

1 HB140  
2 164891-2  
3 By Representatives McMillan, Rogers, Garrett, Ingram and Hill  
4 (M)  
5 RFD: Judiciary  
6 First Read: 05-MAR-15



1 revenue laws unless the indictment is found or the prosecution  
2 instituted within three years next after the commission of the  
3 offense, except that the period of limitation shall be six  
4 years:

5 "(1) For offenses involving the defrauding or  
6 attempting to defraud the State of Alabama or any agency  
7 thereof, whether by conspiracy or not, and in any manner;

8 "(2) For the offense of willfully attempting in any  
9 manner to evade or defeat any tax or the payment thereof;

10 "(3) For the offense of willfully aiding or  
11 assisting in, or procuring, counseling, or advising, the  
12 preparation or presentation under, or in connection with any  
13 matter arising under, the statute revenue laws, of a false or  
14 fraudulent return, affidavit, claim or document (whether or  
15 not such falsity or fraud is with the knowledge or consent of  
16 the person authorized or required to present such return,  
17 affidavit, claim, or document);

18 "(4) For the offense of willfully failing to pay any  
19 tax, or make any return at the time or times required by law  
20 or regulations;

21 "(5) For offenses described in Sections 40-29-115  
22 and 40-29-116 (relating to false statements and fraudulent  
23 documents);

24 "(6) For the offense described in Section 40-29-118  
25 (relating to intimidation of officers and employees of the  
26 State of Alabama); or

1           "(7) For the offense described in Section 40-29-121  
2           (relating to the possession or use of an automated sales  
3           suppression device or phantom-ware).

4           "(b) The time during which the person committing any  
5           of the various offenses arising under the revenue laws is  
6           outside the State of Alabama or is a fugitive from justice  
7           within the meaning of the Code of Alabama, shall not be taken  
8           as any part of the time limited by law for the commencement of  
9           such proceedings.

10           Section 2. Section 40-29-121 is added to Chapter 29,  
11           Title 40, Code of Alabama 1975, as follows:

12           "§40-29-121.

13           "(a) For purposes of this section, the following  
14           words have the following meanings:

15           "(1) AUTOMATED SALES SUPPRESSION DEVICE. A software  
16           program carried on a memory stick or removable compact disc,  
17           accessed through an Internet link, or by any other means, that  
18           falsifies the electronic records of electronic cash registers  
19           and other point-of-sale systems, including, but not limited  
20           to, transaction data and transaction reports.

21           "(2) ELECTRONIC CASH REGISTER. A device that keeps a  
22           register or supporting documents through the use of an  
23           electronic device or computer system designed to record  
24           transaction data for the purpose of computing, compiling, or  
25           processing retail sales and other transaction data.

26           "(3) PHANTOM-WARE. Any hidden or concealed  
27           programming option embedded in the operating system of an

1 electronic cash register or hardwired into the electronic cash  
2 register that can be used to create a second set ~~or~~ of records  
3 or to eliminate or manipulate transaction records that may or  
4 may not be preserved in digital formats in order to represent  
5 the true or manipulated record of a transaction in the  
6 electronic cash register.

7 "(4) TRANSACTION DATA. Data relating to a  
8 transaction which includes, but is not limited to, data  
9 identifying each item purchased by a customer, the price for  
10 each item, a taxability determination for each item, a  
11 segregated tax amount for each of the taxed items, the amount  
12 of cash or credit tendered, the net amount returned to the  
13 customer in change, the date and time of the purchase, the  
14 name, address, and identification number of the vendor, and  
15 the receipt or invoice number of the transaction.

16 "(5) TRANSACTION REPORTS. Either of the following or  
17 any variation thereof:

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

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

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

1           "(c). Any person convicted of a violation of this  
2 section is Class C guilty of a felony and upon conviction,  
3 shall also be fined not more than one hundred thousand dollars  
4 (\$100,000), or in the case of a corporation, not more than  
5 five hundred thousand dollars (\$500,000), ~~or may be imprisoned~~  
6 ~~for not more than three years, or both fine and imprisonment.~~  
7 In addition, the person shall be liable for all taxes, fees,  
8 penalties, and interest due the state as the result of the  
9 fraudulent use of an automated sales suppression device or  
10 phantom-ware and shall forfeit to the state, as an additional  
11 penalty, all profits associated with the sale or use of an  
12 automated sales suppression device or phantom-ware.

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

16           Section 3. All laws or parts of laws which conflict  
17 with this act are repealed.

18           Section 4. The provisions of this act are severable.  
19 If any part of this act is declared invalid or  
20 unconstitutional, that declaration shall not affect the part  
21 which remains.

22           Section 5. Although this bill would have as its  
23 purpose or effect the requirement of a new or increased  
24 expenditure of local funds, the bill is excluded from further  
25 requirements and application under Amendment 621, now  
26 appearing as Section 111.05 of the Official Recompilation of  
27 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an  
2 existing crime.

3 Section 6. This act shall become effective  
4 immediately following its passage and approval by the  
5 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Judiciary ..... 05-MAR-15

Read for the second time and placed  
on the calendar 2 amendments ..... 16-APR-15

Read for the third time and passed  
as amended..... 26-MAY-15

Yeas 100, Nays 0, Abstains 0

Jeff Woodard  
Clerk