

H.B. 545
As Introduced

Topic: Feminine hygiene product sales tax exemption

_____ moved to amend as follows:

In line 1 of the title, after "sections" insert "5739.02,"; 1
after "5739.03" insert a comma 2

In line 6 of the title, after "provided" insert "and to 3
exempt from sales and use tax tampons and other feminine hygiene 4
products associated with menstruation" 5

In line 7, after "sections" insert "5739.02,"; after 6
"5739.03" insert a comma 7

Between lines 8 and 9, insert: 8

"**Sec. 5739.02.** For the purpose of providing revenue with 9
which to meet the needs of the state, for the use of the general 10
revenue fund of the state, for the purpose of securing a thorough 11
and efficient system of common schools throughout the state, for 12
the purpose of affording revenues, in addition to those from 13
general property taxes, permitted under constitutional 14
limitations, and from other sources, for the support of local 15
governmental functions, and for the purpose of reimbursing the 16
state for the expense of administering this chapter, an excise tax 17
is hereby levied on each retail sale made in this state. 18

(A)(1) The tax shall be collected as provided in section 19

5739.025 of the Revised Code. The rate of the tax shall be five
 and three-fourths per cent. The tax applies and is collectible
 when the sale is made, regardless of the time when the price is
 paid or delivered.

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(2) In the case of the lease or rental, with a fixed term of
 more than thirty days or an indefinite term with a minimum period
 of more than thirty days, of any motor vehicles designed by the
 manufacturer to carry a load of not more than one ton, watercraft,
 outboard motor, or aircraft, or of any tangible personal property,
 other than motor vehicles designed by the manufacturer to carry a
 load of more than one ton, to be used by the lessee or renter
 primarily for business purposes, the tax shall be collected by the
 vendor at the time the lease or rental is consummated and shall be
 calculated by the vendor on the basis of the total amount to be
 paid by the lessee or renter under the lease agreement. If the
 total amount of the consideration for the lease or rental includes
 amounts that are not calculated at the time the lease or rental is
 executed, the tax shall be calculated and collected by the vendor
 at the time such amounts are billed to the lessee or renter. In
 the case of an open-end lease or rental, the tax shall be
 calculated by the vendor on the basis of the total amount to be
 paid during the initial fixed term of the lease or rental, and for
 each subsequent renewal period as it comes due. As used in this
 division, "motor vehicle" has the same meaning as in section
 4501.01 of the Revised Code, and "watercraft" includes an outdrive
 unit attached to the watercraft.

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A lease with a renewal clause and a termination penalty or
 similar provision that applies if the renewal clause is not
 exercised is presumed to be a sham transaction. In such a case,
 the tax shall be calculated and paid on the basis of the entire
 length of the lease period, including any renewal periods, until

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the termination penalty or similar provision no longer applies. 51
 The taxpayer shall bear the burden, by a preponderance of the 52
 evidence, that the transaction or series of transactions is not a 53
 sham transaction. 54

(3) Except as provided in division (A)(2) of this section, in 55
 the case of a sale, the price of which consists in whole or in 56
 part of the lease or rental of tangible personal property, the tax 57
 shall be measured by the installments of that lease or rental. 58

(4) In the case of a sale of a physical fitness facility 59
 service or recreation and sports club service, the price of which 60
 consists in whole or in part of a membership for the receipt of 61
 the benefit of the service, the tax applicable to the sale shall 62
 be measured by the installments thereof. 63

(B) The tax does not apply to the following: 64

(1) Sales to the state or any of its political subdivisions, 65
 or to any other state or its political subdivisions if the laws of 66
 that state exempt from taxation sales made to this state and its 67
 political subdivisions; 68

(2) Sales of food for human consumption off the premises 69
 where sold; 70

(3) Sales of food sold to students only in a cafeteria, 71
 dormitory, fraternity, or sorority maintained in a private, 72
 public, or parochial school, college, or university; 73

(4) Sales of newspapers and sales or transfers of magazines 74
 distributed as controlled circulation publications; 75

