



Rep. Jack D. Franks

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LRB098 02874 HLH 42058 a

1 AMENDMENT TO HOUSE BILL 49

2 AMENDMENT NO. _____. Amend House Bill 49 by replacing
3 everything after the enacting clause with the following:

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

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

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16 this Act has been revoked in accordance with Section 12 of this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19 Certificate of Registration under this Act has been revoked,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

21 When the amount due is under \$300, 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 4
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 2012.

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

1 guilty of a Class 3 felony.

2 When the amount due is \$300 or more any person who accepts
3 money that is due to the Department under this Act from a
4 taxpayer for the purpose of acting as the taxpayer's agent to
5 make the payment to the Department, but who fails to remit such
6 payment to the Department when due is guilty of a Class 3
7 felony. Any such person who purports to make such payment by
8 issuing or delivering a check or other order upon a real or
9 fictitious depository for the payment of money, knowing that it
10 will not be paid by the depository shall be guilty of a
11 deceptive practice in violation of Section 17-1 of the Criminal
12 Code of 2012.

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

24 Any taxpayer or agent of a taxpayer who with the intent to
25 defraud purports to make a payment due to the Department by
26 issuing or delivering a check or other order upon a real or

1 fictitious depository for the payment of money, knowing that it
2 will not be paid by the depository, shall be guilty of a
3 deceptive practice in violation of Section 17-1 of the Criminal
4 Code of 2012.

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

9 For the purposes of this Section:

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

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

22 "Electronic cash register" means a device that keeps a
23 register or supporting documents through the use of an
24 electronic device or computer system designed to record
25 transaction data for the purpose of computing, compiling, or
26 processing retail sales transaction data in any manner.

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

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

14 A prosecution for any act in violation of this Section may
15 be commenced at any time within 3 years of the commission of
16 that Act.

17 This Section does not apply if the violation in a
18 particular case also constitutes a criminal violation of the
19 Retailers' Occupation Tax Act.

20 (Source: P.A. 97-1150, eff. 1-25-13.)

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

23 (35 ILCS 110/15) (from Ch. 120, par. 439.45)

24 Sec. 15. When the amount due is under \$300, any person

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

22 Any person who violates any provision of Section 6 hereof,
23 or who engages in the business of making sales of service after
24 his Certificate of Registration under this Act has been revoked
25 in accordance with Section 12 of this Act, is guilty of a Class
26 4 felony. Each day any such person is engaged in business in

1 violation of Section 6, or after his Certificate of
2 Registration under this Act has been revoked, constitutes a
3 separate offense.

4 When the amount due is under \$300, 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 4
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 2012.

15 When the amount due is \$300 or more, any person subject to
16 the provisions hereof who fails to file a return, or who
17 violates any other provision of Section 9 or Section 10 hereof,
18 or who fails to keep books and records as required herein or
19 who files a fraudulent return, or who willfully violates any
20 rule or regulation of the Department for the administration and
21 enforcement of the provisions hereof, or any officer or agent
22 of a corporation, or manager, member, or agent of a limited
23 liability company, subject hereto who signs a fraudulent return
24 filed on behalf of such corporation or limited liability
25 company, or any accountant or other agent who knowingly enters
26 false information on the return of any taxpayer under this Act,

1 or any person who violates any of the provisions of Sections 3
2 and 5 hereof, or any purchaser who obtains a registration
3 number or resale number from the Department through
4 misrepresentation, or who represents to a seller that such
5 purchaser has a registration number or a resale number from the
6 Department when he knows that he does not, or who uses his
7 registration number or resale number to make a seller believe
8 that he is buying tangible personal property for resale when
9 such purchaser in fact knows that this is not the case, is
10 guilty of a Class 3 felony.

11 When the amount due is \$300 or more, any person who accepts
12 money that is due to the Department under this Act from a
13 taxpayer for the purpose of acting as the taxpayer's agent to
14 make the payment to the Department, but who fails to remit such
15 payment to the Department when due is guilty of a Class 3
16 felony. Any such person who purports to make such payment 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 2012.

