

**As Passed by the House**

**131st General Assembly**

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**H. B. No. 466**

**Representative Smith, R.**

**Cosponsors: Representatives Schaffer, Dever, Hambley, Rogers, Amstutz, Anielski, Antani, Antonio, Arndt, Baker, Blessing, Boccieri, Boose, Boyce, Brenner, Brown, Buchy, Burkley, Celebrezze, Conditt, Craig, Cupp, Derickson, DeVitis, Duffey, Fedor, Green, Grossman, Hayes, Henne, Johnson, T., Leland, Lepore-Hagan, Manning, McClain, McColley, O'Brien, M., O'Brien, S., Patterson, Pelanda, Perales, Reece, Reineke, Retherford, Roegner, Romanchuk, Ruhl, Ryan, Schuring, Sears, Sheehy, Sprague, Strahorn, Sweeney, Terhar, Thompson, Young, Speaker Rosenberger**

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**A BILL**

To amend section 5739.01 of the Revised Code to 1  
specifically exempt digital advertising services 2  
from sales and use tax. 3

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

**Section 1.** That section 5739.01 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 5739.01.** As used in this chapter: 6

(A) "Person" includes individuals, receivers, assignees, 7  
trustees in bankruptcy, estates, firms, partnerships, 8  
associations, joint-stock companies, joint ventures, clubs, 9  
societies, corporations, the state and its political 10  
subdivisions, and combinations of individuals of any form. 11

(B) "Sale" and "selling" include all of the following 12

transactions for a consideration in any manner, whether 13  
absolutely or conditionally, whether for a price or rental, in 14  
money or by exchange, and by any means whatsoever: 15

(1) All transactions by which title or possession, or 16  
both, of tangible personal property, is or is to be transferred, 17  
or a license to use or consume tangible personal property is or 18  
is to be granted; 19

(2) All transactions by which lodging by a hotel is or is 20  
to be furnished to transient guests; 21

(3) All transactions by which: 22

(a) An item of tangible personal property is or is to be 23  
repaired, except property, the purchase of which would not be 24  
subject to the tax imposed by section 5739.02 of the Revised 25  
Code; 26

(b) An item of tangible personal property is or is to be 27  
installed, except property, the purchase of which would not be 28  
subject to the tax imposed by section 5739.02 of the Revised 29  
Code or property that is or is to be incorporated into and will 30  
become a part of a production, transmission, transportation, or 31  
distribution system for the delivery of a public utility 32  
service; 33

(c) The service of washing, cleaning, waxing, polishing, 34  
or painting a motor vehicle is or is to be furnished; 35

(d) Until August 1, 2003, industrial laundry cleaning 36  
services are or are to be provided and, on and after August 1, 37  
2003, laundry and dry cleaning services are or are to be 38  
provided; 39

(e) Automatic data processing, computer services, or 40

electronic information services are or are to be provided for 41  
use in business when the true object of the transaction is the 42  
receipt by the consumer of automatic data processing, computer 43  
services, or electronic information services rather than the 44  
receipt of personal or professional services to which automatic 45  
data processing, computer services, or electronic information 46  
services are incidental or supplemental. Notwithstanding any 47  
other provision of this chapter, such transactions that occur 48  
between members of an affiliated group are not sales. An 49  
"affiliated group" means two or more persons related in such a 50  
way that one person owns or controls the business operation of 51  
another member of the group. In the case of corporations with 52  
stock, one corporation owns or controls another if it owns more 53  
than fifty per cent of the other corporation's common stock with 54  
voting rights. 55

(f) Telecommunications service, including prepaid calling 56  
service, prepaid wireless calling service, or ancillary service, 57  
is or is to be provided, but not including coin-operated 58  
telephone service; 59

(g) Landscaping and lawn care service is or is to be 60  
provided; 61

(h) Private investigation and security service is or is to 62  
be provided; 63

(i) Information services or tangible personal property is 64  
provided or ordered by means of a nine hundred telephone call; 65

(j) Building maintenance and janitorial service is or is 66  
to be provided; 67

(k) Employment service is or is to be provided; 68

(l) Employment placement service is or is to be provided; 69

(m) Exterminating service is or is to be provided;	70
(n) Physical fitness facility service is or is to be provided;	71 72
(o) Recreation and sports club service is or is to be provided;	73 74
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	75 76
(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.	77 78 79 80 81 82 83 84 85
(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;	86 87 88 89 90 91 92 93
(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.	94 95 96 97
(t) On and after August 1, 2003, snow removal service is	98