(5) The furnishing, preparing, or serving of meals without 76
 charge by an employer to an employee provided the employer records 77
 the meals as part compensation for services performed or work 78
 done; 79

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company or municipal gas utility, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the

number of days on which such tangible personal property or 110
 services, other than items never subject to the tax, are sold does 111
 not exceed six in any calendar year, except as otherwise provided 112
 in division (B)(9)(b) of this section. If the number of days on 113
 which such sales are made exceeds six in any calendar year, the 114
 church or organization shall be considered to be engaged in 115
 business and all subsequent sales by it shall be subject to the 116
 tax. In counting the number of days, all sales by groups within a 117
 church or within an organization shall be considered to be sales 118
 of that church or organization. 119

(b) The limitation on the number of days on which tax-exempt 120
 sales may be made by a church or organization under division 121
 (B)(9)(a) of this section does not apply to sales made by student 122
 clubs and other groups of students of a primary or secondary 123
 school, or a parent-teacher association, booster group, or similar 124
 organization that raises money to support or fund curricular or 125
 extracurricular activities of a primary or secondary school. 126

(c) Divisions (B)(9)(a) and (b) of this section do not apply 127
 to sales by a noncommercial educational radio or television 128
 broadcasting station. 129

(10) Sales not within the taxing power of this state under 130
 the Constitution or laws of the United States or the Constitution 131
 of this state; 132

(11) Except for transactions that are sales under division 133
 (B)(3)(r) of section 5739.01 of the Revised Code, the 134
 transportation of persons or property, unless the transportation 135
 is by a private investigation and security service; 136

(12) Sales of tangible personal property or services to 137
 churches, to organizations exempt from taxation under section 138
 501(c)(3) of the Internal Revenue Code of 1986, and to any other 139

nonprofit organizations operated exclusively for charitable 140
purposes in this state, no part of the net income of which inures 141
to the benefit of any private shareholder or individual, and no 142
substantial part of the activities of which consists of carrying 143
on propaganda or otherwise attempting to influence legislation; 144
sales to offices administering one or more homes for the aged or 145
one or more hospital facilities exempt under section 140.08 of the 146
Revised Code; and sales to organizations described in division (D) 147
of section 5709.12 of the Revised Code. 148

"Charitable purposes" means the relief of poverty; the 149
improvement of health through the alleviation of illness, disease, 150
or injury; the operation of an organization exclusively for the 151
provision of professional, laundry, printing, and purchasing 152
services to hospitals or charitable institutions; the operation of 153
a home for the aged, as defined in section 5701.13 of the Revised 154
Code; the operation of a radio or television broadcasting station 155
that is licensed by the federal communications commission as a 156
noncommercial educational radio or television station; the 157
operation of a nonprofit animal adoption service or a county 158
humane society; the promotion of education by an institution of 159
learning that maintains a faculty of qualified instructors, 160
teaches regular continuous courses of study, and confers a 161
recognized diploma upon completion of a specific curriculum; the 162
operation of a parent-teacher association, booster group, or 163
similar organization primarily engaged in the promotion and 164
support of the curricular or extracurricular activities of a 165
primary or secondary school; the operation of a community or area 166
center in which presentations in music, dramatics, the arts, and 167
related fields are made in order to foster public interest and 168
education therein; the production of performances in music, 169
dramatics, and the arts; or the promotion of education by an 170

organization engaged in carrying on research in, or the 171
 dissemination of, scientific and technological knowledge and 172
 information primarily for the public. 173

Nothing in this division shall be deemed to exempt sales to 174
 any organization for use in the operation or carrying on of a 175
 trade or business, or sales to a home for the aged for use in the 176
 operation of independent living facilities as defined in division 177
 (A) of section 5709.12 of the Revised Code. 178

