

Automated Business Record Falsification Devices

The Act bans the possession of automated business record falsification devices. These devices, commonly known as zappers or phantom-ware, use software installed on point-of-sale terminals to evade retail sales tax. The software manipulates electronic records to hide and/or under report sales.

Submitted as:

Kentucky

[HB 69](#)

Status: Signed into law on May 25, 2014.

Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Automated business record falsification devices.*]
2 (1) A person is guilty of possession of an automated business record falsification device when he
3 or she knowingly possesses any device or software program that falsifies the business records
4 created by a point-of-sale system, such as any electronic device or computer system that
5 keeps a register or supporting documents designed to record retail sales transaction
6 information, by eliminating or manipulating true retail sales transaction information in order
7 to represent a false record of transactions. These devices may also be referred to as "zappers"
8 or "phantom-ware."
9 (2) Possession of an automated business record falsification device is a Class D felony.
10 (3) In addition to any other penalty provided by law:
11 (a) Any person guilty of possession of an automated business record falsification device shall
12 forfeit all proceeds associated with its creation, sale, or usage; and
13 (b) An automated business record falsification device, and any device containing an
14 automated business record falsification device, is contraband and shall be seized and
15 forfeited to the state to be disposed of as provided in [Insert citation.]
16
17 Section 1. [*Penalties.*]
18 (1) Whenever any person fails to comply with any provisions of this chapter or any
19 administrative regulation of the department relating to the provisions of this chapter, the
20 department may revoke or suspend any one (1) or more of the permits held by the person.
21 (2) Whenever any person uses an automated business record falsification device, as described in
22 Section 1 of this Act, to violate any provision of this chapter or any administrative regulation
23 of the department relating to the provisions of this chapter, the department shall revoke each
24 permit held by the person for a period of ten (10) years.
25 (3) The department shall not issue a new permit after the revocation of a permit unless it is
26 satisfied that the former holder of the permit will comply with the provisions of this chapter
27 and the regulations relating thereto.
28 (4) No suit shall be maintained in any court to restrain or delay the collection or payment of any
29 tax levied by this chapter.