or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

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

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

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such

service is never a construction contract.	129
As used in division (B) (5) of this section:	130
(a) "Agricultural land tile" means fired clay or concrete	131
tile, or flexible or rigid perforated plastic pipe or tubing,	132
incorporated or to be incorporated into a subsurface drainage	133
system appurtenant to land used or to be used primarily in	134
production by farming, agriculture, horticulture, or	135
floriculture. The term does not include such materials when they	136
are or are to be incorporated into a drainage system appurtenant	137
to a building or structure even if the building or structure is	138
used or to be used in such production.	139
(b) "Portable grain bin" means a structure that is used or	140
to be used by a person engaged in farming or agriculture to	141
shelter the person's grain and that is designed to be	142
disassembled without significant damage to its component parts.	143
(6) All transactions in which all of the shares of stock	144
of a closely held corporation are transferred, or an ownership	145
interest in a pass-through entity, as defined in section 5733.04	146
of the Revised Code, is transferred, if the corporation or pass-	147
through entity is not engaging in business and its entire assets	148
consist of boats, planes, motor vehicles, or other tangible	149
personal property operated primarily for the use and enjoyment	150
of the shareholders or owners;	151
(7) All transactions in which a warranty, maintenance or	152
service contract, or similar agreement by which the vendor of	153
the warranty, contract, or agreement agrees to repair or	154
maintain the tangible personal property of the consumer is or is	155
to be provided;	156
(8) The transfer of copyrighted motion picture films used	157

solely for advertising purposes, except that the transfer of 158  
such films for exhibition purposes is not a sale; 159

(9) On and after August 1, 2003, all transactions by which 160  
tangible personal property is or is to be stored, except such 161  
property that the consumer of the storage holds for sale in the 162  
regular course of business; 163

(10) All transactions in which "guaranteed auto 164  
protection" is provided whereby a person promises to pay to the 165  
consumer the difference between the amount the consumer receives 166  
from motor vehicle insurance and the amount the consumer owes to 167  
a person holding title to or a lien on the consumer's motor 168  
vehicle in the event the consumer's motor vehicle suffers a 169  
total loss under the terms of the motor vehicle insurance policy 170  
or is stolen and not recovered, if the protection and its price 171  
are included in the purchase or lease agreement; 172

(11) (a) Except as provided in division (B) (11) (b) of this 173  
section, on and after October 1, 2009, all transactions by which 174  
health care services are paid for, reimbursed, provided, 175  
delivered, arranged for, or otherwise made available by a 176  
medicaid health insuring corporation pursuant to the 177  
corporation's contract with the state. 178

(b) If the centers for medicare and medicaid services of 179  
the United States department of health and human services 180  
determines that the taxation of transactions described in 181  
division (B) (11) (a) of this section constitutes an impermissible 182  
health care-related tax under the "Social Security Act," section 183  
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 184  
the medicaid director shall notify the tax commissioner of that 185  
determination. Beginning with the first day of the month 186  
following that notification, the transactions described in 187

division (B) (11) (a) of this section are not sales for the 188  
purposes of this chapter or Chapter 5741. of the Revised Code. 189  
The tax commissioner shall order that the collection of taxes 190  
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 191  
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 192  
for transactions occurring on or after that date. 193

(12) All transactions by which a specified digital product 194  
is provided for permanent use or less than permanent use, 195  
regardless of whether continued payment is required. 196

Except as provided in this section, "sale" and "selling" 197  
do not include transfers of interest in leased property where 198  
the original lessee and the terms of the original lease 199  
agreement remain unchanged, or professional, insurance, or 200  
personal service transactions that involve the transfer of 201  
tangible personal property as an inconsequential element, for 202  
which no separate charges are made. 203

(C) "Vendor" means the person providing the service or by 204  
whom the transfer effected or license given by a sale is or is 205  
to be made or given and, for sales described in division (B) (3) 206  
(i) of this section, the telecommunications service vendor that 207  
provides the nine hundred telephone service; if two or more 208  
persons are engaged in business at the same place of business 209  
under a single trade name in which all collections on account of 210  
sales by each are made, such persons shall constitute a single 211  
vendor. 212

Physicians, dentists, hospitals, and veterinarians who are 213  
engaged in selling tangible personal property as received from 214  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 215  
articles, are vendors. Veterinarians who are engaged in 216  
transferring to others for a consideration drugs, the dispensing 217

of which does not require an order of a licensed veterinarian or 218  
physician under federal law, are vendors. 219

(D) (1) "Consumer" means the person for whom the service is 220  
provided, to whom the transfer effected or license given by a 221  
sale is or is to be made or given, to whom the service described 222  
in division (B) (3) (f) or (i) of this section is charged, or to 223  
whom the admission is granted. 224

(2) Physicians, dentists, hospitals, and blood banks 225  
operated by nonprofit institutions and persons licensed to 226  
practice veterinary medicine, surgery, and dentistry are 227  
consumers of all tangible personal property and services 228  
purchased by them in connection with the practice of medicine, 229  
dentistry, the rendition of hospital or blood bank service, or 230  
the practice of veterinary medicine, surgery, and dentistry. In 231  
addition to being consumers of drugs administered by them or by 232  
their assistants according to their direction, veterinarians 233  
also are consumers of drugs that under federal law may be 234  
dispensed only by or upon the order of a licensed veterinarian 235  
or physician, when transferred by them to others for a 236  
consideration to provide treatment to animals as directed by the 237  
veterinarian. 238

(3) A person who performs a facility management, or 239  
similar service contract for a contractee is a consumer of all 240  
tangible personal property and services purchased for use in 241  
connection with the performance of such contract, regardless of 242  
whether title to any such property vests in the contractee. The 243  
purchase of such property and services is not subject to the 244  
exception for resale under division (E) (1) of this section. 245

