

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 718

By: Senator Files

For An Act To Be Entitled

AN ACT TO CREATE CRIMINAL AND CIVIL PENALTIES FOR CERTAIN ACTIVITIES RELATING TO SOFTWARE AND OTHER DEVICES AND MECHANISMS THAT MODIFY OR FALSIFY ELECTRONIC RECORDS FOR THE PURPOSE OF EVADING TAXES; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE CRIMINAL AND CIVIL PENALTIES FOR CERTAIN ACTIVITIES RELATING TO SOFTWARE AND OTHER DEVICES AND MECHANISMS THAT MODIFY OR FALSIFY ELECTRONIC RECORDS FOR THE PURPOSE OF EVADING TAXES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

D SECTION 1. Arkansas Code § 5-37-101, concerning the definitions to be used in relation to forgery and fraudulent practices, is amended to add additional subdivisions to read as follows:

(10) "Electronic cash register" means a device that keeps a register or supporting document by means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data or a transaction report;

(11) "Transaction data" means information concerning one (1) or more sales transactions, including without limitation the following:

(A) The items purchased by each customer;

(B) The price for each item purchased;



- (C) A taxability determination for each item purchased;
- (D) A segregated tax amount for each taxed item purchased;
- (E) The amount of cash or credit tendered for each purchase;
- (F) The net amount returned to the customer in change;
- (G) The date and time of the purchase;
- (H) The name, address, and identification number of the vendor; and
- (I) The receipt or invoice number of the transaction; and
- (12) "Transaction report" means a report that includes without limitation:
 - (A) The sales, taxes collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of the day or shift; and
 - (B) Each action at an electronic cash register that is stored electronically.

SECTION 2. Arkansas Code Title 5, Chapter 37, Subchapter 5, is amended to add an additional section to read as follows:

5-37-505. Software and other devices and mechanisms used to falsify electronic records.

(a) It is unlawful for a person to knowingly manufacture, sell, rent, lease, make available, purchase, install, transfer, possess, or use software or any other device or mechanism designed to falsify the electronic records of an electronic cash register or other point-of-sale system for the purpose of evading a tax due under Arkansas law.

(b) A person that violates this section upon conviction is:

(1) Guilty of a Class C felony; and

(2) Liable for all taxes assessed by the Department of Finance and Administration under the Arkansas Tax Procedure Act, § 26-18-101 et seq., as the result of the violation of this section.

SECTION 3. Arkansas Code Title 26, Chapter 18, Subchapter 5, is amended to add an additional section to read as follows:

26-18-509. Liability for payment of taxes – Falsification of sales transaction records.

A person who violates § 5-37-505 is liable to the state for a civil penalty equal to the total amount of the tax evaded, not collected, or not accounted for and paid over to the Director of the Department of Finance and Administration that results from the violation.