(13) Building and construction materials and services sold to 179
 construction contractors for incorporation into a structure or 180
 improvement to real property under a construction contract with 181
 this state or a political subdivision of this state, or with the 182
 United States government or any of its agencies; building and 183
 construction materials and services sold to construction 184
 contractors for incorporation into a structure or improvement to 185
 real property that are accepted for ownership by this state or any 186
 of its political subdivisions, or by the United States government 187
 or any of its agencies at the time of completion of the structures 188
 or improvements; building and construction materials sold to 189
 construction contractors for incorporation into a horticulture 190
 structure or livestock structure for a person engaged in the 191
 business of horticulture or producing livestock; building 192
 materials and services sold to a construction contractor for 193
 incorporation into a house of public worship or religious 194
 education, or a building used exclusively for charitable purposes 195
 under a construction contract with an organization whose purpose 196
 is as described in division (B)(12) of this section; building 197
 materials and services sold to a construction contractor for 198
 incorporation into a building under a construction contract with 199
 an organization exempt from taxation under section 501(c)(3) of 200
 the Internal Revenue Code of 1986 when the building is to be used 201

exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state; building and construction materials for incorporation into a transportation facility pursuant to a public-private agreement entered into under sections 5501.70 to 5501.83 of the Revised Code; and, until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B)(42)(a), (g), or (h) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery,

equipment, and supplies used to make labels or packages, to 233
 prepare packages or products for labeling, or to label packages or 234
 products, by or on the order of the person doing the packaging, or 235
 sold at retail. "Packages" includes bags, baskets, cartons, 236
 crates, boxes, cans, bottles, bindings, wrappings, and other 237
 similar devices and containers, but does not include motor 238
 vehicles or bulk tanks, trailers, or similar devices attached to 239
 motor vehicles. "Packaging" means placing in a package. Division 240
 (B)(15) of this section does not apply to persons engaged in 241
 highway transportation for hire. 242

(16) Sales of food to persons using supplemental nutrition 243
 assistance program benefits to purchase the food. As used in this 244
 division, "food" has the same meaning as in 7 U.S.C. 2012 and 245
 federal regulations adopted pursuant to the Food and Nutrition Act 246
 of 2008. 247

(17) Sales to persons engaged in farming, agriculture, 248
 horticulture, or floriculture, of tangible personal property for 249
 use or consumption primarily in the production by farming, 250
 agriculture, horticulture, or floriculture of other tangible 251
 personal property for use or consumption primarily in the 252
 production of tangible personal property for sale by farming, 253
 agriculture, horticulture, or floriculture; or material and parts 254
 for incorporation into any such tangible personal property for use 255
 or consumption in production; and of tangible personal property 256
 for such use or consumption in the conditioning or holding of 257
 products produced by and for such use, consumption, or sale by 258
 persons engaged in farming, agriculture, horticulture, or 259
 floriculture, except where such property is incorporated into real 260
 property; 261

(18) Sales of drugs for a human being that may be dispensed 262

only pursuant to a prescription; insulin as recognized in the	263
official United States pharmacopoeia; urine and blood testing	264
materials when used by diabetics or persons with hypoglycemia to	265
test for glucose or acetone; hypodermic syringes and needles when	266
used by diabetics for insulin injections; epoetin alfa when	267
purchased for use in the treatment of persons with medical	268
disease; hospital beds when purchased by hospitals, nursing homes,	269
or other medical facilities; and medical oxygen and medical	270
oxygen-dispensing equipment when purchased by hospitals, nursing	271
homes, or other medical facilities;	272
(19) Sales of prosthetic devices, durable medical equipment	273
for home use, or mobility enhancing equipment, when made pursuant	274
to a prescription and when such devices or equipment are for use	275
by a human being.	276
(20) Sales of emergency and fire protection vehicles and	277
equipment to nonprofit organizations for use solely in providing	278
fire protection and emergency services, including trauma care and	279
emergency medical services, for political subdivisions of the	280
state;	281
(21) Sales of tangible personal property manufactured in this	282
state, if sold by the manufacturer in this state to a retailer for	283
use in the retail business of the retailer outside of this state	284
and if possession is taken from the manufacturer by the purchaser	285
within this state for the sole purpose of immediately removing the	286
same from this state in a vehicle owned by the purchaser;	287
(22) Sales of services provided by the state or any of its	288
political subdivisions, agencies, instrumentalities, institutions,	289
or authorities, or by governmental entities of the state or any of	290
its political subdivisions, agencies, instrumentalities,	291
institutions, or authorities;	292

