,
16 including, but not limited to, transaction data and transaction
17 reports. The term includes the software program, any device
18 that carries the software program, or an Internet link to the
19 software program.

20 "Phantom-ware" means a hidden programming option embedded
21 in the operating system of an electronic cash register or
22 hardwired into an electronic cash register that can be used to
23 create a second set of records or that can eliminate or
24 manipulate transaction records in an electronic cash register.

25 "Electronic cash register" means a device that keeps a
26 register or supporting documents through the use of an

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

4 "Transaction data" includes: items purchased by a
5 customer; the price of each item; a taxability determination
6 for each item; a segregated tax amount for each taxed item; the
7 amount of cash or credit tendered; the net amount returned to
8 the customer in change; the date and time of the purchase; the
9 name, address, and identification number of the vendor; and the
10 receipt or invoice number of the transaction.

11 "Transaction report" means a report that documents,
12 without limitation, the sales, taxes, or fees collected, media
13 totals, and discount voids at an electronic cash register and
14 that is printed on a cash register tape and the end of a day or
15 shift, or a report that documents every action at an electronic
16 cash register and is stored electronically.

17 A prosecution for any Act in violation of this Section may
18 be commenced at any time within 3 years of the commission of
19 that Act.

20 This Section does not apply if the violation in a
21 particular case also constitutes a criminal violation of the
22 Retailers' Occupation Tax Act, the Use Tax Act or the Service
23 Occupation Tax Act.

24 (Source: P.A. 90-655, eff. 7-30-98; 91-51, eff. 6-30-99.)

25 Section 15. The Service Occupation Tax Act is amended by

1 changing Section 15 as follows:

2 (35 ILCS 115/15) (from Ch. 120, par. 439.115)

3 Sec. 15. When the amount due is under \$300, any person
4 subject to the provisions hereof who fails to file a return, or
5 who violates any other provision of Section 9 or Section 10
6 hereof, or who fails to keep books and records as required
7 herein, or who files a fraudulent return, or who wilfully
8 violates any Rule or Regulation of the Department for the
9 administration and enforcement of the provisions hereof, or any
10 officer or agent of a corporation, or manager, member, or agent
11 of a limited liability company, subject hereto who signs a
12 fraudulent return filed on behalf of such corporation or
13 limited liability company, or any accountant or other agent who
14 knowingly enters false information on the return of any
15 taxpayer under this Act, or any person who violates any of the
16 provisions of Sections 3, 5 or 7 hereof, or any purchaser who
17 obtains a registration number or resale number from the
18 Department through misrepresentation, or who represents to a
19 seller that such purchaser has a registration number or a
20 resale number from the Department when he knows that he does
21 not, or who uses his registration number or resale number to
22 make a seller believe that he is buying tangible personal
23 property for resale when such purchaser in fact knows that this
24 is not the case, is guilty of a Class 4 felony.

25 Any person who violates any provision of Section 6 hereof,

1 or who engages in the business of making sales of service after
2 his Certificate of Registration under this Act has been revoked
3 in accordance with Section 12 of this Act, is guilty of a Class
4 4 felony. Each day any such person is engaged in business in
5 violation of Section 6, or after his Certificate of
6 Registration under this Act has been revoked, constitutes a
7 separate offense.

8 When the amount due is under \$300, any person who accepts
9 money that is due to the Department under this Act from a
10 taxpayer for the purpose of acting as the taxpayer's agent to
11 make the payment to the Department, but who fails to remit such
12 payment to the Department when due is guilty of a Class 4
13 felony. Any such person who purports to make such payment by
14 issuing or delivering a check or other order upon a real or
15 fictitious depository for the payment of money, knowing that it
16 will not be paid by the depository, shall be guilty of a
17 deceptive practice in violation of Section 17-1 of the Criminal
18 Code of 1961, as amended.