(4) (a) In the case of a person who purchases printed 246  
matter for the purpose of distributing it or having it 247

distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

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

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B) (3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E) (1) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(7) In the case of a transaction for health care services 277  
under division (B) (11) of this section, a medicaid health 278  
insuring corporation is the consumer of such services. The 279  
purchase of such services by a medicaid health insuring 280  
corporation is not subject to the exception for resale under 281  
division (E) (1) of this section or to the exemptions provided 282  
under divisions (B) (12), (18), (19), and (22) of section 5739.02 283  
of the Revised Code. 284

(E) "Retail sale" and "sales at retail" include all sales, 285  
except those in which the purpose of the consumer is to resell 286  
the thing transferred or benefit of the service provided, by a 287  
person engaging in business, in the form in which the same is, 288  
or is to be, received by the person. 289

(F) "Business" includes any activity engaged in by any 290  
person with the object of gain, benefit, or advantage, either 291  
direct or indirect. "Business" does not include the activity of 292  
a person in managing and investing the person's own funds. 293

(G) "Engaging in business" means commencing, conducting, 294  
or continuing in business, and liquidating a business when the 295  
liquidator thereof holds itself out to the public as conducting 296  
such business. Making a casual sale is not engaging in business. 297

(H) (1) (a) "Price," except as provided in divisions (H) (2), 298  
(3), and (4) of this section, means the total amount of 299  
consideration, including cash, credit, property, and services, 300  
for which tangible personal property or services are sold, 301  
leased, or rented, valued in money, whether received in money or 302  
otherwise, without any deduction for any of the following: 303

(i) The vendor's cost of the property sold; 304

(ii) The cost of materials used, labor or service costs, 305

interest, losses, all costs of transportation to the vendor, all	306
taxes imposed on the vendor, including the tax imposed under	307
Chapter 5751. of the Revised Code, and any other expense of the	308
vendor;	309
(iii) Charges by the vendor for any services necessary to	310
complete the sale;	311
(iv) On and after August 1, 2003, delivery charges. As	312
used in this division, "delivery charges" means charges by the	313
vendor for preparation and delivery to a location designated by	314
the consumer of tangible personal property or a service,	315
including transportation, shipping, postage, handling, crating,	316
and packing.	317
(v) Installation charges;	318
(vi) Credit for any trade-in.	319
(b) "Price" includes consideration received by the vendor	320
from a third party, if the vendor actually receives the	321
consideration from a party other than the consumer, and the	322
consideration is directly related to a price reduction or	323
discount on the sale; the vendor has an obligation to pass the	324
price reduction or discount through to the consumer; the amount	325
of the consideration attributable to the sale is fixed and	326
determinable by the vendor at the time of the sale of the item	327
to the consumer; and one of the following criteria is met:	328
(i) The consumer presents a coupon, certificate, or other	329
document to the vendor to claim a price reduction or discount	330
where the coupon, certificate, or document is authorized,	331
distributed, or granted by a third party with the understanding	332
that the third party will reimburse any vendor to whom the	333
coupon, certificate, or document is presented;	334

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

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

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

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

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

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

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

(v) The dollar value of a gift card that is not sold by a

vendor or purchased by a consumer and that is redeemed by the 364  
consumer in purchasing tangible personal property or services if 365  
the vendor is not reimbursed and does not receive compensation 366  
from a third party to cover all or part of the gift card value. 367  
For the purposes of this division, a gift card is not sold by a 368  
vendor or purchased by a consumer if it is distributed pursuant 369  
to an awards, loyalty, or promotional program. Past and present 370  
purchases of tangible personal property or services by the 371  
consumer shall not be treated as consideration exchanged for a 372  
gift card. 373

(2) In the case of a sale of any new motor vehicle by a 374  
new motor vehicle dealer, as defined in section 4517.01 of the 375  
Revised Code, in which another motor vehicle is accepted by the 376  
dealer as part of the consideration received, "price" has the 377  
same meaning as in division (H)(1) of this section, reduced by 378  
the credit afforded the consumer by the dealer for the motor 379  
vehicle received in trade. 380

(3) In the case of a sale of any watercraft or outboard 381  
motor by a watercraft dealer licensed in accordance with section 382  
1547.543 of the Revised Code, in which another watercraft, 383  
watercraft and trailer, or outboard motor is accepted by the 384  
dealer as part of the consideration received, "price" has the 385  
same meaning as in division (H)(1) of this section, reduced by 386  
the credit afforded the consumer by the dealer for the 387  
watercraft, watercraft and trailer, or outboard motor received 388  
in trade. As used in this division, "watercraft" includes an 389  
outdrive unit attached to the watercraft. 390

(4) In the case of transactions for health care services 391  
under division (B)(11) of this section, "price" means the amount 392  
of managed care premiums received each month by a medicaid 393

health insuring corporation. 394

(I) "Receipts" means the total amount of the prices of the 395  
sales of vendors, provided that the dollar value of gift cards 396  
distributed pursuant to an awards, loyalty, or promotional 397  
program, and cash discounts allowed and taken on sales at the 398  
time they are consummated are not included, minus any amount 399  
deducted as a bad debt pursuant to section 5739.121 of the 400  
Revised Code. "Receipts" does not include the sale price of 401  
property returned or services rejected by consumers when the 402  
full sale price and tax are refunded either in cash or by 403  
credit. 404