(23) Sales of motor vehicles to nonresidents of this state	293
under the circumstances described in division (B) of section	294
5739.029 of the Revised Code;	295
(24) Sales to persons engaged in the preparation of eggs for	296
sale of tangible personal property used or consumed directly in	297
such preparation, including such tangible personal property used	298
for cleaning, sanitizing, preserving, grading, sorting, and	299
classifying by size; packages, including material and parts for	300
packages, and machinery, equipment, and material for use in	301
packaging eggs for sale; and handling and transportation equipment	302
and parts therefor, except motor vehicles licensed to operate on	303
public highways, used in intraplant or interplant transfers or	304
shipment of eggs in the process of preparation for sale, when the	305
plant or plants within or between which such transfers or	306
shipments occur are operated by the same person. "Packages"	307
includes containers, cases, baskets, flats, fillers, filler flats,	308
cartons, closure materials, labels, and labeling materials, and	309
"packaging" means placing therein.	310
(25)(a) Sales of water to a consumer for residential use;	311
(b) Sales of water by a nonprofit corporation engaged	312
exclusively in the treatment, distribution, and sale of water to	313
consumers, if such water is delivered to consumers through pipes	314
or tubing.	315
(26) Fees charged for inspection or reinspection of motor	316
vehicles under section 3704.14 of the Revised Code;	317
(27) Sales to persons licensed to conduct a food service	318
operation pursuant to section 3717.43 of the Revised Code, of	319
tangible personal property primarily used directly for the	320
following:	321

(a) To prepare food for human consumption for sale;	322
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	323 324 325 326
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	327 328
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	329 330
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	331 332 333 334
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	335 336 337
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	338 339 340
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	341 342 343 344 345 346
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the	347 348 349 350

headquarters;	351
(34) Sales to a telecommunications service vendor, mobile	352
telecommunications service vendor, or satellite broadcasting	353
service vendor of tangible personal property and services used	354
directly and primarily in transmitting, receiving, switching, or	355
recording any interactive, one- or two-way electromagnetic	356
communications, including voice, image, data, and information,	357
through the use of any medium, including, but not limited to,	358
poles, wires, cables, switching equipment, computers, and record	359
storage devices and media, and component parts for the tangible	360
personal property. The exemption provided in this division shall	361
be in lieu of all other exemptions under division (B)(42)(a) or	362
(n) of this section to which the vendor may otherwise be entitled,	363
based upon the use of the thing purchased in providing the	364
telecommunications, mobile telecommunications, or satellite	365
broadcasting service.	366
(35)(a) Sales where the purpose of the consumer is to use or	367
consume the things transferred in making retail sales and	368
consisting of newspaper inserts, catalogues, coupons, flyers, gift	369
certificates, or other advertising material that prices and	370
describes tangible personal property offered for retail sale.	371
(b) Sales to direct marketing vendors of preliminary	372
materials such as photographs, artwork, and typesetting that will	373
be used in printing advertising material; and of printed matter	374
that offers free merchandise or chances to win sweepstake prizes	375
and that is mailed to potential customers with advertising	376
material described in division (B)(35)(a) of this section;	377
(c) Sales of equipment such as telephones, computers,	378
facsimile machines, and similar tangible personal property	379
primarily used to accept orders for direct marketing retail sales.	380

(d) Sales of automatic food vending machines that preserve 381
 food with a shelf life of forty-five days or less by refrigeration 382
 and dispense it to the consumer. 383

For purposes of division (B)(35) of this section, "direct 384
 marketing" means the method of selling where consumers order 385
 tangible personal property by United States mail, delivery 386
 service, or telecommunication and the vendor delivers or ships the 387
 tangible personal property sold to the consumer from a warehouse, 388
 catalogue distribution center, or similar fulfillment facility by 389
 means of the United States mail, delivery service, or common 390
 carrier. 391

