

As Introduced

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Representatives Lipps, Reineke

**Cosponsors: Representatives Brenner, Merrin, Smith, K., Antani, Romanchuk,
Lang, Riedel**

A BILL

To amend section 5739.01 of the Revised Code to 1
modify the standard for determining when the 2
sales and use tax applies to business-related 3
electronic services that are provided together 4
with other services. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5739.01 of the Revised Code be 6
amended to read as follows: 7

Sec. 5739.01. As used in this chapter: 8

(A) "Person" includes individuals, receivers, assignees, 9
trustees in bankruptcy, estates, firms, partnerships, 10
associations, joint-stock companies, joint ventures, clubs, 11
societies, corporations, the state and its political 12
subdivisions, and combinations of individuals of any form. 13

(B) "Sale" and "selling" include all of the following 14
transactions for a consideration in any manner, whether 15
absolutely or conditionally, whether for a price or rental, in 16
money or by exchange, and by any means whatsoever: 17

(1) All transactions by which title or possession, or	18
both, of tangible personal property, is or is to be transferred,	19
or a license to use or consume tangible personal property is or	20
is to be granted;	21
(2) All transactions by which lodging by a hotel is or is	22
to be furnished to transient guests;	23
(3) All transactions by which:	24
(a) An item of tangible personal property is or is to be	25
repaired, except property, the purchase of which would not be	26
subject to the tax imposed by section 5739.02 of the Revised	27
Code;	28
(b) An item of tangible personal property is or is to be	29
installed, except property, the purchase of which would not be	30
subject to the tax imposed by section 5739.02 of the Revised	31
Code or property that is or is to be incorporated into and will	32
become a part of a production, transmission, transportation, or	33
distribution system for the delivery of a public utility	34
service;	35
(c) The service of washing, cleaning, waxing, polishing,	36
or painting a motor vehicle is or is to be furnished;	37
(d) Until August 1, 2003, industrial laundry cleaning	38
services are or are to be provided and, on and after August 1,	39
2003, laundry and dry cleaning services are or are to be	40
provided;	41
(e) Automatic data processing, computer services,	42
<u>electronic publishing services,</u> or electronic information	43
services are or are to be provided for use in business when the	44
true object of the transaction is the receipt by the consumer of	45
automatic data processing, computer services, <u>electronic</u>	46

publishing services, or electronic information services rather 47
than the receipt of personal ~~or and~~ professional services to 48
which. When provided in conjunction with one or more other 49
services, the receipt by a consumer of automatic data 50
processing, computer services, electronic publishing services, 51
or electronic information services ~~are incidental or~~ 52
supplemental is not the true object of the transaction when 53
either of the following conditions applies: 54

(i) The automatic data processing, computer services, 55
electronic publishing services, or electronic information 56
services are provided primarily for the performance, delivery, 57
receipt, or use of the other service or services; 58

(ii) The primary benefit sought by the consumer is the 59
receipt of personal and professional services. 60

Notwithstanding any other provision of this chapter, ~~such~~ 61
~~transactions~~ sales of automatic data processing, computer 62
services, electronic publishing services, or electronic 63
information services that occur between members of an affiliated 64
group are not sales. An "affiliated group" means two or more 65
persons related in such a way that one person owns or controls 66
the business operation of another member of the group. In the 67
case of corporations with stock, one corporation owns or 68
controls another if it owns more than fifty per cent of the 69
other corporation's common stock with voting rights. 70

(f) Telecommunications service, including prepaid calling 71
service, prepaid wireless calling service, or ancillary service, 72
is or is to be provided, but not including coin-operated 73
telephone service; 74

(g) Landscaping and lawn care service is or is to be 75

provided;	76
(h) Private investigation and security service is or is to be provided;	77 78
(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	79 80
(j) Building maintenance and janitorial service is or is to be provided;	81 82
(k) Employment service is or is to be provided;	83
(l) Employment placement service is or is to be provided;	84
(m) Exterminating service is or is to be provided;	85
(n) Physical fitness facility service is or is to be provided;	86 87
(o) Recreation and sports club service is or is to be provided;	88 89
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	90 91
(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	92 93 94 95 96 97 98 99 100
(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided,	101 102

when the transportation is entirely within this state, except 103
for transportation provided by an ambulance service, by a 104
transit bus, as defined in section 5735.01 of the Revised Code, 105
and transportation provided by a citizen of the United States 106
holding a certificate of public convenience and necessity issued 107
under 49 U.S.C. 41102; 108

(s) On and after August 1, 2003, motor vehicle towing 109
service is or is to be provided. As used in this division, 110
"motor vehicle towing service" means the towing or conveyance of 111
a wrecked, disabled, or illegally parked motor vehicle. 112

(t) On and after August 1, 2003, snow removal service is 113
or is to be provided. As used in this division, "snow removal 114
service" means the removal of snow by any mechanized means, but 115
does not include the providing of such service by a person that 116
has less than five thousand dollars in sales of such service 117
during the calendar year. 118

~~(u) Electronic publishing service is or is to be provided 119
to a consumer for use in business, except that such transactions 120
occurring between members of an affiliated group, as defined in 121
division (B) (3) (e) of this section, are not sales. 122~~

(4) All transactions by which printed, imprinted, 123
overprinted, lithographic, multilithic, blueprinted, 124
photostatic, or other productions or reproductions of written or 125
graphic matter are or are to be furnished or transferred; 126

(5) The production or fabrication of tangible personal 127
property for a consideration for consumers who furnish either 128
directly or indirectly the materials used in the production of 129
fabrication work; and include the furnishing, preparing, or 130
serving for a consideration of any tangible personal property 131

consumed on the premises of the person furnishing, preparing, or 132
serving such tangible personal property. Except as provided in 133
section 5739.03 of the Revised Code, a construction contract 134
pursuant to which tangible personal property is or is to be 135
incorporated into a structure or improvement on and becoming a 136
part of real property is not a sale of such tangible personal 137
property. The construction contractor is the consumer of such 138
tangible personal property, provided that the sale and 139
installation of carpeting, the sale and installation of 140
agricultural land tile, the sale and erection or installation of 141
portable grain bins, or the provision of landscaping and lawn 142
care service and the transfer of property as part of such 143
service is never a construction contract. 144

