STATE OF NEW YORK

1331

2021-2022 Regular Sessions

IN SENATE

January 11, 2021

Introduced by Sens. KRUEGER, LIU -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to creating the offense of defrauding the government in the first degree and expanding the definition of conspiracy in the fourth degree; and to amend the tax law and the administrative code of the city of New York, in relation to expanding the definition of tax fraud acts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1	Section 1. The penal law is amended by adding a new section 195.22 to
2	read as follows:
3	<u>§ 195.22 Defrauding the government in the first degree.</u>
4	<u>A person is guilty of defrauding the government in the first degree</u>
5	when, he or she knowingly manufactures, sells, installs, or uses, or
6	attempts to manufacture, sell, install or use, an automated sales
7	suppression device for the purpose of enabling or assisting any person
8	to evade any tax owed to the state or a political subdivision of the
9	state or any instrumentality of the state.
10	For purposes of this section an "automated sales suppression device"
11	is a software program that falsifies electronic records for the purpose
12	of evading any tax owed to the state, or any political subdivision of
13	the state, or any instrumentality of the state. An "automated sales
14	suppression device" includes any software program that is (a) maintained
15	on a USB memory stick or thumb drive, zapper, removable compact disc or
16	other external device, or (b) embedded in the operating system as "phan-
17	tom ware, " or (c) otherwise accessed remotely.
18	Defrauding the government in the first degree is a class D felony.
19	§ 2. Section 105.10 of the penal law is amended by adding a new subdi-
20	vision 4 to read as follows:
21	4. the felony of defrauding the government in the first degree as
2.2	defined in section 195.22 of this part (defrauding the government in the

EXPLANATION--Matter in <u>italics</u> (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 2	first degree), be performed, he or she agrees with one or more persons
∠ 3	to engage in or cause the performance of such conduct. § 3. Subparagraphs 7 and 8 of paragraph (a) of section 1801 of the tax
4	law, as added by section 15 of subpart I of part V1 of chapter 57 of the
5	laws of 2009, are amended and a new subparagraph 9 is added to read as
6	follows:
7	(7) with intent to evade any tax fails to pay that tax; or
8	(8) issues an exemption certificate, interdistributor sales certif-
9	icate, resale certificate, or any other document capable of evidencing a
10	claim that taxes do not apply to a transaction, which he or she does not
11	believe to be true and correct as to any material matter, which omits
12	any material information, or which is false, fraudulent, or counter-
13	feit[_] <u>; or</u>
14	(9) uses an automated sales suppression device as described in section
15	195.22 of the penal law (defrauding the government in the first degree).
16	\S 4. Subparagraphs 7 and 8 of paragraph (a) of section 11-4002 of the
17	administrative code of the city of New York, as added by chapter 201 of
18	the laws of 2009, are amended and a new subparagraph 9 is added to read
19	as follows:
20	(7) with intent to evade any tax imposed under any designated chapter
21	of this title, fails to pay that tax; <u>or</u>
22	(8) issues an exemption certificate, interdistributor sales certif-
23	icate, resale certificate, or any other document capable of evidencing a
24	claim that taxes imposed under a designated chapter of this title do not
25	apply to a transaction, which he or she does not believe to be true and
26	correct as to any material matter, which omits any material information,
27	or which is false, fraudulent, or counterfeit[+]; or
28	(9) uses an automated sales suppression device as described in section
29 20	195.22 of the penal law (defrauding the government in the first degree).
30 31	§ 5. This act shall take effect on the first of November next succeed- ing the date upon which it shall have become a law.