(36) Sales to a person engaged in the business of 392
 horticulture or producing livestock of materials to be 393
 incorporated into a horticulture structure or livestock structure; 394

(37) Sales of personal computers, computer monitors, computer 395
 keyboards, modems, and other peripheral computer equipment to an 396
 individual who is licensed or certified to teach in an elementary 397
 or a secondary school in this state for use by that individual in 398
 preparation for teaching elementary or secondary school students; 399

(38) Sales to a professional racing team of any of the 400
 following: 401

(a) Motor racing vehicles; 402

(b) Repair services for motor racing vehicles; 403

(c) Items of property that are attached to or incorporated in 404
 motor racing vehicles, including engines, chassis, and all other 405
 components of the vehicles, and all spare, replacement, and 406
 rebuilt parts or components of the vehicles; except not including 407
 tires, consumable fluids, paint, and accessories consisting of 408
 instrumentation sensors and related items added to the vehicle to 409

collect and transmit data by means of telemetry and other forms of
communication. 410
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(39) Sales of used manufactured homes and used mobile homes,
as defined in section 5739.0210 of the Revised Code, made on or
after January 1, 2000; 412
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(40) Sales of tangible personal property and services to a
provider of electricity used or consumed directly and primarily in
generating, transmitting, or distributing electricity for use by
others, including property that is or is to be incorporated into
and will become a part of the consumer's production, transmission,
or distribution system and that retains its classification as
tangible personal property after incorporation; fuel or power used
in the production, transmission, or distribution of electricity;
energy conversion equipment as defined in section 5727.01 of the
Revised Code; and tangible personal property and services used in
the repair and maintenance of the production, transmission, or
distribution system, including only those motor vehicles as are
specially designed and equipped for such use. The exemption
provided in this division shall be in lieu of all other exemptions
in division (B)(42)(a) or (n) of this section to which a provider
of electricity may otherwise be entitled based on the use of the
tangible personal property or service purchased in generating,
transmitting, or distributing electricity. 415
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(41) Sales to a person providing services under division
(B)(3)(r) of section 5739.01 of the Revised Code of tangible
personal property and services used directly and primarily in
providing taxable services under that section. 433
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(42) Sales where the purpose of the purchaser is to do any of
the following: 437
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(a) To incorporate the thing transferred as a material or a 439

part into tangible personal property to be produced for sale by 440
manufacturing, assembling, processing, or refining; or to use or 441
consume the thing transferred directly in producing tangible 442
personal property for sale by mining, including, without 443
limitation, the extraction from the earth of all substances that 444
are classed geologically as minerals, production of crude oil and 445
natural gas, or directly in the rendition of a public utility 446
service, except that the sales tax levied by this section shall be 447
collected upon all meals, drinks, and food for human consumption 448
sold when transporting persons. Persons engaged in rendering 449
services in the exploration for, and production of, crude oil and 450
natural gas for others are deemed engaged directly in the 451
exploration for, and production of, crude oil and natural gas. 452
This paragraph does not exempt from "retail sale" or "sales at 453
retail" the sale of tangible personal property that is to be 454
incorporated into a structure or improvement to real property. 455

(b) To hold the thing transferred as security for the 456
performance of an obligation of the vendor; 457

(c) To resell, hold, use, or consume the thing transferred as 458
evidence of a contract of insurance; 459

(d) To use or consume the thing directly in commercial 460
fishing; 461

(e) To incorporate the thing transferred as a material or a 462
part into, or to use or consume the thing transferred directly in 463
the production of, magazines distributed as controlled circulation 464
publications; 465