(J) "Place of business" means any location at which a 405  
person engages in business. 406

(K) "Premises" includes any real property or portion 407  
thereof upon which any person engages in selling tangible 408  
personal property at retail or making retail sales and also 409  
includes any real property or portion thereof designated for, or 410  
devoted to, use in conjunction with the business engaged in by 411  
such person. 412

(L) "Casual sale" means a sale of an item of tangible 413  
personal property that was obtained by the person making the 414  
sale, through purchase or otherwise, for the person's own use 415  
and was previously subject to any state's taxing jurisdiction on 416  
its sale or use, and includes such items acquired for the 417  
seller's use that are sold by an auctioneer employed directly by 418  
the person for such purpose, provided the location of such sales 419  
is not the auctioneer's permanent place of business. As used in 420  
this division, "permanent place of business" includes any 421  
location where such auctioneer has conducted more than two 422  
auctions during the year. 423

(M) "Hotel" means every establishment kept, used, 424  
maintained, advertised, or held out to the public to be a place 425  
where sleeping accommodations are offered to guests, in which 426  
five or more rooms are used for the accommodation of such 427  
guests, whether the rooms are in one or several structures, 428  
except as otherwise provided in division (G) of section 5739.09 429  
of the Revised Code. 430

(N) "Transient guests" means persons occupying a room or 431  
rooms for sleeping accommodations for less than thirty 432  
consecutive days. 433

(O) "Making retail sales" means the effecting of 434  
transactions wherein one party is obligated to pay the price and 435  
the other party is obligated to provide a service or to transfer 436  
title to or possession of the item sold. "Making retail sales" 437  
does not include the preliminary acts of promoting or soliciting 438  
the retail sales, other than the distribution of printed matter 439  
which displays or describes and prices the item offered for 440  
sale, nor does it include delivery of a predetermined quantity 441  
of tangible personal property or transportation of property or 442  
personnel to or from a place where a service is performed. 443

(P) "Used directly in the rendition of a public utility 444  
service" means that property that is to be incorporated into and 445  
will become a part of the consumer's production, transmission, 446  
transportation, or distribution system and that retains its 447  
classification as tangible personal property after such 448  
incorporation; fuel or power used in the production, 449  
transmission, transportation, or distribution system; and 450  
tangible personal property used in the repair and maintenance of 451  
the production, transmission, transportation, or distribution 452  
system, including only such motor vehicles as are specially 453

designed and equipped for such use. Tangible personal property 454  
and services used primarily in providing highway transportation 455  
for hire are not used directly in the rendition of a public 456  
utility service. In this definition, "public utility" includes a 457  
citizen of the United States holding, and required to hold, a 458  
certificate of public convenience and necessity issued under 49 459  
U.S.C. 41102. 460

(Q) "Refining" means removing or separating a desirable 461  
product from raw or contaminated materials by distillation or 462  
physical, mechanical, or chemical processes. 463

(R) "Assembly" and "assembling" mean attaching or fitting 464  
together parts to form a product, but do not include packaging a 465  
product. 466

(S) "Manufacturing operation" means a process in which 467  
materials are changed, converted, or transformed into a 468  
different state or form from which they previously existed and 469  
includes refining materials, assembling parts, and preparing raw 470  
materials and parts by mixing, measuring, blending, or otherwise 471  
committing such materials or parts to the manufacturing process. 472  
"Manufacturing operation" does not include packaging. 473

(T) "Fiscal officer" means, with respect to a regional 474  
transit authority, the secretary-treasurer thereof, and with 475  
respect to a county that is a transit authority, the fiscal 476  
officer of the county transit board if one is appointed pursuant 477  
to section 306.03 of the Revised Code or the county auditor if 478  
the board of county commissioners operates the county transit 479  
system. 480

(U) "Transit authority" means a regional transit authority 481  
created pursuant to section 306.31 of the Revised Code or a 482

county in which a county transit system is created pursuant to 483  
section 306.01 of the Revised Code. For the purposes of this 484  
chapter, a transit authority must extend to at least the entire 485  
area of a single county. A transit authority that includes 486  
territory in more than one county must include all the area of 487  
the most populous county that is a part of such transit 488  
authority. County population shall be measured by the most 489  
recent census taken by the United States census bureau. 490

(V) "Legislative authority" means, with respect to a 491  
regional transit authority, the board of trustees thereof, and 492  
with respect to a county that is a transit authority, the board 493  
of county commissioners. 494

(W) "Territory of the transit authority" means all of the 495  
area included within the territorial boundaries of a transit 496  
authority as they from time to time exist. Such territorial 497  
boundaries must at all times include all the area of a single 498  
county or all the area of the most populous county that is a 499  
part of such transit authority. County population shall be 500  
measured by the most recent census taken by the United States 501  
census bureau. 502

(X) "Providing a service" means providing or furnishing 503  
anything described in division (B) (3) of this section for 504  
consideration. 505

(Y) (1) (a) "Automatic data processing" means processing of 506  
others' data, including keypunching or similar data entry 507  
services together with verification thereof, or providing access 508  
to computer equipment for the purpose of processing data. 509

