MAINE STATE LEGISLATURE

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POF B	Date: 3/6/12 Majority (Filing No. H-74)	
3	TAXATION	
4	Reproduced and distributed under the direction of the Clerk of the House.	
5	STATE OF MAINE	
6	HOUSE OF REPRESENTATIVES	
7	125TH LEGISLATURE	
8	SECOND REGULAR SESSION	
	/	
9 10	COMMITTEE AMENDMENT "A" to H.P. 1297, L.D. 1764, Bill, "An Act Prohibit Computer Software Programs Used To Evade Sales Tax"	То
11	Amend the bill by striking out the title and substituting the following:	
12	'An Act To Reduce High-technology Tax Evasion and Theft'	
13 14	Amend the bill by striking out everything after the title and before the summary inserting the following:	and
15	'Be it enacted by the People of the State of Maine as follows:	
16	Sec. 1. 17-A MRSA §909 is enacted to read:	
17	§909. Possession or transfer of automated sales suppression device	
18 19	1. A person is guilty of possession or transfer of an automated sales suppress device if:	ion
20 21 22	A. The person knowingly possesses, purchases or owns any automated sa suppression device or phantom-ware. Violation of this paragraph is a Class D critor	
23 24 25 26	B. The person knowingly manufactures, sells, installs or transfers any automated sales suppression device or phantom-ware or possesses, purchases or owns with intent to sell, install or transfer any automated sales suppression device phantom-ware. Violation of this paragraph is a Class C crime.	the
27 28	2. As used in this section, unless the context otherwise indicates, the following tendance the following meanings.	rms
29 30 31 32 33	A. "Automated sales suppression device" means a computer software prograwhich may be stored on magnetic or optical media, accessed through the Internet accessed through any other means, that is designed or used to falsify the electronecords of an electronic cash register or other point-of-sale system, including, but limited to, transaction data and transaction reports.	t or onic

COMMITTEE AMENDMENT "A" to H.P. 1297, L.D. 1764

- B. "Electronic cash register" means a device that keeps a register or supporting documents through the 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.
- C. "Phantom-ware" means a hidden, preinstalled or installed programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual 2nd cash register or to eliminate or manipulate transaction records, which may or may not be preserved in digital formats, can represent either the true or the manipulated records of transactions in the electronic cash register and is intended to falsify the electronic records of an electronic cash register or other point-of-sale system.
- D. "Transaction data" includes a description of items purchased by a customer; the price for each item; a taxability determination for each item; a segregated tax amount for each taxed item; the amount of cash or credit tendered; the net amount returned to the customer in change; the date and time of the purchase; the name, address and identification number of the vendor; and the receipt or invoice number of the transaction.
- E. "Transaction report" means a report that includes, but is not limited to, sales, taxes collected, methods of payment and voided sales at an electronic cash register that is printed on cash register tape at the end of a day or shift or a report that includes every action at an electronic cash register that is stored electronically.'

SUMMARY

This amendment changes the title of the bill, removes the emergency preamble and emergency clause from the bill and, like the bill, prohibits the possession of automated sales suppression devices, which alter the amounts of sales made by a business for the purpose of illegally withholding sales taxes paid by customers. It provides that a person who knowingly possesses, purchases or owns any automated sales suppression device or phantom-ware commits a Class D crime. It provides that a person who knowingly manufactures, sells, installs or transfers any automated sales suppression device or phantom-ware or possesses, purchases or owns with the intent to sell, install or transfer any automated sales suppression device or phantom-ware commits a Class C crime. The amendment removes the sections of the bill related to an interim compliance period and reporting by the Department of Administrative and Financial Services, Bureau of Revenue Services to the joint standing committee of the Legislature having jurisdiction over taxation matters on efforts to detect and prevent crimes involving automated sales suppression devices.

FISCAL NOTE REQUIRED (See attached)



125th MAINE LEGISLATURE

LD 1764

LR 2364(02)

An Act To Prohibit Computer Software Programs Used To Evade Sales Tax

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-743)

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes new Class C and D crimes; insignificant increase to correctional and judicial costs anticipated.

Fiscal Detail and Notes

To date, there is no evidence that the use of automated sales suppression devices has had a significant impact on current state tax revenues. The current baseline revenue forecast does not assume any significant change in future non-compliance. The provisions of this bill would create increased confidence in the baseline revenue forecast by reducing a potential source of non-compliance, but would not change the forecast levels of revenue.