As used in division (B) (5) of this section: 145

(a) "Agricultural land tile" means fired clay or concrete 146
tile, or flexible or rigid perforated plastic pipe or tubing, 147
incorporated or to be incorporated into a subsurface drainage 148
system appurtenant to land used or to be used primarily in 149
production by farming, agriculture, horticulture, or 150
floriculture. The term does not include such materials when they 151
are or are to be incorporated into a drainage system appurtenant 152
to a building or structure even if the building or structure is 153
used or to be used in such production. 154

(b) "Portable grain bin" means a structure that is used or 155
to be used by a person engaged in farming or agriculture to 156
shelter the person's grain and that is designed to be 157
disassembled without significant damage to its component parts. 158

(6) All transactions in which all of the shares of stock 159
of a closely held corporation are transferred, or an ownership 160
interest in a pass-through entity, as defined in section 5733.04 161

of the Revised Code, is transferred, if the corporation or pass- 162
through entity is not engaging in business and its entire assets 163
consist of boats, planes, motor vehicles, or other tangible 164
personal property operated primarily for the use and enjoyment 165
of the shareholders or owners; 166

(7) All transactions in which a warranty, maintenance or 167
service contract, or similar agreement by which the vendor of 168
the warranty, contract, or agreement agrees to repair or 169
maintain the tangible personal property of the consumer is or is 170
to be provided; 171

(8) The transfer of copyrighted motion picture films used 172
solely for advertising purposes, except that the transfer of 173
such films for exhibition purposes is not a sale; 174

(9) On and after August 1, 2003, all transactions by which 175
tangible personal property is or is to be stored, except such 176
property that the consumer of the storage holds for sale in the 177
regular course of business; 178

(10) All transactions in which "guaranteed auto 179
protection" is provided whereby a person promises to pay to the 180
consumer the difference between the amount the consumer receives 181
from motor vehicle insurance and the amount the consumer owes to 182
a person holding title to or a lien on the consumer's motor 183
vehicle in the event the consumer's motor vehicle suffers a 184
total loss under the terms of the motor vehicle insurance policy 185
or is stolen and not recovered, if the protection and its price 186
are included in the purchase or lease agreement; 187

(11) (a) Except as provided in division (B) (11) (b) of this 188
section, on and after October 1, 2009, all transactions by which 189
health care services are paid for, reimbursed, provided, 190

delivered, arranged for, or otherwise made available by a 191
medicaid health insuring corporation pursuant to the 192
corporation's contract with the state. 193

(b) If the centers for medicare and medicaid services of 194
the United States department of health and human services 195
determines that the taxation of transactions described in 196
division (B) (11) (a) of this section constitutes an impermissible 197
health care-related tax under the "Social Security Act," section 198
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 199
the medicaid director shall notify the tax commissioner of that 200
determination. Beginning with the first day of the month 201
following that notification, the transactions described in 202
division (B) (11) (a) of this section are not sales for the 203
purposes of this chapter or Chapter 5741. of the Revised Code. 204
The tax commissioner shall order that the collection of taxes 205
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 206
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 207
for transactions occurring on or after that date. 208

(12) All transactions by which a specified digital product 209
is provided for permanent use or less than permanent use, 210
regardless of whether continued payment is required. 211

Except as provided in this section, "sale" and "selling" 212
do not include transfers of interest in leased property where 213
the original lessee and the terms of the original lease 214
agreement remain unchanged, or professional, insurance, or 215
personal service transactions that involve the transfer of 216
tangible personal property as an inconsequential element, for 217
which no separate charges are made. 218

(C) "Vendor" means the person providing the service or by 219
whom the transfer effected or license given by a sale is or is 220

to be made or given and, for sales described in division (B) (3) 221
(i) of this section, the telecommunications service vendor that 222
provides the nine hundred telephone service; if two or more 223
persons are engaged in business at the same place of business 224
under a single trade name in which all collections on account of 225
sales by each are made, such persons shall constitute a single 226
vendor. 227

Physicians, dentists, hospitals, and veterinarians who are 228
engaged in selling tangible personal property as received from 229
others, such as eyeglasses, mouthwashes, dentifrices, or similar 230
articles, are vendors. Veterinarians who are engaged in 231
transferring to others for a consideration drugs, the dispensing 232
of which does not require an order of a licensed veterinarian or 233
physician under federal law, are vendors. 234

(D) (1) "Consumer" means the person for whom the service is 235
provided, to whom the transfer effected or license given by a 236
sale is or is to be made or given, to whom the service described 237
in division (B) (3) (f) or (i) of this section is charged, or to 238
whom the admission is granted. 239

(2) Physicians, dentists, hospitals, and blood banks 240
operated by nonprofit institutions and persons licensed to 241
practice veterinary medicine, surgery, and dentistry are 242
consumers of all tangible personal property and services 243
purchased by them in connection with the practice of medicine, 244
dentistry, the rendition of hospital or blood bank service, or 245
the practice of veterinary medicine, surgery, and dentistry. In 246
addition to being consumers of drugs administered by them or by 247
their assistants according to their direction, veterinarians 248
also are consumers of drugs that under federal law may be 249
dispensed only by or upon the order of a licensed veterinarian 250

or physician, when transferred by them to others for a 251
consideration to provide treatment to animals as directed by the 252
veterinarian. 253

(3) A person who performs a facility management, or 254
similar service contract for a contractee is a consumer of all 255
tangible personal property and services purchased for use in 256
connection with the performance of such contract, regardless of 257
whether title to any such property vests in the contractee. The 258
purchase of such property and services is not subject to the 259
exception for resale under division (E) of this section. 260

(4) (a) In the case of a person who purchases printed 261
matter for the purpose of distributing it or having it 262
distributed to the public or to a designated segment of the 263
public, free of charge, that person is the consumer of that 264
printed matter, and the purchase of that printed matter for that 265
purpose is a sale. 266

(b) In the case of a person who produces, rather than 267
purchases, printed matter for the purpose of distributing it or 268
having it distributed to the public or to a designated segment 269
of the public, free of charge, that person is the consumer of 270
all tangible personal property and services purchased for use or 271
consumption in the production of that printed matter. That 272
person is not entitled to claim exemption under division (B) (42) 273
(f) of section 5739.02 of the Revised Code for any material 274
incorporated into the printed matter or any equipment, supplies, 275
or services primarily used to produce the printed matter. 276

