

Journal of the House

Thursday, April 18, 2013

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by The State House Singers singing, *O Beautiful for Spacious Skies*, arranged by Andrew E. Clarkson.

Message from the Senate No. 43

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 13. An act relating to statutory revision.

And has passed the same in concurrence.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 144. An act relating to the St. Albans state office building.

And has concurred therein.

Action on Bill Postponed

H. 536

House bill, entitled

An act relating to the Adjutant and Inspector General and the Vermont National Guard

Was taken up and pending third reading of the bill, on motion of **Rep. Head of South Burlington**, action on the bill was postponed until the next legislative day.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 73

Senate bill, entitled

An act relating to the moratorium on home health agency certificates of need

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Senate Proposal of Amendment Concurred in

H. 511

The Senate proposed to the House to amend House bill, entitled

An act relating to “zappers” and automated sales suppression devices

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2032 is added to read:

§ 2032. SALES SUPPRESSION DEVICES

(a) As used in this section:

(1) “Automated sales suppression device,” also known as a “zapper,” means a software program, carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies transaction data, transaction reports, or any other electronic records of electronic cash registers and other point-of-sale systems.

(2) “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 in any manner.

(3) “Phantom-ware” means a hidden programming option, whether preinstalled or installed at a later time, embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that:

(A) can be used to create a virtual second till; or

(B) may eliminate or manipulate transaction records.

(4) “Transaction data” includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount

for each of the taxed items, 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.

(5) "Transaction reports" means a report documenting, but not limited to, the sales, taxes collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

(b)(1) A person shall not knowingly sell, purchase, install, or transfer or possess an automated sales suppression device or phantom-ware.

(2) A person who violates subdivision (1) of this subsection shall be imprisoned for not less than one year and not more than five years and fined not more than \$100,000.00, or both.

(c) A person who violates subdivision (b)(1) of this section shall be liable to the State for:

(1) all taxes, interest, and penalties due as the result of the person's use of an automated sales suppression device or phantom-ware; and

(2) all profits associated with the person's sale of an automated sales suppression device or phantom-ware.

(d) An automated sales suppression device or phantom-ware and any device containing such device or software shall be deemed contraband and shall be subject to seizure by the Commissioner of Taxes or by a law enforcement officer when directed to do so by the Commissioner of Taxes.

Sec. 2. SAFE HARBOR

(a) A person shall not be subject to prosecution under 13 V.S.A. 2032 if, by October 1, 2013, the person:

(1) notifies the Department of Taxes of the person's possession of an automated sales suppression device;

(2) provides any information requested by the Department of Taxes, including transaction records, software specifications, encryption keys, passwords, and other data; and

(3) corrects any underreported sales tax records and fully pays the Department any amounts previously owed.

(b) This section shall not be construed to limit the person's civil or criminal liability under 32 V.S.A. § 9814a (submitting fraudulent sales tax return) or any other provision of law.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read: "An act relating to automated sales suppression devices, also known as 'zappers'"

Which proposal of amendment was considered and concurred in.

Bill Referred to Committee on Appropriations

H. 226

House bill, entitled

An act relating to the regulation of underground storage tanks

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Adjournment

At one o'clock and twenty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.