

Automated Sales Suppression Device

This Act defines and prohibits the use, purchase, installation, transfer, or sale of any automated sales suppression device or phantomware. It defines an automated sales suppression device as a software program that falsifies the electronic records of electronic cash registers or any other point-of-sale systems, including transaction data and transaction reports or a general reference to a device that allows for, creates, or supports an automated sales suppression system or any kind of phantomware.

Submitted as:

Utah

[HB 96 \(Enrolled version\)](#)

Status: Enacted into law in 2012.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “The Automated Sales Suppression Device
2 Act.”

3
4 Section 2. [*Definitions.*] As used in this Act:

5 (1) “Automated sales suppression device means a software program that falsifies the
6 electronic records of electronic cash registers or any other point-of-sale systems, including
7 transaction data and transaction reports or a general reference to a device that allows for, creates, or
8 supports an automated sales suppression system or any kind of phantomware.

9 (2) “Electronic cash register” means any device, wherever located, that maintains a
10 transaction register or supporting documents by means of an electronic device or computer system
11 designed to record transaction data for the purpose of computing, compiling, or processing retail,
12 wholesale, or any other sales transaction data.

13 (3) “Person” means an individual, business, or entity.

14 (4) “Phantomware” means a programming option that is pre-installed, installed at a later
15 time, or otherwise embedded in the operating system of an electronic cash register or hardwired into
16 the electronic cash register; and can be used to create a virtual alternate register or to eliminate or
17 manipulate transaction records that may or may not be preserved in digital formats in order to
18 represent a manipulated record or records of transactions in the electronic cash register.

19 (5) “Transaction data” includes items purchased by a customer, the price for each item, a
20 taxability determination for each item, a segregated tax amount for each of the taxed items, the
21 amount of cash or credit tendered, the net amount returned to the customer in change or in a refund,
22 the date and time of the purchase, the name, address, and identification number of the vendor, and
23 the receipt or invoice number of the transaction.

24 (6) “Transaction report” means a report that includes the sales, taxes collected, media totals,
25 and discount voids at an electronic cash register and that is generated at the end of a day or shift. The
26 report is printed on cash register tape or is stored electronically.

27
28 Section 3. [*Possession, Sale, or Use of Automated Sales Suppression Device Unlawful.*]

29 (A) It is a [third degree felony] to willfully or knowingly sell, purchase, install, transfer, use,
30 or possess in this state any automated sales suppression device or phantomware with the intent to

31 defraud, except that any second or subsequent violation of this Subsection (1) is a [second degree
32 felony].

33 (B) Notwithstanding [insert citation], any person convicted of violating Subsection (A) may
34 be fined not more than [twice the amount of the applicable taxes that would otherwise be due], but
35 for the use of the automated sales suppression device or phantomware.

36 (C) Any person convicted of a violation of Subsection (A) is liable for all applicable taxes,
37 penalties and interest under [insert citation] that would otherwise be due, but for the use of the
38 automated sales suppression device or phantomware to evade the payment of taxes; and shall
39 disgorge all profits associated with the sale or use of an automated sales suppression device or
40 phantomware.

41 (D) An automated sales suppression device and any device containing an automated sales
42 suppression device is contraband and subject to forfeiture under [insert citation].

43

44 Section 4. [*Severability.*] [Insert severability clause.]

45

46 Section 5. [*Repealer.*] [Insert repealer clause.]

47

48 Section 6. [*Effective Date.*] [Insert effective date.]