(c) The distribution of printed matter to the public or to 277
a designated segment of the public, free of charge, is not a 278
sale to the members of the public to whom the printed matter is 279
distributed or to any persons who purchase space in the printed 280

matter for advertising or other purposes.	281
(5) A person who makes sales of any of the services listed	282
in division (B) (3) of this section is the consumer of any	283
tangible personal property used in performing the service. The	284
purchase of that property is not subject to the resale exception	285
under division (E) of this section.	286
(6) A person who engages in highway transportation for	287
hire is the consumer of all packaging materials purchased by	288
that person and used in performing the service, except for	289
packaging materials sold by such person in a transaction	290
separate from the service.	291
(7) In the case of a transaction for health care services	292
under division (B) (11) of this section, a medicaid health	293
insuring corporation is the consumer of such services. The	294
purchase of such services by a medicaid health insuring	295
corporation is not subject to the exception for resale under	296
division (E) of this section or to the exemptions provided under	297
divisions (B) (12), (18), (19), and (22) of section 5739.02 of	298
the Revised Code.	299
(E) "Retail sale" and "sales at retail" include all sales,	300
except those in which the purpose of the consumer is to resell	301
the thing transferred or benefit of the service provided, by a	302
person engaging in business, in the form in which the same is,	303
or is to be, received by the person.	304
(F) "Business" includes any activity engaged in by any	305
person with the object of gain, benefit, or advantage, either	306
direct or indirect. "Business" does not include the activity of	307
a person in managing and investing the person's own funds.	308
(G) "Engaging in business" means commencing, conducting,	309

or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H) (1) (a) "Price," except as provided in divisions (H) (2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(i) The vendor's cost of the property sold;

(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;

(iii) Charges by the vendor for any services necessary to complete the sale;

(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the

consideration is directly related to a price reduction or 338
discount on the sale; the vendor has an obligation to pass the 339
price reduction or discount through to the consumer; the amount 340
of the consideration attributable to the sale is fixed and 341
determinable by the vendor at the time of the sale of the item 342
to the consumer; and one of the following criteria is met: 343

(i) The consumer presents a coupon, certificate, or other 344
document to the vendor to claim a price reduction or discount 345
where the coupon, certificate, or document is authorized, 346
distributed, or granted by a third party with the understanding 347
that the third party will reimburse any vendor to whom the 348
coupon, certificate, or document is presented; 349

(ii) The consumer identifies the consumer's self to the 350
seller as a member of a group or organization entitled to a 351
price reduction or discount. A preferred customer card that is 352
available to any patron does not constitute membership in such a 353
group or organization. 354

(iii) The price reduction or discount is identified as a 355
third party price reduction or discount on the invoice received 356
by the consumer, or on a coupon, certificate, or other document 357
presented by the consumer. 358

(c) "Price" does not include any of the following: 359

(i) Discounts, including cash, term, or coupons that are 360
not reimbursed by a third party that are allowed by a vendor and 361
taken by a consumer on a sale; 362

(ii) Interest, financing, and carrying charges from credit 363
extended on the sale of tangible personal property or services, 364
if the amount is separately stated on the invoice, bill of sale, 365
or similar document given to the purchaser; 366

(iii) Any taxes legally imposed directly on the consumer 367
that are separately stated on the invoice, bill of sale, or 368
similar document given to the consumer. For the purpose of this 369
division, the tax imposed under Chapter 5751. of the Revised 370
Code is not a tax directly on the consumer, even if the tax or a 371
portion thereof is separately stated. 372

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 373
this section, any discount allowed by an automobile manufacturer 374
to its employee, or to the employee of a supplier, on the 375
purchase of a new motor vehicle from a new motor vehicle dealer 376
in this state. 377

(v) The dollar value of a gift card that is not sold by a 378
vendor or purchased by a consumer and that is redeemed by the 379
consumer in purchasing tangible personal property or services if 380
the vendor is not reimbursed and does not receive compensation 381
from a third party to cover all or part of the gift card value. 382
For the purposes of this division, a gift card is not sold by a 383
vendor or purchased by a consumer if it is distributed pursuant 384
to an awards, loyalty, or promotional program. Past and present 385
purchases of tangible personal property or services by the 386
consumer shall not be treated as consideration exchanged for a 387
gift card. 388

(2) In the case of a sale of any new motor vehicle by a 389
new motor vehicle dealer, as defined in section 4517.01 of the 390
Revised Code, in which another motor vehicle is accepted by the 391
dealer as part of the consideration received, "price" has the 392
same meaning as in division (H) (1) of this section, reduced by 393
the credit afforded the consumer by the dealer for the motor 394
vehicle received in trade. 395

(3) In the case of a sale of any watercraft or outboard 396

motor by a watercraft dealer licensed in accordance with section 397
1547.543 of the Revised Code, in which another watercraft, 398
watercraft and trailer, or outboard motor is accepted by the 399
dealer as part of the consideration received, "price" has the 400
same meaning as in division (H) (1) of this section, reduced by 401
the credit afforded the consumer by the dealer for the 402
watercraft, watercraft and trailer, or outboard motor received 403
in trade. As used in this division, "watercraft" includes an 404
outdrive unit attached to the watercraft. 405

(4) In the case of transactions for health care services 406
under division (B) (11) of this section, "price" means the amount 407
of managed care premiums received each month by a medicaid 408
health insuring corporation. 409

(I) "Receipts" means the total amount of the prices of the 410
sales of vendors, provided that the dollar value of gift cards 411
distributed pursuant to an awards, loyalty, or promotional 412
program, and cash discounts allowed and taken on sales at the 413
time they are consummated are not included, minus any amount 414
deducted as a bad debt pursuant to section 5739.121 of the 415
Revised Code. "Receipts" does not include the sale price of 416
property returned or services rejected by consumers when the 417
full sale price and tax are refunded either in cash or by 418
credit. 419

(J) "Place of business" means any location at which a 420
person engages in business. 421

(K) "Premises" includes any real property or portion 422
thereof upon which any person engages in selling tangible 423
personal property at retail or making retail sales and also 424
includes any real property or portion thereof designated for, or 425
devoted to, use in conjunction with the business engaged in by 426

such person. 427

(L) "Casual sale" means a sale of an item of tangible 428
personal property that was obtained by the person making the 429
sale, through purchase or otherwise, for the person's own use 430
and was previously subject to any state's taxing jurisdiction on 431
its sale or use, and includes such items acquired for the 432
seller's use that are sold by an auctioneer employed directly by 433
the person for such purpose, provided the location of such sales 434
is not the auctioneer's permanent place of business. As used in 435
this division, "permanent place of business" includes any 436
location where such auctioneer has conducted more than two 437
auctions during the year. 438

