



General Assembly

February Session, 2012

**Raised Bill No. 5421**

LCO No. 1956

\*01956\_\_\_\_\_FIN\*

Referred to Committee on Finance, Revenue and Bonding

Introduced by:  
(FIN)

**AN ACT CONCERNING "ZAPPERS".**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-428 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 [(1)] (a) Any person required under this chapter to pay any tax, or  
4 required under this chapter or by regulations thereunder to make a  
5 return, keep any record or supply any information, who wilfully fails  
6 to pay such tax, make such return, keep such records or supply such  
7 information, at the time required by law, shall, in addition to any other  
8 penalty provided by law, be fined not more than one thousand dollars  
9 or imprisoned not more than one year, or both. Notwithstanding the  
10 provisions of section 54-193, no person shall be prosecuted for a  
11 violation of the provisions of this subsection committed on or after July  
12 1, 1997, except within three years next after such violation has been  
13 committed. As used in this section, "person" includes any officer or  
14 employee of a corporation, or a member or employee of a partnership  
15 under a duty to pay such tax, make such return, keep such records or  
16 supply such information.

17        [(2)] (b) Any person who wilfully delivers or discloses to the  
18 commissioner or his authorized agent any list, return, account,  
19 statement or other document, known by him to be fraudulent or false  
20 in any material matter, shall, in addition to any other penalty provided  
21 by law, be fined not more than five thousand dollars or imprisoned not  
22 more than five years nor less than one year or both. No person shall be  
23 charged with an offense under both subsections [(1) and (2)] (a) and (b)  
24 of this section in relation to the same tax period but such person may  
25 be charged and prosecuted for both such offenses upon the same  
26 information.

27        (c) (1) As used in this subsection:

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

34        (B) "Electronic cash register" means a device that keeps a register or  
35 supporting documents through the means of an electronic device or  
36 computer system designed to record transaction data for the purpose  
37 of computing, compiling or processing retail sales transaction data in  
38 whatever manner.

39        (C) "Phantom-ware" means a hidden, preinstalled or installed at a  
40 later time programming option embedded in the operating system of  
41 an electronic cash register or hardwired into the electronic cash register  
42 that may be used to create a virtual second till, or may eliminate or  
43 manipulate transaction records that may or may not be preserved in  
44 digital formats to represent the true or manipulated record of  
45 transactions in the electronic cash register.

46        (D) "Transaction data" means information that includes items  
47 purchased by a customer, the price for each item, a taxability

48 determination for each item, a segregated tax amount for each of the  
49 taxed items, the amount of cash or credit tendered, the net amount  
50 returned to the customer in change, the date and time of the purchase,  
51 the name, address and identification number of the retailer, and the  
52 receipt or invoice number of the transaction.

53 (E) "Transaction report" means a report that includes, but need not  
54 be limited to, sales, taxes collected, media totals and discount voids at  
55 an electronic cash register that is printed on cash register tape at the  
56 end of a day or shift, or a report that documents every action at an  
57 electronic cash register that is stored electronically.

58 (2) It shall be unlawful to wilfully and knowingly sell, purchase,  
59 install, transfer or possess any automated sales suppression device or  
60 phantom-ware.

61 (3) Any person convicted of a violation of subdivision (2) of this  
62 subsection shall be fined not more than one hundred thousand dollars  
63 or imprisoned for not less than one or more than five years, or both.

64 (4) Any person violating subdivision (2) of this subsection shall be  
65 liable for all taxes, penalties and interest due to the state as the result of  
66 such violation, and shall forfeit all profits associated with the sale or  
67 use of an automated sales suppression device or phantom-ware.

68 (5) An automated sales suppression device or phantom-ware and  
69 any device containing such device or software shall be contraband,  
70 and shall be subject to confiscation by the Commissioner of Revenue  
71 Services.

72 [(3)] (d) Any person who knowingly violates any provision of this  
73 chapter for which no other penalty is provided [,] shall be fined not  
74 more than one thousand dollars or imprisoned not more than one year,  
75 or both, for each offense.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2012	12-428
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**Statement of Purpose:**

To make it a felony to sell, purchase, install, transfer or possess an automated sales suppression device ("zapper") or phantom-ware that eliminates point-of-sale transactions randomly, and creates a shadow record of the sale, making it difficult to detect understated records of sales and sales tax liability.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*