

Section 40-29-121**Automated sales suppression devices or phantom-ware.**

(a) For purposes of this section, the following terms have the following meanings:

(1) **AUTOMATED SALES SUPPRESSION DEVICE.** A software program carried on a memory stick or removable compact disc, accessed through an Internet link, or by 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.

(2) **ELECTRONIC CASH REGISTER.** 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 and other transaction data.

(3) **PHANTOM-WARE.** Any hidden or concealed programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a second set of records or to eliminate or manipulate transaction records that may or may not be preserved in digital formats in order to represent the true or manipulated record of a transaction in the electronic cash register.

(4) **TRANSACTION DATA.** Data relating to a transaction which includes, but is not limited to, data identifying each item 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.

(5) **TRANSACTION REPORTS.** Either of the following or any variation thereof:

a. A report that contains, but is not limited to, documentation of sales, taxes, or fees collected; media totals; and discount voids at an electronic cash register, and that is printed on a cash register tape at the end of a day or shift, or

b. A report that documents every action at an electronic cash register and that is stored electronically.

(b) It is unlawful to knowingly sell, purchase, install, transfer, use, or possess in this state any automated sales suppression device or phantom-ware.

(c) Any person convicted of a violation of this section is guilty of a Class C felony and upon conviction, shall also be fined not more than one hundred thousand dollars (\$100,000), or in the case of a corporation, not more than five hundred thousand dollars (\$500,000). In addition, the person shall be liable for all taxes, fees, penalties, and interest due the state and any locality as the result of the fraudulent use of an automated sales suppression device or phantom-ware and shall forfeit to the state, as an additional penalty, all profits associated with the sale or use of an automated sales suppression device or phantom-ware.

(d) An automated sales suppression device or phantom-ware and any device containing such device or software shall be contraband and shall be forfeited to the state.

(Act 2015-502, 1st Sp. Sess., §2.)