(M) "Hotel" means every establishment kept, used, 439
maintained, advertised, or held out to the public to be a place 440
where sleeping accommodations are offered to guests, in which 441
five or more rooms are used for the accommodation of such 442
guests, whether the rooms are in one or several structures, 443
except as otherwise provided in division (G) of section 5739.09 444
of the Revised Code. 445

(N) "Transient guests" means persons occupying a room or 446
rooms for sleeping accommodations for less than thirty 447
consecutive days. 448

(O) "Making retail sales" means the effecting of 449
transactions wherein one party is obligated to pay the price and 450
the other party is obligated to provide a service or to transfer 451
title to or possession of the item sold. "Making retail sales" 452
does not include the preliminary acts of promoting or soliciting 453
the retail sales, other than the distribution of printed matter 454
which displays or describes and prices the item offered for 455
sale, nor does it include delivery of a predetermined quantity 456

of tangible personal property or transportation of property or 457
personnel to or from a place where a service is performed. 458

(P) "Used directly in the rendition of a public utility 459
service" means that property that is to be incorporated into and 460
will become a part of the consumer's production, transmission, 461
transportation, or distribution system and that retains its 462
classification as tangible personal property after such 463
incorporation; fuel or power used in the production, 464
transmission, transportation, or distribution system; and 465
tangible personal property used in the repair and maintenance of 466
the production, transmission, transportation, or distribution 467
system, including only such motor vehicles as are specially 468
designed and equipped for such use. Tangible personal property 469
and services used primarily in providing highway transportation 470
for hire are not used directly in the rendition of a public 471
utility service. In this definition, "public utility" includes a 472
citizen of the United States holding, and required to hold, a 473
certificate of public convenience and necessity issued under 49 474
U.S.C. 41102. 475

(Q) "Refining" means removing or separating a desirable 476
product from raw or contaminated materials by distillation or 477
physical, mechanical, or chemical processes. 478

(R) "Assembly" and "assembling" mean attaching or fitting 479
together parts to form a product, but do not include packaging a 480
product. 481

(S) "Manufacturing operation" means a process in which 482
materials are changed, converted, or transformed into a 483
different state or form from which they previously existed and 484
includes refining materials, assembling parts, and preparing raw 485
materials and parts by mixing, measuring, blending, or otherwise 486

committing such materials or parts to the manufacturing process. 487

"Manufacturing operation" does not include packaging. 488

(T) "Fiscal officer" means, with respect to a regional 489
transit authority, the secretary-treasurer thereof, and with 490
respect to a county that is a transit authority, the fiscal 491
officer of the county transit board if one is appointed pursuant 492
to section 306.03 of the Revised Code or the county auditor if 493
the board of county commissioners operates the county transit 494
system. 495

(U) "Transit authority" means a regional transit authority 496
created pursuant to section 306.31 of the Revised Code or a 497
county in which a county transit system is created pursuant to 498
section 306.01 of the Revised Code. For the purposes of this 499
chapter, a transit authority must extend to at least the entire 500
area of a single county. A transit authority that includes 501
territory in more than one county must include all the area of 502
the most populous county that is a part of such transit 503
authority. County population shall be measured by the most 504
recent census taken by the United States census bureau. 505

(V) "Legislative authority" means, with respect to a 506
regional transit authority, the board of trustees thereof, and 507
with respect to a county that is a transit authority, the board 508
of county commissioners. 509

(W) "Territory of the transit authority" means all of the 510
area included within the territorial boundaries of a transit 511
authority as they from time to time exist. Such territorial 512
boundaries must at all times include all the area of a single 513
county or all the area of the most populous county that is a 514
part of such transit authority. County population shall be 515
measured by the most recent census taken by the United States 516

census bureau.	517
(X) "Providing a service" means providing or furnishing anything described in division (B) (3) of this section for consideration.	518 519 520
(Y) (1) (a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.	521 522 523 524
(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.	525 526 527 528 529 530
(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:	531 532 533
(i) Examining or acquiring data stored in or accessible to the computer equipment;	534 535
(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.	536 537 538
For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section.	539 540 541 542 543
(d) <u>"Electronic publishing" and "electronic publishing</u>	544

services" means providing access to one or more of the following 545
primarily for business customers, including the federal 546
government or a state government or a political subdivision 547
thereof, to conduct research: news; business, financial, legal, 548
consumer, or credit materials; editorials, columns, reader 549
commentary, or features; photos or images; archival or research 550
material; legal notices, identity verification, or public 551
records; scientific, educational, instructional, technical, 552
professional, trade, or other literary materials; or other 553
similar information which has been gathered and made available 554
by the provider to the consumer in an electronic format. 555
Providing electronic publishing or electronic publishing 556
services includes the functions necessary for the acquisition, 557
formatting, editing, storage, and dissemination of data or 558
information that is the subject of a sale. 559

(e) "Automatic data processing, computer services, 560
electronic publishing services, or electronic information 561
services" shall not include personal ~~or~~ and professional 562
services. 563

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 564
section, "personal and professional services" means all services 565
other than automatic data processing, computer services, 566
electronic publishing services, or electronic information 567
services, including but not limited to: 568

(a) Accounting and legal services such as advice on tax 569
matters, asset management, budgetary matters, quality control, 570
information security, and auditing and any other situation where 571
the service provider receives data or information and studies, 572
alters, analyzes, interprets, or adjusts such material; 573

(b) Analyzing business policies and procedures; 574

(c) Identifying management information needs;	575
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	576 577 578
(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;	579 580 581 582 583
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	584 585 586
(g) Testing of business procedures;	587
(h) Training personnel in business procedure applications;	588
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	589 590 591 592 593 594 595
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	596 597
(k) Providing digital advertising services.	598
The services listed in divisions (Y) (2) (a) to (k) of this section are not automatic data processing or , computer services, <u>electronic publishing services, or electronic information services.</u>	599 600 601 602

(Z) "Highway transportation for hire" means the 603
transportation of personal property belonging to others for 604
consideration by any of the following: 605

