

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 465
Second Edition Engrossed 5/13/13

Short Title: Prohibit Use of Tax Zapper Software. (Public)

Sponsors: Senators McKissick, Brown, Daniel (Primary Sponsors); Brock, Clark, Cook, and Jackson.

Referred to: Judiciary II.

March 28, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE IT A CRIMINAL OFFENSE TO SELL, PURCHASE, INSTALL,
3 POSSESS, TRANSFER, USE, OR ACCESS AN AUTOMATED SALES SUPPRESSION
4 DEVICE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 20 of Chapter 14 of the General Statutes is amended by
7 adding a new section to read:

8 "**§ 14-118.7. Possession, transfer, or use of automated sales suppression device.**

9 (a) Definitions. – The following definitions apply in this section:

- 10 (1) Automated sales suppression device or zapper. – A software program that
11 falsifies the electronic records of electronic cash registers and other
12 point-of-sale systems, including transaction data and transaction reports. The
13 term includes the software program, any device that carries the software
14 program, or an Internet link to the software program.
- 15 (2) Electronic cash register. – A device that keeps a register or supporting
16 documents through the use of an electronic device or computer system
17 designed to record transaction data for the purpose of computing, compiling,
18 or processing retail sales transaction data in whatever manner.
- 19 (3) Phantom-ware. – A hidden programming option embedded in the operating
20 system of an electronic cash register or hardwired into the electronic cash
21 register that can be used to create a second set of records or may eliminate or
22 manipulate transaction records, which may or may not be preserved in
23 digital formats, to represent the true or manipulated record of transactions in
24 the electronic cash register.
- 25 (4) Transaction data. – The term includes items purchased by a customer, the
26 price for each item, a taxability determination for each item, a segregated tax
27 amount for each of the taxed items, the amount of cash or credit tendered,
28 the net amount returned to the customer in change, the date and time of the
29 purchase, the name, address, and identification number of the vendor, and
30 the receipt or invoice number of the transaction.
- 31 (5) Transaction report. – A report that documents, but is not limited to
32 documenting, the sales, taxes, or fees collected, media totals, and discount
33 voids at an electronic cash register and that is printed on cash register tape at
34 the end of a day or shift, or a report that documents every action at an
35 electronic cash register and that is stored electronically.



1 (b) Offense. – No person shall knowingly sell, purchase, install, transfer, possess, use,
2 or access any automated sales suppression device, zapper, or phantom-ware.

3 (c) Penalty. – Any person convicted of a violation of this section is guilty of a Class H
4 felony with a fine of up to ten thousand dollars (\$10,000).

5 (d) Liability. – Any person who violates this section is liable for all taxes, fees,
6 penalties, and interest due the State as the result of the use of an automated sales suppression
7 device, zapper, or phantom-ware and shall forfeit to the State as an additional penalty all profits
8 associated with the sale or use of an automated sales suppression device, zapper, or
9 phantom-ware.

10 (e) Contraband. – An automated sales suppression device, zapper, or phantom-ware, or
11 any device containing such device or software, is contraband."

12 **SECTION 2.** This act becomes effective December 1, 2013, and applies to
13 offenses committed on or after that date.