22 Any serviceman who collects or attempts to collect Service
23 Use Tax measured by receipts or selling prices which such
24 serviceman knows are not subject to Service Use Tax, or any
25 serviceman who knowingly over-collects or attempts to
26 over-collect Service Use Tax in a transaction which is subject

1 to the tax that is imposed by this Act, shall be guilty of a
2 Class 4 felony for each offense. This paragraph does not apply
3 to an amount collected by the serviceman as Service Use Tax on
4 receipts or selling prices which are subject to tax under this
5 Act as long as such collection is made in compliance with the
6 tax collection brackets prescribed by the Department in its
7 Rules and Regulations.

8 Any taxpayer or agent of a taxpayer who with the intent to
9 defraud purports to make a payment due to the Department 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 2012.

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

19 For the purposes of this Section:

20 "Automated sales suppression device" or "zapper" means a
21 software program that falsifies the electronic records of an
22 electronic cash register or other point-of-sale system,
23 including, but not limited to, transaction data and transaction
24 reports. The term includes the software program, any device
25 that carries the software program, or an Internet link to the
26 software program.

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

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

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

18 "Transaction report" means a report that documents,
19 without limitation, the sales, taxes, or fees collected, media
20 totals, and discount voids at an electronic cash register and
21 that is printed on a cash register tape and the end of a day or
22 shift, or a report that documents every action at an electronic
23 cash register and is stored electronically.

24 A prosecution for any Act in violation of this Section may
25 be commenced at any time within 3 years of the commission of
26 that Act.

1 This Section does not apply if the violation in a
2 particular case also constitutes a criminal violation of the
3 Retailers' Occupation Tax Act, the Use Tax Act or the Service
4 Occupation Tax Act.

5 (Source: P.A. 97-1150, eff. 1-25-13.)

6 Section 15. The Service Occupation Tax Act is amended by
7 changing Section 15 as follows:

8 (35 ILCS 115/15) (from Ch. 120, par. 439.115)

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

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

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

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. 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 2012.

26 When the amount due is \$300 or more, any person subject to

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

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

1 felony. Any such person who purports to make such payment by
2 issuing or delivering a check or other order upon a real or
3 fictitious depository for the payment of money, knowing that it
4 will not be paid by the depository shall be guilty of a
5 deceptive practice in violation of Section 17-1 of the Criminal
6 Code of 2012.

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

26 Any person who knowingly sells, purchases, installs,

1 transfers, possesses, uses, or accesses any automated sales
2 device, zapper, or phantom-ware in this State is guilty of a
3 Class 3 felony.

4 For the purposes of this Section:

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

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

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

22 "Transaction data" includes: items purchased by a
23 customer; the price of each item; a taxability determination
24 for each item; a segregated tax amount for each taxed item; the
25 amount of cash or credit tendered; the net amount returned to
26 the customer in change; the date and time of the purchase; the

1 name, address, and identification number of the vendor; and the
2 receipt or invoice number of the transaction.

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

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

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

15 (Source: P.A. 97-1150, eff. 1-25-13.)

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

18 (35 ILCS 120/13) (from Ch. 120, par. 452)

19 Sec. 13. Criminal penalties.

20 (a) When the amount due is under \$300, any person engaged
21 in the business of selling tangible personal property at retail
22 in this State who fails to file a return, or who files a
23 fraudulent return, or any officer, employee or agent of a
24 corporation, member, employee or agent of a partnership, or

1 manager, member, agent, or employee of a limited liability
2 company engaged in the business of selling tangible personal
3 property at retail in this State who, as such officer,
4 employee, agent, manager, or member is under a duty to file a
5 return, or any officer, agent or employee of a corporation,
6 member, agent, or employee of a partnership, or manager,
7 member, agent, or employee of a limited liability company
8 engaged in the business of selling tangible personal property
9 at retail in this State who files or causes to be filed or
10 signs or causes to be signed a fraudulent return filed on
11 behalf of such corporation or limited liability company, or any
12 accountant or other agent who knowingly enters false
13 information on the return of any taxpayer under this Act, is
14 guilty of a Class 4 felony.