(b) "Computer services" means providing services 510  
consisting of specifying computer hardware configurations and 511

evaluating technical processing characteristics, computer 512  
programming, and training of computer programmers and operators, 513  
provided in conjunction with and to support the sale, lease, or 514  
operation of taxable computer equipment or systems. 515

(c) "Electronic information services" means providing 516  
access to computer equipment by means of telecommunications 517  
equipment for the purpose of either of the following: 518

(i) Examining or acquiring data stored in or accessible to 519  
the computer equipment; 520

(ii) Placing data into the computer equipment to be 521  
retrieved by designated recipients with access to the computer 522  
equipment. 523

For transactions occurring on or after the effective date 524  
of the amendment of this section by H.B. 157 of the 127th 525  
general assembly, December 21, 2007, "electronic information 526  
services" does not include electronic publishing as defined in 527  
division (LLL) of this section. 528

(d) "Automatic data processing, computer services, or 529  
electronic information services" shall not include personal or 530  
professional services. 531

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 532  
section, "personal and professional services" means all services 533  
other than automatic data processing, computer services, or 534  
electronic information services, including but not limited to: 535

(a) Accounting and legal services such as advice on tax 536  
matters, asset management, budgetary matters, quality control, 537  
information security, and auditing and any other situation where 538  
the service provider receives data or information and studies, 539  
alters, analyzes, interprets, or adjusts such material; 540

(b) Analyzing business policies and procedures;	541
(c) Identifying management information needs;	542
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	543 544 545
(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;	546 547 548 549 550
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	551 552 553
(g) Testing of business procedures;	554
(h) Training personnel in business procedure applications;	555
(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;	556 557 558 559 560 561 562
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	563 564
<u>(k) Providing digital advertising services.</u>	565
The services listed in divisions (Y) (2) (a) to <del>(j)</del> <u>(k)</u> of this section are not automatic data processing or computer	566 567

services. 568

(Z) "Highway transportation for hire" means the 569  
transportation of personal property belonging to others for 570  
consideration by any of the following: 571

(1) The holder of a permit or certificate issued by this 572  
state or the United States authorizing the holder to engage in 573  
transportation of personal property belonging to others for 574  
consideration over or on highways, roadways, streets, or any 575  
similar public thoroughfare; 576

(2) A person who engages in the transportation of personal 577  
property belonging to others for consideration over or on 578  
highways, roadways, streets, or any similar public thoroughfare 579  
but who could not have engaged in such transportation on 580  
December 11, 1985, unless the person was the holder of a permit 581  
or certificate of the types described in division (Z) (1) of this 582  
section; 583

(3) A person who leases a motor vehicle to and operates it 584  
for a person described by division (Z) (1) or (2) of this 585  
section. 586

(AA) (1) "Telecommunications service" means the electronic 587  
transmission, conveyance, or routing of voice, data, audio, 588  
video, or any other information or signals to a point, or 589  
between or among points. "Telecommunications service" includes 590  
such transmission, conveyance, or routing in which computer 591  
processing applications are used to act on the form, code, or 592  
protocol of the content for purposes of transmission, 593  
conveyance, or routing without regard to whether the service is 594  
referred to as voice-over internet protocol service or is 595  
classified by the federal communications commission as enhanced 596

or value-added. "Telecommunications service" does not include 597  
any of the following: 598

(a) Data processing and information services that allow 599  
data to be generated, acquired, stored, processed, or retrieved 600  
and delivered by an electronic transmission to a consumer where 601  
the consumer's primary purpose for the underlying transaction is 602  
the processed data or information; 603

(b) Installation or maintenance of wiring or equipment on 604  
a customer's premises; 605

(c) Tangible personal property; 606

(d) Advertising, including directory advertising; 607

(e) Billing and collection services provided to third 608  
parties; 609

(f) Internet access service; 610

(g) Radio and television audio and video programming 611  
services, regardless of the medium, including the furnishing of 612  
transmission, conveyance, and routing of such services by the 613  
programming service provider. Radio and television audio and 614  
video programming services include, but are not limited to, 615  
cable service, as defined in 47 U.S.C. 522(6), and audio and 616  
video programming services delivered by commercial mobile radio 617  
service providers, as defined in 47 C.F.R. 20.3; 618

(h) Ancillary service; 619

(i) Digital products delivered electronically, including 620  
software, music, video, reading materials, or ring tones. 621

(2) "Ancillary service" means a service that is associated 622  
with or incidental to the provision of telecommunications 623

service, including conference bridging service, detailed 624  
telecommunications billing service, directory assistance, 625  
vertical service, and voice mail service. As used in this 626  
division: 627

(a) "Conference bridging service" means an ancillary 628  
service that links two or more participants of an audio or video 629  
conference call, including providing a telephone number. 630  
"Conference bridging service" does not include 631  
telecommunications services used to reach the conference bridge. 632

(b) "Detailed telecommunications billing service" means an 633  
ancillary service of separately stating information pertaining 634  
to individual calls on a customer's billing statement. 635

(c) "Directory assistance" means an ancillary service of 636  
providing telephone number or address information. 637

(d) "Vertical service" means an ancillary service that is 638  
offered in connection with one or more telecommunications 639  
services, which offers advanced calling features that allow 640  
customers to identify callers and manage multiple calls and call 641  
connections, including conference bridging service. 642

