

As Amended by House Committee

Session of 2018

HOUSE BILL No. 2527

By Committee on Taxation

1-23

1 AN ACT concerning crimes, punishment and criminal procedure; creating
2 the crime of unlawful acts involving an automated sales suppression
3 device; sales and use tax.

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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) Unlawful acts involving an automated sales
7 suppression device is knowingly selling, purchasing, installing,
8 transferring, manufacturing, creating, designing, updating, repairing, using
9 or possessing an automated sales suppression device, zapper or phantom-
10 ware.

11 (b) Unlawful acts involving an automated sales suppression device is
12 a severity level-6 7, nonperson felony.

13 (c) In addition to any other criminal penalties provided by law, any
14 person convicted of unlawful acts involving an automated sales
15 suppression device may be liable for all taxes, interest and penalties due
16 the state as a result of such unlawful acts.

17 (d) As used in this section:

18 (1) "Automated sales suppression device" or "zapper" means a
19 computer software program, carried on a memory stick or removable
20 compact disc, accessed through an internet link or accessed through any
21 other means that falsifies the electronic records of electronic cash registers
22 and other point-of-sale systems, including, but not limited to, transaction
23 data and transaction reports;

24 (2) "electronic cash register" means a device that keeps a register or
25 supporting documents through the means of an electronic device or
26 computer system designed to record transaction data in any manner;

27 (3) "phantom-ware" means a hidden, pre-installed or installed at a
28 later time programming option embedded in the operating system of an
29 electronic cash register or hardwired into the electronic cash register that
30 can be used to create a virtual second till or may eliminate or manipulate
31 transaction records that may or may not be preserved in digital formats to
32 represent the true or manipulated record of transactions in the electronic
33 cash register;

34 (4) "transaction data" includes, but is not limited to:

35 (A) Items purchased by a customer;

36 (B) the price for each item;

- 1 (C) a taxability determination for each item;
2 (D) a segregated tax amount for each of the taxed items;
3 (E) the amount of cash or credit tendered;
4 (F) the net amount returned to the customer in change;
5 (G) the date and time of the purchase;
6 (H) the name, address and identification number of the vendor; and
7 (I) the receipt or invoice number of the transaction; and
8 (5) "transaction report" means a report including, but not limited to,
9 the sales, taxes collected, media totals and discount voids at an electronic
10 cash register that is printed on cash register tape at the end of a day or
11 shift, or a report documenting every action at an electronic cash register
12 that is stored electronically.
- 13 (e) This section shall be part of and supplemental to the Kansas
14 criminal code.
- 15 Sec. 2. This act shall take effect and be in force from and after its
16 publication in the statute book.