
A BILL FOR AN ACT

RELATING TO TAX FRAUD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that technology has made
2 it possible to skim large amounts of sales receipts while at the
3 same time making it virtually undetectable in point of sale
4 terminals through the use of automated sales suppression
5 devices, zappers, and phantom-ware. These devices bring new
6 technologies to an old tax fraud. For example, one of the
7 largest tax fraud cases in Connecticut involved the use of a
8 zapper to hide \$17,000,000 in receipts. Likewise, a taxpayer in
9 Michigan skimmed \$20,000,000 in cash sales through the use of a
10 zapper. Zapper frauds originated in Europe but have spread to
11 the United States, Canada, Brazil, Australia, and many other
12 countries.

13 The purpose of this Act is to prevent tax fraud by
14 prohibiting the use, purchase, sale, installation, update,
15 maintenance, upgrade, transfer, possession, or creation of
16 automated sales suppression devices, zappers, and phantom-ware.



1 SECTION 2. Chapter 231, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§231- Automated sales suppression devices, zappers, or
5 phantom-ware; prohibited. (a) As used in this section:

6 "Automated sales suppression device" or "zapper" means a
7 software program, carried on a memory stick or removable compact
8 disc, accessed through an internet link or any other means, that
9 falsifies the electronic records of electronic cash registers
10 and other point-of-sale systems, including transaction data and
11 transaction reports.

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

17 "Person" includes one or more individuals, a company,
18 corporation, a partnership, an association, or any other type of
19 legal entity, and also includes an officer or employee of a
20 corporation, a partner or employee of a partnership, a trustee
21 of a trust, a fiduciary of an estate, or a member, employee, or
22 principal of any other entity, who is under a duty to perform



1 for the benefit of another and is principally responsible for
2 the entity.

3 "Phantom-ware" means a hidden programming option embedded
4 in the operating system of an electronic cash register or
5 hardwired into the electronic cash register, which may be used
6 to create a virtual second till, or may eliminate or manipulate
7 transaction records that may or may not be preserved in digital
8 formats to represent the true or manipulated record of
9 transactions in the electronic cash register.

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

18 "Transaction report" means a report that includes sales,
19 taxes collected, media totals, and discount voids at an
20 electronic cash register and that is printed on cash register
21 tape at the end of a day or shift, or a report that documents



1 every action at an electronic cash register that is stored
2 electronically.

3 (b) Any person who knowingly uses, purchases, sells,
4 installs, updates, maintains, upgrades, transfers, possesses, or
5 creates any automated sales suppression device, zapper, or
6 phantom-ware shall:

7 (1) Be guilty of a class C felony and be fined not more
8 than \$100,000 or imprisoned for not more than five
9 years, or both;

10 (2) Be liable for all taxes, penalties, and interest due
11 to the State as a result of such use, purchase, sale,
12 installation, update, maintenance, upgrade, transfer,
13 possession, or creation; and

14 (3) Forfeit all profits resulting from the use, purchase,
15 sale, installation, update, maintenance, upgrade,
16 transfer, possession, or creation of the automated
17 sales suppression device, zapper, or phantom-ware.

18 (c) An automated sales suppression device, zapper, or
19 phantom-ware and any device containing an automated sales
20 suppression device, zapper, or phantom-ware device or software
21 shall be contraband, and shall be subject to confiscation by the
22 department."



1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect on January 1, 2014.



Report Title:
Tax Fraud

Description:
Prohibits the use, purchase, sale, installation, update, maintenance, upgrade, transfer, possession, or creation of zappers or automated sales suppression devices used to commit tax fraud. Effective January 1, 2014. (HB958 HD1)

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