1	L.D. 1764
2	Date: (Filing No. H-)
3	TAXATION
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5	STATE OF MAINE
6	HOUSE OF REPRESENTATIVES
7	125TH LEGISLATURE
8	SECOND REGULAR SESSION
9 10	COMMITTEE AMENDMENT "" to H.P. 1297, L.D. 1764, Bill, "An Act To Prohibit Computer Software Programs Used To Evade Sales Tax"
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 and inserting the following:
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 suppression device if:
20 21 22	<u>A.</u> The person knowingly possesses, purchases or owns any automated sales suppression device or phantom-ware. Violation of this paragraph is a Class D crime; <u>or</u>
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 the intent to sell, install or transfer any automated sales suppression device or phantom-ware. Violation of this paragraph is a Class C crime.
27 28	2. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
29 30 31 32 33	A. "Automated sales suppression device" means a computer software program, which may be stored on magnetic or optical media, accessed through the Internet or accessed through any other means, that is designed or used to falsify the electronic records of an electronic cash register or other point-of-sale system, including, but not limited to, transaction data and transaction reports.

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1B. "Electronic cash register" means a device that keeps a register or supporting2documents through the means of an electronic device or computer system designed to3record transaction data for the purpose of computing, compiling or processing retail4sales transaction data.

5 C. "Phantom-ware" means a hidden, preinstalled or installed programming option 6 embedded in the operating system of an electronic cash register or hardwired into the 7 electronic cash register that can be used to create a virtual 2nd cash register or to 8 eliminate or manipulate transaction records, which may or may not be preserved in 9 digital formats, can represent either the true or the manipulated records of 10 transactions in the electronic cash register and is intended to falsify the electronic 11 records of an electronic cash register or other point-of-sale system.

12D. "Transaction data" includes a description of items purchased by a customer; the13price for each item; a taxability determination for each item; a segregated tax amount14for each taxed item; the amount of cash or credit tendered; the net amount returned to15the customer in change; the date and time of the purchase; the name, address and16identification number of the vendor; and the receipt or invoice number of the17transaction.

18E. "Transaction report" means a report that includes, but is not limited to, sales, taxes19collected, methods of payment and voided sales at an electronic cash register that is20printed on cash register tape at the end of a day or shift or a report that includes every21action at an electronic cash register that is stored electronically.'

SUMMARY

23 This amendment changes the title of the bill, removes the emergency preamble and 24 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 25 26 purpose of illegally withholding sales taxes paid by customers. It provides that a person 27 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 28 manufactures, sells, installs or transfers any automated sales suppression device or 29 30 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 31 32 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 33 34 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 35 36 suppression devices.

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