19 When the amount due is \$300 or more, any person subject to
20 the provisions hereof who fails to file a return, or who
21 violates any other provision of Section 9 or Section 10 hereof,
22 or who fails to keep books and records as required herein, or
23 who files a fraudulent return, or who wilfully violates any
24 rule or regulation of the Department for the administration and
25 enforcement of the provisions hereof, or any officer or agent
26 of a corporation, or manager, member, or agent of a limited

1 liability company, subject hereto who signs a fraudulent return
2 filed on behalf of such corporation or limited liability
3 company, or any accountant or other agent who knowingly enters
4 false information on the return of any taxpayer under this Act,
5 or any person who violates any of the provisions of Sections 3,
6 5 or 7 hereof, or any purchaser who obtains a registration
7 number or resale number from the Department through
8 misrepresentation, or who represents to a seller that such
9 purchaser has a registration number or a resale number from the
10 Department when he knows that he does not, or who uses his
11 registration number or resale number to make a seller believe
12 that he is buying tangible personal property for resale when
13 such purchaser in fact knows that this is not the case, is
14 guilty of a Class 3 felony.

15 When the amount due is \$300 or more, any person who accepts
16 money that is due to the Department under this Act from a
17 taxpayer for the purpose of acting as the taxpayer's agent to
18 make the payment to the Department but who fails to remit such
19 payment to the Department when due is guilty of a Class 3
20 felony. Any such person who purports to make such payment by
21 issuing or delivering a check or other order upon a real or
22 fictitious depository for the payment of money, knowing that it
23 will not be paid by the depository shall be guilty of a
24 deceptive practice in violation of Section 17-1 of the Criminal
25 Code of 1961, as amended.

26 Any serviceman who collects or attempts to collect Service

1 Occupation Tax, measured by receipts which such serviceman
2 knows are not subject to Service Occupation Tax, or any
3 serviceman who collects or attempts to collect an amount
4 (however designated) which purports to reimburse such
5 serviceman for Service Occupation Tax liability measured by
6 receipts or selling prices which such serviceman knows are not
7 subject to Service Occupation Tax, or any serviceman who
8 knowingly over-collects or attempts to over-collect Service
9 Occupation Tax or an amount purporting to be reimbursement for
10 Service Occupation Tax liability in a transaction which is
11 subject to the tax that is imposed by this Act, shall be guilty
12 of a Class 4 felony for each such offense. This paragraph does
13 not apply to an amount collected by the serviceman as
14 reimbursement for the serviceman's Service Occupation Tax
15 liability on receipts or selling prices which are subject to
16 tax under this Act, as long as such collection is made in
17 compliance with the tax collection brackets prescribed by the
18 Department in its Rules and Regulations.

19 Any person who knowingly sells, purchases, installs,
20 transfers, possesses, uses, or accesses any automated sales
21 device, zapper, or phantom-ware in this State is guilty of a
22 Class 3 felony.

23 For the purposes of this Section:

24 "Automated sales suppression device" or "zapper" means a
25 software program that falsifies the electronic records of an
26 electronic cash register or other point-of-sale system,

1 including, but not limited to, transaction data and transaction
2 reports. The term includes the software program, any device
3 that carries the software program, or an Internet link to the
4 software program.

5 "Phantom-ware" means a hidden programming option embedded
6 in the operating system of an electronic cash register or
7 hardwired into an electronic cash register that can be used to
8 create a second set of records or that can eliminate or
9 manipulate transaction records in an electronic cash register.

10 "Electronic cash register" means a device that keeps a
11 register or supporting documents through the use of an
12 electronic device or computer system designed to record
13 transaction data for the purpose of computing, compiling, or
14 processing retail sales transaction data in any manner.

15 "Transaction data" includes: items purchased by a
16 customer; the price of each item; a taxability determination
17 for each item; a segregated tax amount for each taxed item; the
18 amount of cash or credit tendered; the net amount returned to
19 the customer in change; the date and time of the purchase; the
20 name, address, and identification number of the vendor; and the
21 receipt or invoice number of the transaction.

22 "Transaction report" means a report that documents,
23 without limitation, the sales, taxes, or fees collected, media
24 totals, and discount voids at an electronic cash register and
25 that is printed on a cash register tape and the end of a day or
26 shift, or a report that documents every action at an electronic

1 cash register and is stored electronically.