(e) "Voice mail service" means an ancillary service that 643  
enables the customer to store, send, or receive recorded 644  
messages. "Voice mail service" does not include any vertical 645  
services that the customer may be required to have in order to 646  
utilize the voice mail service. 647

(3) "900 service" means an inbound toll telecommunications 648  
service purchased by a subscriber that allows the subscriber's 649  
customers to call in to the subscriber's prerecorded 650  
announcement or live service, and which is typically marketed 651  
under the name "900 service" and any subsequent numbers 652

designated by the federal communications commission. "900 653  
service" does not include the charge for collection services 654  
provided by the seller of the telecommunications service to the 655  
subscriber, or services or products sold by the subscriber to 656  
the subscriber's customer. 657

(4) "Prepaid calling service" means the right to access 658  
exclusively telecommunications services, which must be paid for 659  
in advance and which enables the origination of calls using an 660  
access number or authorization code, whether manually or 661  
electronically dialed, and that is sold in predetermined units 662  
or dollars of which the number declines with use in a known 663  
amount. 664

(5) "Prepaid wireless calling service" means a 665  
telecommunications service that provides the right to utilize 666  
mobile telecommunications service as well as other non- 667  
telecommunications services, including the download of digital 668  
products delivered electronically, and content and ancillary 669  
services, that must be paid for in advance and that is sold in 670  
predetermined units or dollars of which the number declines with 671  
use in a known amount. 672

(6) "Value-added non-voice data service" means a 673  
telecommunications service in which computer processing 674  
applications are used to act on the form, content, code, or 675  
protocol of the information or data primarily for a purpose 676  
other than transmission, conveyance, or routing. 677

(7) "Coin-operated telephone service" means a 678  
telecommunications service paid for by inserting money into a 679  
telephone accepting direct deposits of money to operate. 680

(8) "Customer" has the same meaning as in section 5739.034 681

of the Revised Code. 682

(BB) "Laundry and dry cleaning services" means removing 683  
soil or dirt from towels, linens, articles of clothing, or other 684  
fabric items that belong to others and supplying towels, linens, 685  
articles of clothing, or other fabric items. "Laundry and dry 686  
cleaning services" does not include the provision of self- 687  
service facilities for use by consumers to remove soil or dirt 688  
from towels, linens, articles of clothing, or other fabric 689  
items. 690

(CC) "Magazines distributed as controlled circulation 691  
publications" means magazines containing at least twenty-four 692  
pages, at least twenty-five per cent editorial content, issued 693  
at regular intervals four or more times a year, and circulated 694  
without charge to the recipient, provided that such magazines 695  
are not owned or controlled by individuals or business concerns 696  
which conduct such publications as an auxiliary to, and 697  
essentially for the advancement of the main business or calling 698  
of, those who own or control them. 699

(DD) "Landscaping and lawn care service" means the 700  
services of planting, seeding, sodding, removing, cutting, 701  
trimming, pruning, mulching, aerating, applying chemicals, 702  
watering, fertilizing, and providing similar services to 703  
establish, promote, or control the growth of trees, shrubs, 704  
flowers, grass, ground cover, and other flora, or otherwise 705  
maintaining a lawn or landscape grown or maintained by the owner 706  
for ornamentation or other nonagricultural purpose. However, 707  
"landscaping and lawn care service" does not include the 708  
providing of such services by a person who has less than five 709  
thousand dollars in sales of such services during the calendar 710  
year. 711

(EE) "Private investigation and security service" means 712  
the performance of any activity for which the provider of such 713  
service is required to be licensed pursuant to Chapter 4749. of 714  
the Revised Code, or would be required to be so licensed in 715  
performing such services in this state, and also includes the 716  
services of conducting polygraph examinations and of monitoring 717  
or overseeing the activities on or in, or the condition of, the 718  
consumer's home, business, or other facility by means of 719  
electronic or similar monitoring devices. "Private investigation 720  
and security service" does not include special duty services 721  
provided by off-duty police officers, deputy sheriffs, and other 722  
peace officers regularly employed by the state or a political 723  
subdivision. 724

(FF) "Information services" means providing conversation, 725  
giving consultation or advice, playing or making a voice or 726  
other recording, making or keeping a record of the number of 727  
callers, and any other service provided to a consumer by means 728  
of a nine hundred telephone call, except when the nine hundred 729  
telephone call is the means by which the consumer makes a 730  
contribution to a recognized charity. 731

(GG) "Research and development" means designing, creating, 732  
or formulating new or enhanced products, equipment, or 733  
manufacturing processes, and also means conducting scientific or 734  
technological inquiry and experimentation in the physical 735  
sciences with the goal of increasing scientific knowledge which 736  
may reveal the bases for new or enhanced products, equipment, or 737  
manufacturing processes. 738

(HH) "Qualified research and development equipment" means 739  
capitalized tangible personal property, and leased personal 740  
property that would be capitalized if purchased, used by a 741

person primarily to perform research and development. Tangible 742  
personal property primarily used in testing, as defined in 743  
division (A) (4) of section 5739.011 of the Revised Code, or used 744  
for recording or storing test results, is not qualified research 745  
and development equipment unless such property is primarily used 746  
by the consumer in testing the product, equipment, or 747  
manufacturing process being created, designed, or formulated by 748  
the consumer in the research and development activity or in 749  
recording or storing such test results. 750

