SUBSTITUTE FOR

SENATE BILL NO. 768

A bill to amend 1931 PA 328, entitled

"The Michigan penal code,"

(MCL 750.1 to 750.568) by adding section 411w.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   SEC. 411W. (1) A PERSON SHALL NOT KNOWINGLY SELL, PURCHASE,

2   INSTALL, TRANSFER, OR POSSESS IN THIS STATE ANY AUTOMATED SALES

3   SUPPRESSION DEVICE OR ZAPPER OR PHANTOM-WARE.

4   (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A FELONY

5   AND SHALL BE IMPRISONED FOR NOT LESS THAN 1 YEAR OR MORE THAN 5

6   YEARS AND, IN ADDITION, MAY BE FINED NOT MORE THAN $100,000.00.

7   (3) A PERSON WHO VIOLATES SUBSECTION (1) IS LIABLE FOR ALL

8   TAXES AND PENALTIES DUE THE STATE AS THE RESULT OF THE FRAUDULENT

9   USE OF AN AUTOMATED SALES SUPPRESSION DEVICE OR PHANTOM-WARE AND

10 SHALL DISGORGE ALL PROFITS ASSOCIATED WITH THE SALE OR USE OF AN

1 AUTOMATED SALES SUPPRESSION DEVICE OR PHANTOM-WARE.

2   (4) AS USED IN THIS SECTION:

3   (A) "AUTOMATED SALES SUPPRESSION DEVICE" OR "ZAPPER" MEANS A

4 SOFTWARE PROGRAM CARRIED ON A MEMORY STICK OR REMOVABLE COMPACT

5 DISC, ACCESSED THROUGH AN INTERNET LINK, OR ACCESSED THROUGH ANY

6 OTHER MEANS, THAT FALSIFIES THE ELECTRONIC RECORDS OF ELECTRONIC

7 CASH REGISTERS AND OTHER POINT-OF-SALE SYSTEMS, INCLUDING, BUT NOT

8 LIMITED TO, TRANSACTION DATA AND TRANSACTION REPORTS.

9   (B) "ELECTRONIC CASH REGISTER" MEANS A DEVICE THAT KEEPS A

10 REGISTER OR SUPPORTING DOCUMENTS THROUGH THE MEANS OF AN ELECTRONIC

11 DEVICE OR COMPUTER SYSTEM DESIGNED TO RECORD TRANSACTION DATA FOR

12 THE PURPOSE OF COMPUTING, COMPILING, OR PROCESSING RETAIL SALES

13 TRANSACTION DATA IN WHATEVER MANNER.

14   (C) "PHANTOM-WARE" MEANS A HIDDEN, PREINSTALLED, OR INSTALLED

15 AT A LATER TIME PROGRAMMING OPTION EMBEDDED IN THE OPERATING SYSTEM

16 OF AN ELECTRONIC CASH REGISTER OR HARDWIRED INTO THE ELECTRONIC

17 CASH REGISTER THAT CAN BE USED TO CREATE A VIRTUAL SECOND TILL OR

18 MAY ELIMINATE OR MANIPULATE TRANSACTION RECORDS THAT MAY OR MAY NOT

19 BE PRESERVED IN DIGITAL FORMATS TO REPRESENT THE TRUE OR

20 MANIPULATED RECORD OF TRANSACTIONS IN THE ELECTRONIC CASH REGISTER.

21   (D) "TRANSACTION DATA" INCLUDES INFORMATION REGARDING ITEMS

22 PURCHASED BY A CUSTOMER, THE PRICE FOR EACH ITEM, A TAXABILITY

23 DETERMINATION FOR EACH ITEM, A SEGREGATED TAX AMOUNT FOR EACH OF

24 THE TAXED ITEMS, THE AMOUNT OF CASH OR CREDIT TENDERED, THE NET

25 AMOUNT RETURNED TO THE CUSTOMER IN CHANGE, THE DATE AND TIME OF THE

26 PURCHASE, THE NAME, ADDRESS, AND IDENTIFICATION NUMBER OF THE

27 VENDOR, AND THE RECEIPT OR INVOICE NUMBER OF THE TRANSACTION.

1   **(E) "TRANSACTION REPORT" MEANS A REPORT THAT INCLUDES, BUT**

2 **NEED NOT BE LIMITED TO, THE SALES, TAXES COLLECTED, MEDIA TOTALS,**

3 **AND DISCOUNT VOIDS AT AN ELECTRONIC CASH REGISTER THAT IS PRINTED**

4 **ON CASH REGISTER TAPE AT THE END OF A DAY OR SHIFT, OR A REPORT**

5 **DOCUMENTING EVERY ACTION AT AN ELECTRONIC CASH REGISTER THAT IS**

6 **STORED ELECTRONICALLY.**

7   Enacting section 1. This amendatory act takes effect 90 days

8 after the date it is enacted into law.