15 Any person who or any officer or director of any
16 corporation, partner or member of any partnership, or manager
17 or member of a limited liability company that: (a) violates
18 Section 2a of this Act or (b) fails to keep books and records,
19 or fails to produce books and records as required by Section 7
20 or (c) willfully violates a rule or regulation of the
21 Department for the administration and enforcement of this Act
22 is guilty of a Class A misdemeanor. Any person, manager or
23 member of a limited liability company, or officer or director
24 of any corporation who engages in the business of selling
25 tangible personal property at retail after the certificate of
26 registration of that person, corporation, limited liability

1 company, or partnership has been revoked is guilty of a Class A
2 misdemeanor. Each day such person, corporation, or partnership
3 is engaged in business without a certificate of registration or
4 after the certificate of registration of that person,
5 corporation, or partnership has been revoked constitutes a
6 separate offense.

7 Any purchaser who obtains a registration number or resale
8 number from the Department through misrepresentation, or who
9 represents to a seller that such purchaser has a registration
10 number or a resale number from the Department when he knows
11 that he does not, or who uses his registration number or resale
12 number to make a seller believe that he is buying tangible
13 personal property for resale when such purchaser in fact knows
14 that this is not the case is guilty of a Class 4 felony.

15 Any distributor, supplier or other reseller of motor fuel
16 registered pursuant to Section 2a or 2c of this Act who fails
17 to collect the prepaid tax on invoiced gallons of motor fuel
18 sold or who fails to deliver a statement of tax paid to the
19 purchaser or to the Department as required by Sections 2d and
20 2e of this Act, respectively, shall be guilty of a Class A
21 misdemeanor if the amount due is under \$300, and a Class 4
22 felony if the amount due is \$300 or more.

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.

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

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

1 return and who fails to file such return or any officer, agent,
2 or employee of a corporation, member, agent or employee of a
3 partnership, or manager, member, agent, or employee of a
4 limited liability company engaged in the business of selling
5 tangible personal property at retail in this State who files or
6 causes to be filed or signs or causes to be signed a fraudulent
7 return filed on behalf of such corporation or limited liability
8 company, or any accountant or other agent who knowingly enters
9 false information on the return of any taxpayer under this Act
10 is guilty of a Class 3 felony.

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

18 Any person whose principal place of business is in this
19 State and who is charged with a violation under this Section
20 shall be tried in the county where his principal place of
21 business is located unless he asserts a right to be tried in
22 another venue.

23 Any taxpayer or agent of a taxpayer who with the intent to
24 defraud purports to make a payment due to the Department by
25 issuing or delivering a check or other order upon a real or
26 fictitious depository for the payment of money, knowing that it

1 will not be paid by the depository, shall be guilty of a
2 deceptive practice in violation of Section 17-1 of the Criminal
3 Code of 2012.

4 (b) A person commits the offense of sales tax evasion under
5 this Act when he knowingly attempts in any manner to evade or
6 defeat the tax imposed on him or on any other person, or the
7 payment thereof, and he commits an affirmative act in
8 furtherance of the evasion. For purposes of this Section, an
9 "affirmative act in furtherance of the evasion" means an act
10 designed in whole or in part to (i) conceal, misrepresent,
11 falsify, or manipulate any material fact or (ii) tamper with or
12 destroy documents or materials related to a person's tax
13 liability under this Act. Two or more acts of sales tax evasion
14 may be charged as a single count in any indictment,
15 information, or complaint and the amount of tax deficiency may
16 be aggregated for purposes of determining the amount of tax
17 which is attempted to be or is evaded and the period between
18 the first and last acts may be alleged as the date of the
19 offense.

20 (1) When the amount of tax, the assessment or payment
21 of which is attempted to be or is evaded is less than \$500
22 a person is guilty of a Class 4 felony.

23 (2) When the amount of tax, the assessment or payment
24 of which is attempted to be or is evaded is \$500 or more
25 but less than \$10,000, a person is guilty of a Class 3
26 felony.

1 (3) When the amount of tax, the assessment or payment
2 of which is attempted to be or is evaded is \$10,000 or more
3 but less than \$100,000, a person is guilty of a Class 2
4 felony.

5 (4) When the amount of tax, the assessment or payment
6 of which is attempted to be or is evaded is \$100,000 or
7 more, a person is guilty of a Class 1 felony.

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 (c) A prosecution for any act in violation of this Section
18 may be commenced at any time within 5 years of the commission
19 of that act.

20 (Source: P.A. 97-1074, eff. 1-1-13; 97-1150, eff. 1-25-13.)".