(II) "Building maintenance and janitorial service" means 751  
cleaning the interior or exterior of a building and any tangible 752  
personal property located therein or thereon, including any 753  
services incidental to such cleaning for which no separate 754  
charge is made. However, "building maintenance and janitorial 755  
service" does not include the providing of such service by a 756  
person who has less than five thousand dollars in sales of such 757  
service during the calendar year. As used in this division, 758  
"cleaning" does not include sanitation services necessary for an 759  
establishment described in 21 U.S.C. 608 to comply with rules 760  
and regulations adopted pursuant to that section. 761

(JJ) "Employment service" means providing or supplying 762  
personnel, on a temporary or long-term basis, to perform work or 763  
labor under the supervision or control of another, when the 764  
personnel so provided or supplied receive their wages, salary, 765  
or other compensation from the provider or supplier of the 766  
employment service or from a third party that provided or 767  
supplied the personnel to the provider or supplier. "Employment 768  
service" does not include: 769

(1) Acting as a contractor or subcontractor, where the 770  
personnel performing the work are not under the direct control 771

of the purchaser.	772
(2) Medical and health care services.	773
(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.	774 775 776 777
(4) Transactions between members of an affiliated group, as defined in division (B) (3) (e) of this section.	778 779
(5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.	780 781 782 783 784 785
(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.	786 787 788
(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.	789 790 791 792 793
(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.	794 795 796 797 798 799 800

(NN) "Recreation and sports club service" means all 801  
transactions by which a membership is granted, maintained, or 802  
renewed, including initiation fees, membership dues, renewal 803  
fees, monthly minimum fees, and other similar fees and dues, by 804  
a recreation and sports club, which entitles the member to use 805  
the facilities of the organization. "Recreation and sports club" 806  
means an organization that has ownership of, or controls or 807  
leases on a continuing, long-term basis, the facilities used by 808  
its members and includes an aviation club, gun or shooting club, 809  
yacht club, card club, swimming club, tennis club, golf club, 810  
country club, riding club, amateur sports club, or similar 811  
organization. 812

(OO) "Livestock" means farm animals commonly raised for 813  
food, food production, or other agricultural purposes, 814  
including, but not limited to, cattle, sheep, goats, swine, 815  
poultry, and captive deer. "Livestock" does not include 816  
invertebrates, amphibians, reptiles, domestic pets, animals for 817  
use in laboratories or for exhibition, or other animals not 818  
commonly raised for food or food production. 819

(PP) "Livestock structure" means a building or structure 820  
used exclusively for the housing, raising, feeding, or 821  
sheltering of livestock, and includes feed storage or handling 822  
structures and structures for livestock waste handling. 823

(QQ) "Horticulture" means the growing, cultivation, and 824  
production of flowers, fruits, herbs, vegetables, sod, 825  
mushrooms, and nursery stock. As used in this division, "nursery 826  
stock" has the same meaning as in section 927.51 of the Revised 827  
Code. 828

(RR) "Horticulture structure" means a building or 829  
structure used exclusively for the commercial growing, raising, 830

or overwintering of horticultural products, and includes the 831  
area used for stocking, storing, and packing horticultural 832  
products when done in conjunction with the production of those 833  
products. 834

(SS) "Newspaper" means an unbound publication bearing a 835  
title or name that is regularly published, at least as 836  
frequently as biweekly, and distributed from a fixed place of 837  
business to the public in a specific geographic area, and that 838  
contains a substantial amount of news matter of international, 839  
national, or local events of interest to the general public. 840

(TT) "Professional racing team" means a person that 841  
employs at least twenty full-time employees for the purpose of 842  
conducting a motor vehicle racing business for profit. The 843  
person must conduct the business with the purpose of racing one 844  
or more motor racing vehicles in at least ten competitive 845  
professional racing events each year that comprise all or part 846  
of a motor racing series sanctioned by one or more motor racing 847  
sanctioning organizations. A "motor racing vehicle" means a 848  
vehicle for which the chassis, engine, and parts are designed 849  
exclusively for motor racing, and does not include a stock or 850  
production model vehicle that may be modified for use in racing. 851  
For the purposes of this division: 852

(1) A "competitive professional racing event" is a motor 853  
vehicle racing event sanctioned by one or more motor racing 854  
sanctioning organizations, at which aggregate cash prizes in 855  
excess of eight hundred thousand dollars are awarded to the 856  
competitors. 857

(2) "Full-time employee" means an individual who is 858  
employed for consideration for thirty-five or more hours a week, 859  
or who renders any other standard of service generally accepted 860

by custom or specified by contract as full-time employment. 861

(UU) (1) "Lease" or "rental" means any transfer of the 862  
possession or control of tangible personal property for a fixed 863  
or indefinite term, for consideration. "Lease" or "rental" 864  
includes future options to purchase or extend, and agreements 865  
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 866  
trailers where the amount of consideration may be increased or 867  
decreased by reference to the amount realized upon the sale or 868  
disposition of the property. "Lease" or "rental" does not 869  
include: 870

