

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

SENATE BILL 718

5 By: Senator Files
6

For An Act To Be Entitled

8 AN ACT TO CREATE CRIMINAL AND CIVIL PENALTIES FOR
9 CERTAIN ACTIVITIES RELATING TO SOFTWARE AND OTHER
10 DEVICES AND MECHANISMS THAT MODIFY OR FALSIFY
11 ELECTRONIC RECORDS FOR THE PURPOSE OF EVADING TAXES;
12 AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO CREATE CRIMINAL AND CIVIL PENALTIES
16 FOR CERTAIN ACTIVITIES RELATING TO
17 SOFTWARE AND OTHER DEVICES AND MECHANISMS
18 THAT MODIFY OR FALSIFY ELECTRONIC RECORDS
19 FOR THE PURPOSE OF EVADING TAXES.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

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

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

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

35 (A) The items purchased by each customer;

36 (B) The price for each item purchased;



- 1 (C) A taxability determination for each item purchased;
 2 (D) A segregated tax amount for each taxed item purchased;
 3 (E) The amount of cash or credit tendered for each
 4 purchase;
 5 (F) The net amount returned to the customer in change;
 6 (G) The date and time of the purchase;
 7 (H) The name, address, and identification number of the
 8 vendor; and

9 (I) The receipt or invoice number of the transaction; and
 10 (12) "Transaction report" means a report that includes without
 11 limitation:

12 (A) The sales, taxes collected, media totals, and discount
 13 voids at an electronic cash register that is printed on cash register tape at
 14 the end of the day or shift; and

15 (B) Each action at an electronic cash register that is
 16 stored electronically.

17
 18 SECTION 2. Arkansas Code Title 5, Chapter 37, Subchapter 5, is amended
 19 to add an additional section to read as follows:

20 5-37-505. Software and other devices and mechanisms used to falsify
 21 electronic records.

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

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

28 (1) Guilty of a Class C felony; and

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

32
 33 SECTION 3. Arkansas Code Title 26, Chapter 18, Subchapter 5, is
 34 amended to add an additional section to read as follows:

35 26-18-509. Liability for payment of taxes – Falsification of sales
 36 transaction records.

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

5
6
7 **APPROVED: 04/11/2013**
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36