(1) The holder of a permit or certificate issued by this 606
state or the United States authorizing the holder to engage in 607
transportation of personal property belonging to others for 608
consideration over or on highways, roadways, streets, or any 609
similar public thoroughfare; 610

(2) A person who engages in the transportation of personal 611
property belonging to others for consideration over or on 612
highways, roadways, streets, or any similar public thoroughfare 613
but who could not have engaged in such transportation on 614
December 11, 1985, unless the person was the holder of a permit 615
or certificate of the types described in division (Z)(1) of this 616
section; 617

(3) A person who leases a motor vehicle to and operates it 618
for a person described by division (Z)(1) or (2) of this 619
section. 620

(AA) (1) "Telecommunications service" means the electronic 621
transmission, conveyance, or routing of voice, data, audio, 622
video, or any other information or signals to a point, or 623
between or among points. "Telecommunications service" includes 624
such transmission, conveyance, or routing in which computer 625
processing applications are used to act on the form, code, or 626
protocol of the content for purposes of transmission, 627
conveyance, or routing without regard to whether the service is 628
referred to as voice-over internet protocol service or is 629
classified by the federal communications commission as enhanced 630
or value-added. "Telecommunications service" does not include 631
any of the following: 632

(a) Data processing and information services that allow 633
data to be generated, acquired, stored, processed, or retrieved 634
and delivered by an electronic transmission to a consumer where 635
the consumer's primary purpose for the underlying transaction is 636
the processed data or information; 637

(b) Installation or maintenance of wiring or equipment on 638
a customer's premises; 639

(c) Tangible personal property; 640

(d) Advertising, including directory advertising; 641

(e) Billing and collection services provided to third 642
parties; 643

(f) Internet access service; 644

(g) Radio and television audio and video programming 645
services, regardless of the medium, including the furnishing of 646
transmission, conveyance, and routing of such services by the 647
programming service provider. Radio and television audio and 648
video programming services include, but are not limited to, 649
cable service, as defined in 47 U.S.C. 522(6), and audio and 650
video programming services delivered by commercial mobile radio 651
service providers, as defined in 47 C.F.R. 20.3; 652

(h) Ancillary service; 653

(i) Digital products delivered electronically, including 654
software, music, video, reading materials, or ring tones. 655

(2) "Ancillary service" means a service that is associated 656
with or incidental to the provision of telecommunications 657
service, including conference bridging service, detailed 658
telecommunications billing service, directory assistance, 659
vertical service, and voice mail service. As used in this 660

division: 661

(a) "Conference bridging service" means an ancillary 662
service that links two or more participants of an audio or video 663
conference call, including providing a telephone number. 664
"Conference bridging service" does not include 665
telecommunications services used to reach the conference bridge. 666

(b) "Detailed telecommunications billing service" means an 667
ancillary service of separately stating information pertaining 668
to individual calls on a customer's billing statement. 669

(c) "Directory assistance" means an ancillary service of 670
providing telephone number or address information. 671

(d) "Vertical service" means an ancillary service that is 672
offered in connection with one or more telecommunications 673
services, which offers advanced calling features that allow 674
customers to identify callers and manage multiple calls and call 675
connections, including conference bridging service. 676

(e) "Voice mail service" means an ancillary service that 677
enables the customer to store, send, or receive recorded 678
messages. "Voice mail service" does not include any vertical 679
services that the customer may be required to have in order to 680
utilize the voice mail service. 681

(3) "900 service" means an inbound toll telecommunications 682
service purchased by a subscriber that allows the subscriber's 683
customers to call in to the subscriber's prerecorded 684
announcement or live service, and which is typically marketed 685
under the name "900 service" and any subsequent numbers 686
designated by the federal communications commission. "900 687
service" does not include the charge for collection services 688
provided by the seller of the telecommunications service to the 689

subscriber, or services or products sold by the subscriber to 690
the subscriber's customer. 691

(4) "Prepaid calling service" means the right to access 692
exclusively telecommunications services, which must be paid for 693
in advance and which enables the origination of calls using an 694
access number or authorization code, whether manually or 695
electronically dialed, and that is sold in predetermined units 696
or dollars of which the number declines with use in a known 697
amount. 698

(5) "Prepaid wireless calling service" means a 699
telecommunications service that provides the right to utilize 700
mobile telecommunications service as well as other non- 701
telecommunications services, including the download of digital 702
products delivered electronically, and content and ancillary 703
services, that must be paid for in advance and that is sold in 704
predetermined units or dollars of which the number declines with 705
use in a known amount. 706

(6) "Value-added non-voice data service" means a 707
telecommunications service in which computer processing 708
applications are used to act on the form, content, code, or 709
protocol of the information or data primarily for a purpose 710
other than transmission, conveyance, or routing. 711

(7) "Coin-operated telephone service" means a 712
telecommunications service paid for by inserting money into a 713
telephone accepting direct deposits of money to operate. 714

(8) "Customer" has the same meaning as in section 5739.034 715
of the Revised Code. 716

(BB) "Laundry and dry cleaning services" means removing 717
soil or dirt from towels, linens, articles of clothing, or other 718

fabric items that belong to others and supplying towels, linens, 719
articles of clothing, or other fabric items. "Laundry and dry 720
cleaning services" does not include the provision of self- 721
service facilities for use by consumers to remove soil or dirt 722
from towels, linens, articles of clothing, or other fabric 723
items. 724

(CC) "Magazines distributed as controlled circulation 725
publications" means magazines containing at least twenty-four 726
pages, at least twenty-five per cent editorial content, issued 727
at regular intervals four or more times a year, and circulated 728
without charge to the recipient, provided that such magazines 729
are not owned or controlled by individuals or business concerns 730
which conduct such publications as an auxiliary to, and 731
essentially for the advancement of the main business or calling 732
of, those who own or control them. 733

(DD) "Landscaping and lawn care service" means the 734
services of planting, seeding, sodding, removing, cutting, 735
trimming, pruning, mulching, aerating, applying chemicals, 736
watering, fertilizing, and providing similar services to 737
establish, promote, or control the growth of trees, shrubs, 738
flowers, grass, ground cover, and other flora, or otherwise 739
maintaining a lawn or landscape grown or maintained by the owner 740
for ornamentation or other nonagricultural purpose. However, 741
"landscaping and lawn care service" does not include the 742
providing of such services by a person who has less than five 743
thousand dollars in sales of such services during the calendar 744
year. 745

