SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1603

1.1 A bill for an act

1.2 relating to taxation; sales and use; providing criminal and civil penalties for

1.3 use of automated sales suppression devices; proposing coding for new law in

1.4 Minnesota Statutes, chapter 609.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 **Section 1. [609.858] USE OF AUTOMATED SALES SUPPRESSION DEVICES.**

1.7 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms

1.8 have the meanings given.

1.9 (b) "Automated sales suppression device" or "zapper" means a software program,

1.10 carried on any tangible medium, or accessed through any other means, that falsifies the

1.11 electronic records of electronic cash registers and other point-of-sale systems including,

1.12 but not limited to, transaction data and transaction reports.

1.13 (c) "Electronic cash register" means a device that keeps a register or supporting

1.14 documents through the means of an electronic device or computer system designed to

1.15 record transaction data for the purpose of computing, compiling, or processing retail

1.16 sales transaction data in whatever manner.

1.17 (d) "Phantom-ware" means hidden preinstalled, or later-installed programming

1.18 option embedded in the operating system of an electronic cash register or hardwired

1.19 into the electronic cash register that can be used to create a virtual second electronic

1.20 cash register or may eliminate or manipulate transaction records that may or may not be

1.21 preserved in digital formats to represent the true or manipulated record of transactions in

1.22 the electronic cash register.

1.23 (e) "Transaction data" includes items purchased by a customer, the price of each

1.24 item, the taxability determination for each item, a segregated tax amount for each of

2.1   the taxed items, the date and time of the purchase, the name, address and identification

2.2   number of the vendor, and the receipt or invoice number of the transaction.

2.3   (f) "Transaction report" means a report documenting, but not limited to, the sales,

2.4   taxes collected, media totals, and discount voids at an electronic cash register that is

2.5   printed on cash register tape at the end of a day or shift, or a report documenting every

2.6   action at an electronic cash register that is stored electronically.

2.7   Subd. 2. **Felony.** A person who intentionally or knowingly sells, purchases, installs,

2.8   transfers, possesses, accesses, or uses an automated sales suppression device, zapper,

2.9   phantom-ware, or similar device is guilty of a felony and may be sentenced to imprisonment

2.10   of not more than five years or a payment of a fine of not more than $5,000, or both.

2.11   Subd. 3. **Gross misdemeanor.** A person who sells, purchases, installs, transfers,

2.12   possesses, accesses, or uses an automated sales suppression device, zapper, phantom-ware,

2.13   or similar device is guilty of a gross misdemeanor and may be sentenced to imprisonment

2.14   of not more than three years or payment of a fine of not more than $3,000, or both.

2.15   Subd. 4. **Forfeiture.** An automated sales suppression device, zapper, phantom-ware,

2.16   and any other device containing an automated sales suppression, zapper, or phantom-ware

2.17   device or software is contraband and subject to forfeiture under section 609.531.

2.18   Subd. 5. **Civil liability.** A person convicted under subdivision 2 or 3 is liable for a

2.19   civil penalty equal to all taxes and penalties due to the state as a result of the use of an

2.20   automated sales suppression device, zapper, or phantom-ware. Penalties imposed by this

2.21   section are in addition to any civil penalties under chapters 270C and 289A.

2.22   **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes

2.23   committed on or after that date.