2 A prosecution for any act in violation of this Section may
3 be commenced at any time within 3 years of the commission of
4 that act.

5 This Section does not apply if the violation in a
6 particular case also constitutes a criminal violation of the
7 Retailers' Occupation Tax Act or the Use Tax Act.

8 (Source: P.A. 91-51, eff. 6-30-99.)

9 Section 20. The Retailers' Occupation Tax Act is amended by
10 changing Section 13 as follows:

11 (35 ILCS 120/13) (from Ch. 120, par. 452)

12 Sec. 13. When the amount due is under \$300, any person
13 engaged in the business of selling tangible personal property
14 at retail in this State who fails to file a return, or who
15 files a fraudulent return, or any officer, employee or agent of
16 a corporation, member, employee or agent of a partnership, or
17 manager, member, agent, or employee of a limited liability
18 company engaged in the business of selling tangible personal
19 property at retail in this State who, as such officer,
20 employee, agent, manager, or member is under a duty to file a
21 return, or any officer, agent or employee of a corporation,
22 member, agent, or employee of a partnership, or manager,
23 member, agent, or employee of a limited liability company
24 engaged in the business of selling tangible personal property

1 at retail in this State who files or causes to be filed or
2 signs or causes to be signed a fraudulent return filed on
3 behalf of such corporation or limited liability company, or any
4 accountant or other agent who knowingly enters false
5 information on the return of any taxpayer under this Act, is
6 guilty of a Class 4 felony.

7 Any person who or any officer or director of any
8 corporation, partner or member of any partnership, or manager
9 or member of a limited liability company that: (a) violates
10 Section 2a of this Act or (b) fails to keep books and records,
11 or fails to produce books and records as required by Section 7
12 or (c) willfully violates a rule or regulation of the
13 Department for the administration and enforcement of this Act
14 is guilty of a Class A misdemeanor. Any person, manager or
15 member of a limited liability company, or officer or director
16 of any corporation who engages in the business of selling
17 tangible personal property at retail after the certificate of
18 registration of that person, corporation, limited liability
19 company, or partnership has been revoked is guilty of a Class A
20 misdemeanor. Each day such person, corporation, or partnership
21 is engaged in business without a certificate of registration or
22 after the certificate of registration of that person,
23 corporation, or partnership has been revoked constitutes a
24 separate offense.

25 Any purchaser who obtains a registration number or resale
26 number from the Department through misrepresentation, or who

1 represents to a seller that such purchaser has a registration
2 number or a resale number from the Department when he knows
3 that he does not, or who uses his registration number or resale
4 number to make a seller believe that he is buying tangible
5 personal property for resale when such purchaser in fact knows
6 that this is not the case is guilty of a Class 4 felony.

7 Any distributor, supplier or other reseller of motor fuel
8 registered pursuant to Section 2a or 2c of this Act who fails
9 to collect the prepaid tax on invoiced gallons of motor fuel
10 sold or who fails to deliver a statement of tax paid to the
11 purchaser or to the Department as required by Sections 2d and
12 2e of this Act, respectively, shall be guilty of a Class A
13 misdemeanor if the amount due is under \$300, and a Class 4
14 felony if the amount due is \$300 or more.

15 When the amount due is under \$300, any person who accepts
16 money that is due to the Department under this Act from a
17 taxpayer for the purpose of acting as the taxpayer's agent to
18 make the payment to the Department, but who fails to remit such
19 payment to the Department when due is guilty of a Class 4
20 felony.

21 Any seller who collects or attempts to collect an amount
22 (however designated) which purports to reimburse such seller
23 for retailers' occupation tax liability measured by receipts
24 which such seller knows are not subject to retailers'
25 occupation tax, or any seller who knowingly over-collects or
26 attempts to over-collect an amount purporting to reimburse such

1 seller for retailers' occupation tax liability in a transaction
2 which is subject to the tax that is imposed by this Act, shall
3 be guilty of a Class 4 felony for each such offense. This
4 paragraph does not apply to an amount collected by the seller
5 as reimbursement for the seller's retailers' occupation tax
6 liability on receipts which are subject to tax under this Act
7 as long as such collection is made in compliance with the tax
8 collection brackets prescribed by the Department in its Rules
9 and Regulations.