(EE) "Private investigation and security service" means 746
the performance of any activity for which the provider of such 747
service is required to be licensed pursuant to Chapter 4749. of 748

the Revised Code, or would be required to be so licensed in 749
performing such services in this state, and also includes the 750
services of conducting polygraph examinations and of monitoring 751
or overseeing the activities on or in, or the condition of, the 752
consumer's home, business, or other facility by means of 753
electronic or similar monitoring devices. "Private investigation 754
and security service" does not include special duty services 755
provided by off-duty police officers, deputy sheriffs, and other 756
peace officers regularly employed by the state or a political 757
subdivision. 758

(FF) "Information services" means providing conversation, 759
giving consultation or advice, playing or making a voice or 760
other recording, making or keeping a record of the number of 761
callers, and any other service provided to a consumer by means 762
of a nine hundred telephone call, except when the nine hundred 763
telephone call is the means by which the consumer makes a 764
contribution to a recognized charity. 765

(GG) "Research and development" means designing, creating, 766
or formulating new or enhanced products, equipment, or 767
manufacturing processes, and also means conducting scientific or 768
technological inquiry and experimentation in the physical 769
sciences with the goal of increasing scientific knowledge which 770
may reveal the bases for new or enhanced products, equipment, or 771
manufacturing processes. 772

(HH) "Qualified research and development equipment" means 773
capitalized tangible personal property, and leased personal 774
property that would be capitalized if purchased, used by a 775
person primarily to perform research and development. Tangible 776
personal property primarily used in testing, as defined in 777
division (A) (4) of section 5739.011 of the Revised Code, or used 778

for recording or storing test results, is not qualified research 779
and development equipment unless such property is primarily used 780
by the consumer in testing the product, equipment, or 781
manufacturing process being created, designed, or formulated by 782
the consumer in the research and development activity or in 783
recording or storing such test results. 784

(II) "Building maintenance and janitorial service" means 785
cleaning the interior or exterior of a building and any tangible 786
personal property located therein or thereon, including any 787
services incidental to such cleaning for which no separate 788
charge is made. However, "building maintenance and janitorial 789
service" does not include the providing of such service by a 790
person who has less than five thousand dollars in sales of such 791
service during the calendar year. As used in this division, 792
"cleaning" does not include sanitation services necessary for an 793
establishment described in 21 U.S.C. 608 to comply with rules 794
and regulations adopted pursuant to that section. 795

(JJ) "Employment service" means providing or supplying 796
personnel, on a temporary or long-term basis, to perform work or 797
labor under the supervision or control of another, when the 798
personnel so provided or supplied receive their wages, salary, 799
or other compensation from the provider or supplier of the 800
employment service or from a third party that provided or 801
supplied the personnel to the provider or supplier. "Employment 802
service" does not include: 803

(1) Acting as a contractor or subcontractor, where the 804
personnel performing the work are not under the direct control 805
of the purchaser. 806

(2) Medical and health care services. 807

(3) Supplying personnel to a purchaser pursuant to a 808
contract of at least one year between the service provider and 809
the purchaser that specifies that each employee covered under 810
the contract is assigned to the purchaser on a permanent basis. 811

(4) Transactions between members of an affiliated group, 812
as defined in division (B) (3) (e) of this section. 813

(5) Transactions where the personnel so provided or 814
supplied by a provider or supplier to a purchaser of an 815
employment service are then provided or supplied by that 816
purchaser to a third party as an employment service, except 817
"employment service" does include the transaction between that 818
purchaser and the third party. 819

(KK) "Employment placement service" means locating or 820
finding employment for a person or finding or locating an 821
employee to fill an available position. 822

(LL) "Exterminating service" means eradicating or 823
attempting to eradicate vermin infestations from a building or 824
structure, or the area surrounding a building or structure, and 825
includes activities to inspect, detect, or prevent vermin 826
infestation of a building or structure. 827

(MM) "Physical fitness facility service" means all 828
transactions by which a membership is granted, maintained, or 829
renewed, including initiation fees, membership dues, renewal 830
fees, monthly minimum fees, and other similar fees and dues, by 831
a physical fitness facility such as an athletic club, health 832
spa, or gymnasium, which entitles the member to use the facility 833
for physical exercise. 834

(NN) "Recreation and sports club service" means all 835
transactions by which a membership is granted, maintained, or 836

renewed, including initiation fees, membership dues, renewal 837
fees, monthly minimum fees, and other similar fees and dues, by 838
a recreation and sports club, which entitles the member to use 839
the facilities of the organization. "Recreation and sports club" 840
means an organization that has ownership of, or controls or 841
leases on a continuing, long-term basis, the facilities used by 842
its members and includes an aviation club, gun or shooting club, 843
yacht club, card club, swimming club, tennis club, golf club, 844
country club, riding club, amateur sports club, or similar 845
organization. 846

(OO) "Livestock" means farm animals commonly raised for 847
food, food production, or other agricultural purposes, 848
including, but not limited to, cattle, sheep, goats, swine, 849
poultry, and captive deer. "Livestock" does not include 850
invertebrates, amphibians, reptiles, domestic pets, animals for 851
use in laboratories or for exhibition, or other animals not 852
commonly raised for food or food production. 853

(PP) "Livestock structure" means a building or structure 854
used exclusively for the housing, raising, feeding, or 855
sheltering of livestock, and includes feed storage or handling 856
structures and structures for livestock waste handling. 857

(QQ) "Horticulture" means the growing, cultivation, and 858
production of flowers, fruits, herbs, vegetables, sod, 859
mushrooms, and nursery stock. As used in this division, "nursery 860
stock" has the same meaning as in section 927.51 of the Revised 861
Code. 862

(RR) "Horticulture structure" means a building or 863
structure used exclusively for the commercial growing, raising, 864
or overwintering of horticultural products, and includes the 865
area used for stocking, storing, and packing horticultural 866

products when done in conjunction with the production of those 867
products. 868

(SS) "Newspaper" means an unbound publication bearing a 869
title or name that is regularly published, at least as 870
frequently as biweekly, and distributed from a fixed place of 871
business to the public in a specific geographic area, and that 872
contains a substantial amount of news matter of international, 873
national, or local events of interest to the general public. 874