(f) To use or consume the thing transferred in the production 466
and preparation in suitable condition for market and sale of 467
printed, imprinted, overprinted, lithographic, multilithic, 468
blueprinted, photostatic, or other productions or reproductions of 469

written or graphic matter;	470
(g) To use the thing transferred, as described in section	471
5739.011 of the Revised Code, primarily in a manufacturing	472
operation to produce tangible personal property for sale;	473
(h) To use the benefit of a warranty, maintenance or service	474
contract, or similar agreement, as described in division (B)(7) of	475
section 5739.01 of the Revised Code, to repair or maintain	476
tangible personal property, if all of the property that is the	477
subject of the warranty, contract, or agreement would not be	478
subject to the tax imposed by this section;	479
(i) To use the thing transferred as qualified research and	480
development equipment;	481
(j) To use or consume the thing transferred primarily in	482
storing, transporting, mailing, or otherwise handling purchased	483
sales inventory in a warehouse, distribution center, or similar	484
facility when the inventory is primarily distributed outside this	485
state to retail stores of the person who owns or controls the	486
warehouse, distribution center, or similar facility, to retail	487
stores of an affiliated group of which that person is a member, or	488
by means of direct marketing. This division does not apply to	489
motor vehicles registered for operation on the public highways. As	490
used in this division, "affiliated group" has the same meaning as	491
in division (B)(3)(e) of section 5739.01 of the Revised Code and	492
"direct marketing" has the same meaning as in division (B)(35) of	493
this section.	494
(k) To use or consume the thing transferred to fulfill a	495
contractual obligation incurred by a warrantor pursuant to a	496
warranty provided as a part of the price of the tangible personal	497
property sold or by a vendor of a warranty, maintenance or service	498
contract, or similar agreement the provision of which is defined	499

as a sale under division (B)(7) of section 5739.01 of the Revised Code; 500
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(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public; 502
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(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service; 504
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(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property. 509
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(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing; 518
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(p) To provide the thing transferred to the owner or lessee of a motor vehicle that is being repaired or serviced, if the thing transferred is a rented motor vehicle and the purchaser is reimbursed for the cost of the rented motor vehicle by a manufacturer, warrantor, or provider of a maintenance, service, or other similar contract or agreement, with respect to the motor vehicle that is being repaired or serviced. 521
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As used in division (B)(42) of this section, "thing" includes 528

all transactions included in divisions (B)(3)(a), (b), and (e) of 529
 section 5739.01 of the Revised Code. 530

(43) Sales conducted through a coin operated device that 531
 activates vacuum equipment or equipment that dispenses water, 532
 whether or not in combination with soap or other cleaning agents 533
 or wax, to the consumer for the consumer's use on the premises in 534
 washing, cleaning, or waxing a motor vehicle, provided no other 535
 personal property or personal service is provided as part of the 536
 transaction. 537

(44) Sales of replacement and modification parts for engines, 538
 airframes, instruments, and interiors in, and paint for, aircraft 539
 used primarily in a fractional aircraft ownership program, and 540
 sales of services for the repair, modification, and maintenance of 541
 such aircraft, and machinery, equipment, and supplies primarily 542
 used to provide those services. 543

(45) Sales of telecommunications service that is used 544
 directly and primarily to perform the functions of a call center. 545
 As used in this division, "call center" means any physical 546
 location where telephone calls are placed or received in high 547
 volume for the purpose of making sales, marketing, customer 548
 service, technical support, or other specialized business 549
 activity, and that employs at least fifty individuals that engage 550
 in call center activities on a full-time basis, or sufficient 551
 individuals to fill fifty full-time equivalent positions. 552

(46) Sales by a telecommunications service vendor of 900 553
 service to a subscriber. This division does not apply to 554
 information services, as defined in division (FF) of section 555
 5739.01 of the Revised Code. 556

(47) Sales of value-added non-voice data service. This 557
 division does not apply to any similar service that is not 558

otherwise a telecommunications service. 559

(48)(a) Sales of machinery, equipment, and software to a 560
qualified direct selling entity for use in a warehouse or 561
distribution center primarily for storing, transporting, or 562
otherwise handling inventory that is held for sale to independent 563
salespersons who operate as direct sellers and that is held 564
primarily for distribution outside this state; 565

