ASSEMBLY, No. 3698

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:
Assemblyman RONALD S. DANCER
District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Criminalizes use of certain automated sales suppression devices to falsify records.

CURRENT VERSION OF TEXT

As introduced.

AN ACT criminalizing the use of certain automated sales suppression devices, and supplementing Title 2C of the New Jersey Statutes and Title 54 of Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. As used in this section:

"Automated sales suppression device" means a software program carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including, but not limited to, transaction data and transaction reports.

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

"Phantom-ware" means a hidden programming option embedded in the operating system of an electronic cash register or connected into an electronic cash register which may be used to create a second set of records or eliminate or manipulate transaction records, which may or may not be preserved in digital formats, to represent the true or manipulated record of transactions in an electronic cash register.

"Transaction data" includes, but shall not be limited to, information regarding items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, 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.

"Transaction report" means a report printed on cash register tape that contains information including, but not limited to, the sales, taxes or fees collected, media totals, and discount voids on an electronic cash register or a report that is stored electronically which documents every action on an electronic cash register.

b. (1) A person shall not sell, purchase, install, transfer, possess, use, or access an automated sales suppression device or phantom-ware with the knowledge that the purpose of these devices is to falsify records.

(2) A person shall not intentionally falsify transaction data on electronic cash registers or similar point-of-sale systems.

c. A person who violates paragraphs 1 or 2 of subsection b. of this section shall be guilty of a crime of the third degree.

2. The director or any employee within the Division of Taxation shall have direct access to electronic cash registers and other point-of-sale systems when a taxpayer is under investigation for potential violation of any State tax law.

3. This act shall take effect immediately

STATEMENT

This bill makes it a crime to use, sell, purchase, install, transfer, possess, or access an automated sales suppression device or similar electronic tool.

An automated sales suppression device is a software program that can be carried on a memory stick or a compact disk that falsifies the electronic records of devices that keep registers or supporting documents related to retail sales. Phantom-ware refers to a hidden programming option within an electronic cash register or connected into an electronic cash register that can manipulate or eliminate transaction records or create a second set of records. These devices can be used by individuals to engage in tax evasion through falsifying records, and this bill seeks to curtail the availability and punish the use of these devices.

The bill makes it a crime of the third degree to use, sell, purchase, install, transfer, possess, or access either of these devices with the knowledge that the purpose of these devices is to falsify records. A crime of the third degree is punishable with imprisonment for a term of three to five years or a fine of up to $15,000, or both.

This bill allows auditors with the Division of Taxation to have direct access to electronic cash registers and other point-of-sale systems when conducting investigations of a taxpayer for potential violation of any State tax law.