(TT) "Professional racing team" means a person that 875
employs at least twenty full-time employees for the purpose of 876
conducting a motor vehicle racing business for profit. The 877
person must conduct the business with the purpose of racing one 878
or more motor racing vehicles in at least ten competitive 879
professional racing events each year that comprise all or part 880
of a motor racing series sanctioned by one or more motor racing 881
sanctioning organizations. A "motor racing vehicle" means a 882
vehicle for which the chassis, engine, and parts are designed 883
exclusively for motor racing, and does not include a stock or 884
production model vehicle that may be modified for use in racing. 885
For the purposes of this division: 886

(1) A "competitive professional racing event" is a motor 887
vehicle racing event sanctioned by one or more motor racing 888
sanctioning organizations, at which aggregate cash prizes in 889
excess of eight hundred thousand dollars are awarded to the 890
competitors. 891

(2) "Full-time employee" means an individual who is 892
employed for consideration for thirty-five or more hours a week, 893
or who renders any other standard of service generally accepted 894
by custom or specified by contract as full-time employment. 895

(UU) (1) "Lease" or "rental" means any transfer of the 896
possession or control of tangible personal property for a fixed 897
or indefinite term, for consideration. "Lease" or "rental" 898
includes future options to purchase or extend, and agreements 899
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 900
trailers where the amount of consideration may be increased or 901
decreased by reference to the amount realized upon the sale or 902
disposition of the property. "Lease" or "rental" does not 903
include: 904

(a) A transfer of possession or control of tangible 905
personal property under a security agreement or a deferred 906
payment plan that requires the transfer of title upon completion 907
of the required payments; 908

(b) A transfer of possession or control of tangible 909
personal property under an agreement that requires the transfer 910
of title upon completion of required payments and payment of an 911
option price that does not exceed the greater of one hundred 912
dollars or one per cent of the total required payments; 913

(c) Providing tangible personal property along with an 914
operator for a fixed or indefinite period of time, if the 915
operator is necessary for the property to perform as designed. 916
For purposes of this division, the operator must do more than 917
maintain, inspect, or set up the tangible personal property. 918

(2) "Lease" and "rental," as defined in division (UU) of 919
this section, shall not apply to leases or rentals that exist 920
before June 26, 2003. 921

(3) "Lease" and "rental" have the same meaning as in 922
division (UU) (1) of this section regardless of whether a 923
transaction is characterized as a lease or rental under 924

generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws. 925
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(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling. 928
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(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code. 936
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(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service. 938
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(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software. 948
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(ZZ) "Municipal gas utility" means a municipal corporation 954
that owns or operates a system for the distribution of natural 955
gas. 956

(AAA) "Computer" means an electronic device that accepts 957
information in digital or similar form and manipulates it for a 958
result based on a sequence of instructions. 959

(BBB) "Computer software" means a set of coded 960
instructions designed to cause a computer or automatic data 961
processing equipment to perform a task. 962

(CCC) "Delivered electronically" means delivery of 963
computer software from the seller to the purchaser by means 964
other than tangible storage media. 965

(DDD) "Prewritten computer software" means computer 966
software, including prewritten upgrades, that is not designed 967
and developed by the author or other creator to the 968
specifications of a specific purchaser. The combining of two or 969
more prewritten computer software programs or prewritten 970
portions thereof does not cause the combination to be other than 971
prewritten computer software. "Prewritten computer software" 972
includes software designed and developed by the author or other 973
creator to the specifications of a specific purchaser when it is 974
sold to a person other than the purchaser. If a person modifies 975
or enhances computer software of which the person is not the 976
author or creator, the person shall be deemed to be the author 977
or creator only of such person's modifications or enhancements. 978
Prewritten computer software or a prewritten portion thereof 979
that is modified or enhanced to any degree, where such 980
modification or enhancement is designed and developed to the 981
specifications of a specific purchaser, remains prewritten 982
computer software; provided, however, that where there is a 983

reasonable, separately stated charge or an invoice or other 984
statement of the price given to the purchaser for the 985
modification or enhancement, the modification or enhancement 986
shall not constitute prewritten computer software. 987

(EEE) (1) "Food" means substances, whether in liquid, 988
concentrated, solid, frozen, dried, or dehydrated form, that are 989
sold for ingestion or chewing by humans and are consumed for 990
their taste or nutritional value. "Food" does not include 991
alcoholic beverages, dietary supplements, soft drinks, or 992
tobacco. 993

(2) As used in division (EEE) (1) of this section: 994

(a) "Alcoholic beverages" means beverages that are 995
suitable for human consumption and contain one-half of one per 996
cent or more of alcohol by volume. 997

(b) "Dietary supplements" means any product, other than 998
tobacco, that is intended to supplement the diet and that is 999
intended for ingestion in tablet, capsule, powder, softgel, 1000
gelcap, or liquid form, or, if not intended for ingestion in 1001
such a form, is not represented as conventional food for use as 1002
a sole item of a meal or of the diet; that is required to be 1003
labeled as a dietary supplement, identifiable by the "supplement 1004
facts" box found on the label, as required by 21 C.F.R. 101.36; 1005
and that contains one or more of the following dietary 1006
ingredients: 1007

(i) A vitamin; 1008

(ii) A mineral; 1009

(iii) An herb or other botanical; 1010

(iv) An amino acid; 1011

(v) A dietary substance for use by humans to supplement 1012
the diet by increasing the total dietary intake; 1013

(vi) A concentrate, metabolite, constituent, extract, or 1014
combination of any ingredient described in divisions (EEE) (2) (b) 1015
(i) to (v) of this section. 1016

(c) "Soft drinks" means nonalcoholic beverages that 1017
contain natural or artificial sweeteners. "Soft drinks" does not 1018
include beverages that contain milk or milk products, soy, rice, 1019
or similar milk substitutes, or that contains greater than fifty 1020
per cent vegetable or fruit juice by volume. 1021

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 1022
tobacco, or any other item that contains tobacco. 1023

(FFF) "Drug" means a compound, substance, or preparation, 1024
and any component of a compound, substance, or preparation, 1025
other than food, dietary supplements, or alcoholic beverages 1026
that is recognized in the official United States pharmacopoeia, 1027
official homeopathic pharmacopoeia of the United States, or 1028
official national formulary, and supplements to them; is 1029
intended for use in the diagnosis, cure, mitigation, treatment, 1030
or prevention of disease; or is intended to affect the structure 1031
or any function of the body. 1032