10 When the amount due is \$300 or more, any person engaged in
11 the business of selling tangible personal property at retail in
12 this State who fails to file a return, or who files a
13 fraudulent return, or any officer, employee or agent of a
14 corporation, member, employee or agent of a partnership, or
15 manager, member, agent, or employee of a limited liability
16 company engaged in the business of selling tangible personal
17 property at retail in this State who, as such officer,
18 employee, agent, manager, or member is under a duty to file a
19 return and who fails to file such return or any officer, agent,
20 or employee of a corporation, member, agent or employee of a
21 partnership, or manager, member, agent, or employee of a
22 limited liability company engaged in the business of selling
23 tangible personal property at retail in this State who files or
24 causes to be filed or signs or causes to be signed a fraudulent
25 return filed on behalf of such corporation or limited liability
26 company, or any accountant or other agent who knowingly enters

1 false information on the return of any taxpayer under this Act
2 is guilty of a Class 3 felony.

3 When the amount due is \$300 or more, any person engaged in
4 the business of selling tangible personal property at retail in
5 this State who accepts money that is due to the Department
6 under this Act from a taxpayer for the purpose of acting as the
7 taxpayer's agent to make payment to the Department but fails to
8 remit such payment to the Department when due, is guilty of a
9 Class 3 felony.

10 Any person whose principal place of business is in this
11 State and who is charged with a violation under this Section
12 shall be tried in the county where his principal place of
13 business is located unless he asserts a right to be tried in
14 another venue.

15 Any taxpayer or agent of a taxpayer who with the intent to
16 defraud purports to make a payment due to the Department by
17 issuing or delivering a check or other order upon a real or
18 fictitious depository for the payment of money, knowing that it
19 will not be paid by the depository, shall be guilty of a
20 deceptive practice in violation of Section 17-1 of the Criminal
21 Code of 1961, as amended.

22 Any person who knowingly sells, purchases, installs,
23 transfers, possesses, uses, or accesses any automated sales
24 device, zipper, or phantom-ware in this State is guilty of a
25 Class 3 felony.

26 For the purposes of this Section:

1 "Automated sales suppression device" or "zapper" means a
2 software program that falsifies the electronic records of an
3 electronic cash register or other point-of-sale system,
4 including, but not limited to, transaction data and transaction
5 reports. The term includes the software program, any device
6 that carries the software program, or an Internet link to the
7 software program.

8 "Phantom-ware" means a hidden programming option embedded
9 in the operating system of an electronic cash register or
10 hardwired into an electronic cash register that can be used to
11 create a second set of records or that can eliminate or
12 manipulate transaction records in an electronic cash register.

13 "Electronic cash register" means a device that keeps a
14 register or supporting documents through the use of an
15 electronic device or computer system designed to record
16 transaction data for the purpose of computing, compiling, or
17 processing retail sales transaction data in any manner.

18 "Transaction data" includes: items purchased by a
19 customer; the price of each item; a taxability determination
20 for each item; a segregated tax amount for each taxed item; the
21 amount of cash or credit tendered; the net amount returned to
22 the customer in change; the date and time of the purchase; the
23 name, address, and identification number of the vendor; and the
24 receipt or invoice number of the transaction.

25 "Transaction report" means a report that documents,
26 without limitation, the sales, taxes, or fees collected, media

1 totals, and discount voids at an electronic cash register and
2 that is printed on a cash register tape and the end of a day or
3 shift, or a report that documents every action at an electronic
4 cash register and is stored electronically.

5 A prosecution for any act in violation of this Section may
6 be commenced at any time within 3 years of the commission of
7 that act.

8 (Source: P.A. 87-879; 88-480.)