(b) As used in division (B)(48)(a) of this section: 566

(i) "Direct seller" means a person selling consumer products 567
to individuals for personal or household use and not from a fixed 568
retail location, including selling such product at in-home product 569
demonstrations, parties, and other one-on-one selling. 570

(ii) "Qualified direct selling entity" means an entity 571
selling to direct sellers at the time the entity enters into a tax 572
credit agreement with the tax credit authority pursuant to section 573
122.17 of the Revised Code, provided that the agreement was 574
entered into on or after January 1, 2007. Neither contingencies 575
relevant to the granting of, nor later developments with respect 576
to, the tax credit shall impair the status of the qualified direct 577
selling entity under division (B)(48) of this section after 578
execution of the tax credit agreement by the tax credit authority. 579

(c) Division (B)(48) of this section is limited to machinery, 580
equipment, and software first stored, used, or consumed in this 581
state within the period commencing June 24, 2008, and ending on 582
the date that is five years after that date. 583

(49) Sales of materials, parts, equipment, or engines used in 584
the repair or maintenance of aircraft or avionics systems of such 585
aircraft, and sales of repair, remodeling, replacement, or 586
maintenance services in this state performed on aircraft or on an 587

aircraft's avionics, engine, or component materials or parts. As 588
 used in division (B)(49) of this section, "aircraft" means 589
 aircraft of more than six thousand pounds maximum certified 590
 takeoff weight or used exclusively in general aviation. 591

(50) Sales of full flight simulators that are used for pilot 592
 or flight-crew training, sales of repair or replacement parts or 593
 components, and sales of repair or maintenance services for such 594
 full flight simulators. "Full flight simulator" means a replica of 595
 a specific type, or make, model, and series of aircraft cockpit. 596
 It includes the assemblage of equipment and computer programs 597
 necessary to represent aircraft operations in ground and flight 598
 conditions, a visual system providing an out-of-the-cockpit view, 599
 and a system that provides cues at least equivalent to those of a 600
 three-degree-of-freedom motion system, and has the full range of 601
 capabilities of the systems installed in the device as described 602
 in appendices A and B of part 60 of chapter 1 of title 14 of the 603
 Code of Federal Regulations. 604

(51) Any transfer or lease of tangible personal property 605
 between the state and JobsOhio in accordance with section 4313.02 606
 of the Revised Code. 607

(52)(a) Sales to a qualifying corporation. 608

(b) As used in division (B)(52) of this section: 609

(i) "Qualifying corporation" means a nonprofit corporation 610
 organized in this state that leases from an eligible county land, 611
 buildings, structures, fixtures, and improvements to the land that 612
 are part of or used in a public recreational facility used by a 613
 major league professional athletic team or a class A to class AAA 614
 minor league affiliate of a major league professional athletic 615
 team for a significant portion of the team's home schedule, 616
 provided the following apply: 617

(I) The facility is leased from the eligible county pursuant to a lease that requires substantially all of the revenue from the operation of the business or activity conducted by the nonprofit corporation at the facility in excess of operating costs, capital expenditures, and reserves to be paid to the eligible county at least once per calendar year.

(II) Upon dissolution and liquidation of the nonprofit corporation, all of its net assets are distributable to the board of commissioners of the eligible county from which the corporation leases the facility.

(ii) "Eligible county" has the same meaning as in section 307.695 of the Revised Code.

(53) Sales to or by a cable service provider, video service provider, or radio or television broadcast station regulated by the federal government of cable service or programming, video service or programming, audio service or programming, or electronically transferred digital audiovisual or audio work. As used in division (B)(53) of this section, "cable service" and "cable service provider" have the same meanings as in section 1332.01 of the Revised Code, and "video service," "video service provider," and "video programming" have the same meanings as in section 1332.21 of the Revised Code.

(54) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any bullion described in section 408(m)(3)(B) of the Internal Revenue Code, regardless of whether that bullion is in the physical possession of a trustee. "Investment coin" means any coin composed primarily of gold, silver, platinum, or palladium.