(GGG) "Prescription" means an order, formula, or recipe 1033
issued in any form of oral, written, electronic, or other means 1034
of transmission by a duly licensed practitioner authorized by 1035
the laws of this state to issue a prescription. 1036

(HHH) "Durable medical equipment" means equipment, 1037
including repair and replacement parts for such equipment, that 1038
can withstand repeated use, is primarily and customarily used to 1039
serve a medical purpose, generally is not useful to a person in 1040

the absence of illness or injury, and is not worn in or on the 1041
body. "Durable medical equipment" does not include mobility 1042
enhancing equipment. 1043

(III) "Mobility enhancing equipment" means equipment, 1044
including repair and replacement parts for such equipment, that 1045
is primarily and customarily used to provide or increase the 1046
ability to move from one place to another and is appropriate for 1047
use either in a home or a motor vehicle, that is not generally 1048
used by persons with normal mobility, and that does not include 1049
any motor vehicle or equipment on a motor vehicle normally 1050
provided by a motor vehicle manufacturer. "Mobility enhancing 1051
equipment" does not include durable medical equipment. 1052

(JJJ) "Prosthetic device" means a replacement, corrective, 1053
or supportive device, including repair and replacement parts for 1054
the device, worn on or in the human body to artificially replace 1055
a missing portion of the body, prevent or correct physical 1056
deformity or malfunction, or support a weak or deformed portion 1057
of the body. As used in this division, before July 1, 2019, 1058
"prosthetic device" does not include corrective eyeglasses, 1059
contact lenses, or dental prosthesis. On or after July 1, 2019, 1060
"prosthetic device" does not include dental prosthesis but does 1061
include corrective eyeglasses or contact lenses. 1062

(KKK) (1) "Fractional aircraft ownership program" means a 1063
program in which persons within an affiliated group sell and 1064
manage fractional ownership program aircraft, provided that at 1065
least one hundred airworthy aircraft are operated in the program 1066
and the program meets all of the following criteria: 1067

(a) Management services are provided by at least one 1068
program manager within an affiliated group on behalf of the 1069
fractional owners. 1070

(b) Each program aircraft is owned or possessed by at least one fractional owner. 1071
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(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft. 1073
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(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners. 1076
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(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program. 1078
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(2) As used in division (KKK) (1) of this section: 1081

(a) "Affiliated group" has the same meaning as in division (B) (3) (e) of this section. 1082
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(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK) (1) (e) of this section. 1084
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(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK) (1) (d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program. 1088
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(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK) (1) (e) of this section, and 1095
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offered by the program manager to the fractional owners, 1099
including, at a minimum, the establishment and implementation of 1100
safety guidelines; the coordination of the scheduling of the 1101
program aircraft and crews; program aircraft maintenance; 1102
program aircraft insurance; crew training for crews employed, 1103
furnished, or contracted by the program manager or the 1104
fractional owner; the satisfaction of record-keeping 1105
requirements; and the development and use of an operations 1106
manual and a maintenance manual for the fractional aircraft 1107
ownership program. 1108

(e) "Program manager" means the person that offers 1109
management services to fractional owners pursuant to a 1110
management services agreement under division (KKK) (1) (e) of this 1111
section. 1112

~~(LLL) "Electronic publishing" means providing access to 1113
one or more of the following primarily for business customers, 1114
including the federal government or a state government or a 1115
political subdivision thereof, to conduct research: news; 1116
business, financial, legal, consumer, or credit materials; 1117
editorials, columns, reader commentary, or features; photos or 1118
images; archival or research material; legal notices, identity 1119
verification, or public records; scientific, educational, 1120
instructional, technical, professional, trade, or other literary 1121
materials; or other similar information which has been gathered 1122
and made available by the provider to the consumer in an 1123
electronic format. Providing electronic publishing includes the 1124
functions necessary for the acquisition, formatting, editing, 1125
storage, and dissemination of data or information that is the 1126
subject of a sale. 1127~~

~~(MMM) "Medicaid health insuring corporation" means a 1128~~

health insuring corporation that holds a certificate of 1129
authority under Chapter 1751. of the Revised Code and is under 1130
contract with the department of medicaid pursuant to section 1131
5167.10 of the Revised Code. 1132

~~(NNN)~~ (MMM) "Managed care premium" means any premium, 1133
capitation, or other payment a medicaid health insuring 1134
corporation receives for providing or arranging for the 1135
provision of health care services to its members or enrollees 1136
residing in this state. 1137

~~(OOO)~~ (NNN) "Captive deer" means deer and other cervidae 1138
that have been legally acquired, or their offspring, that are 1139
privately owned for agricultural or farming purposes. 1140

~~(PPP)~~ (OOO) "Gift card" means a document, card, 1141
certificate, or other record, whether tangible or intangible, 1142
that may be redeemed by a consumer for a dollar value when 1143
making a purchase of tangible personal property or services. 1144

~~(OOO)~~ (PPP) "Specified digital product" means an 1145
electronically transferred digital audiovisual work, digital 1146
audio work, or digital book. 1147

As used in division ~~(OOO)~~ (PPP) of this section: 1148

(1) "Digital audiovisual work" means a series of related 1149
images that, when shown in succession, impart an impression of 1150
motion, together with accompanying sounds, if any. 1151

(2) "Digital audio work" means a work that results from 1152
the fixation of a series of musical, spoken, or other sounds, 1153
including digitized sound files that are downloaded onto a 1154
device and that may be used to alert the customer with respect 1155
to a communication. 1156

(3) "Digital book" means a work that is generally	1157
recognized in the ordinary and usual sense as a book.	1158
(4) "Electronically transferred" means obtained by the	1159
purchaser by means other than tangible storage media.	1160
(RRR) <u>(QQQ)</u> "Digital advertising services" means providing	1161
access, by means of telecommunications equipment, to computer	1162
equipment that is used to enter, upload, download, review,	1163
manipulate, store, add, or delete data for the purpose of	1164
electronically displaying, delivering, placing, or transferring	1165
promotional advertisements to potential customers about products	1166
or services or about industry or business brands.	1167
Section 2. That existing section 5739.01 of the Revised	1168
Code is hereby repealed.	1169
Section 3. The amendment by this act of section 5739.01 of	1170
the Revised Code applies on and after the first day of the first	1171
month that begins on or after the effective date of this act.	1172