(55) Sales of a digital audio work electronically transferred for delivery through use of a machine, such as a juke box, that

does all of the following:	648
(a) Accepts direct payments to operate;	649
(b) Automatically plays a selected digital audio work for a single play upon receipt of a payment described in division (B)(55)(a) of this section;	650 651 652
(c) Operates exclusively for the purpose of playing digital audio works in a commercial establishment.	653 654
(56)(a) Sales of the following occurring on the first Friday of August and the following Saturday and Sunday of each year, beginning in 2018:	655 656 657
(i) An item of clothing, the price of which is seventy-five dollars or less;	658 659
(ii) An item of school supplies, the price of which is twenty dollars or less;	660 661
(iii) An item of school instructional material, the price of which is twenty dollars or less.	662 663
(b) As used in division (B)(56) of this section:	664
(i) "Clothing" means all human wearing apparel suitable for general use. "Clothing" includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers, children and adult, including disposable diapers; ear muffs <u> earmuffs</u> ; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms,	665 666 667 668 669 670 671 672 673 674 675

athletic and nonathletic; and wedding apparel. "Clothing" does not 676
 include items purchased for use in a trade or business; clothing 677
 accessories or equipment; protective equipment; sports or 678
 recreational equipment; belt buckles sold separately; costume 679
 masks sold separately; patches and emblems sold separately; sewing 680
 equipment and supplies including, but not limited to, knitting 681
 needles, patterns, pins, scissors, sewing machines, sewing 682
 needles, tape measures, and thimbles; and sewing materials that 683
 become part of "clothing" including, but not limited to, buttons, 684
 fabric, lace, thread, yarn, and zippers. 685

(ii) "School supplies" means items commonly used by a student 686
 in a course of study. "School supplies" includes only the 687
 following items: binders; book bags; calculators; cellophane tape; 688
 blackboard chalk; compasses; composition books; crayons; erasers; 689
 folders, expandable, pocket, plastic, and manila; glue, paste, and 690
 paste sticks; highlighters; index cards; index card boxes; legal 691
 pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled 692
 notebook paper, copy paper, graph paper, tracing paper, manila 693
 paper, colored paper, poster board, and construction paper; pencil 694
 boxes and other school supply boxes; pencil sharpeners; pencils; 695
 pens; protractors; rulers; scissors; and writing tablets. "School 696
 supplies" does not include any item purchased for use in a trade 697
 or business. 698

(iii) "School instructional material" means written material 699
 commonly used by a student in a course of study as a reference and 700
 to learn the subject being taught. "School instructional material" 701
 includes only the following items: reference books, reference maps 702
 and globes, textbooks, and workbooks. "School instructional 703
 material" does not include any material purchased for use in a 704
 trade or business. 705

(57) On and after July 1, 2019, sales of tampons, panty 706

liners, menstrual cups, sanitary napkins, and other similar 707
tangible personal property the principal purpose of which is 708
feminine hygiene in connection with the menstrual cycle. 709

(C) For the purpose of the proper administration of this 710
chapter, and to prevent the evasion of the tax, it is presumed 711
that all sales made in this state are subject to the tax until the 712
contrary is established. 713

(D) The levy of this tax on retail sales of recreation and 714
sports club service shall not prevent a municipal corporation from 715
levying any tax on recreation and sports club dues or on any 716
income generated by recreation and sports club dues. 717

(E) The tax collected by the vendor from the consumer under 718
this chapter is not part of the price, but is a tax collection for 719
the benefit of the state, and of counties levying an additional 720
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 721
Code and of transit authorities levying an additional sales tax 722
pursuant to section 5739.023 of the Revised Code. Except for the 723
discount authorized under section 5739.12 of the Revised Code and 724
the effects of any rounding pursuant to section 5703.055 of the 725
Revised Code, no person other than the state or such a county or 726
transit authority shall derive any benefit from the collection or 727
payment of the tax levied by this section or section 5739.021, 728
5739.023, or 5739.026 of the Revised Code." 729

In line 317, after "sections" insert "5739.02, "; after 730
"5739.03" insert a comma 731

The motion was _____ agreed to.