(a) A transfer of possession or control of tangible 871  
personal property under a security agreement or a deferred 872  
payment plan that requires the transfer of title upon completion 873  
of the required payments; 874

(b) A transfer of possession or control of tangible 875  
personal property under an agreement that requires the transfer 876  
of title upon completion of required payments and payment of an 877  
option price that does not exceed the greater of one hundred 878  
dollars or one per cent of the total required payments; 879

(c) Providing tangible personal property along with an 880  
operator for a fixed or indefinite period of time, if the 881  
operator is necessary for the property to perform as designed. 882  
For purposes of this division, the operator must do more than 883  
maintain, inspect, or set up the tangible personal property. 884

(2) "Lease" and "rental," as defined in division (UU) of 885  
this section, shall not apply to leases or rentals that exist 886  
before June 26, 2003. 887

(3) "Lease" and "rental" have the same meaning as in 888  
division (UU) (1) of this section regardless of whether a 889

transaction is characterized as a lease or rental under 890  
generally accepted accounting principles, the Internal Revenue 891  
Code, Title XIII of the Revised Code, or other federal, state, 892  
or local laws. 893

(VV) "Mobile telecommunications service" has the same 894  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 895  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 896  
amended, and, on and after August 1, 2003, includes related fees 897  
and ancillary services, including universal service fees, 898  
detailed billing service, directory assistance, service 899  
initiation, voice mail service, and vertical services, such as 900  
caller ID and three-way calling. 901

(WW) "Certified service provider" has the same meaning as 902  
in section 5740.01 of the Revised Code. 903

(XX) "Satellite broadcasting service" means the 904  
distribution or broadcasting of programming or services by 905  
satellite directly to the subscriber's receiving equipment 906  
without the use of ground receiving or distribution equipment, 907  
except the subscriber's receiving equipment or equipment used in 908  
the uplink process to the satellite, and includes all service 909  
and rental charges, premium channels or other special services, 910  
installation and repair service charges, and any other charges 911  
having any connection with the provision of the satellite 912  
broadcasting service. 913

(YY) "Tangible personal property" means personal property 914  
that can be seen, weighed, measured, felt, or touched, or that 915  
is in any other manner perceptible to the senses. For purposes 916  
of this chapter and Chapter 5741. of the Revised Code, "tangible 917  
personal property" includes motor vehicles, electricity, water, 918  
gas, steam, and prewritten computer software. 919

(ZZ) "Direct mail" means printed material delivered or 920  
distributed by United States mail or other delivery service to a 921  
mass audience or to addressees on a mailing list provided by the 922  
consumer or at the direction of the consumer when the cost of 923  
the items are not billed directly to the recipients. "Direct 924  
mail" includes tangible personal property supplied directly or 925  
indirectly by the consumer to the direct mail vendor for 926  
inclusion in the package containing the printed material. 927  
"Direct mail" does not include multiple items of printed 928  
material delivered to a single address. 929

(AAA) "Computer" means an electronic device that accepts 930  
information in digital or similar form and manipulates it for a 931  
result based on a sequence of instructions. 932

(BBB) "Computer software" means a set of coded 933  
instructions designed to cause a computer or automatic data 934  
processing equipment to perform a task. 935

(CCC) "Delivered electronically" means delivery of 936  
computer software from the seller to the purchaser by means 937  
other than tangible storage media. 938

(DDD) "Prewritten computer software" means computer 939  
software, including prewritten upgrades, that is not designed 940  
and developed by the author or other creator to the 941  
specifications of a specific purchaser. The combining of two or 942  
more prewritten computer software programs or prewritten 943  
portions thereof does not cause the combination to be other than 944  
prewritten computer software. "Prewritten computer software" 945  
includes software designed and developed by the author or other 946  
creator to the specifications of a specific purchaser when it is 947  
sold to a person other than the purchaser. If a person modifies 948  
or enhances computer software of which the person is not the 949

author or creator, the person shall be deemed to be the author 950  
or creator only of such person's modifications or enhancements. 951  
Prewritten computer software or a prewritten portion thereof 952  
that is modified or enhanced to any degree, where such 953  
modification or enhancement is designed and developed to the 954  
specifications of a specific purchaser, remains prewritten 955  
computer software; provided, however, that where there is a 956  
reasonable, separately stated charge or an invoice or other 957  
statement of the price given to the purchaser for the 958  
modification or enhancement, the modification or enhancement 959  
shall not constitute prewritten computer software. 960

(EEE) (1) "Food" means substances, whether in liquid, 961  
concentrated, solid, frozen, dried, or dehydrated form, that are 962  
sold for ingestion or chewing by humans and are consumed for 963  
their taste or nutritional value. "Food" does not include 964  
alcoholic beverages, dietary supplements, soft drinks, or 965  
tobacco. 966

(2) As used in division (EEE) (1) of this section: 967

(a) "Alcoholic beverages" means beverages that are 968  
suitable for human consumption and contain one-half of one per 969  
cent or more of alcohol by volume. 970

(b) "Dietary supplements" means any product, other than 971  
tobacco, that is intended to supplement the diet and that is 972  
intended for ingestion in tablet, capsule, powder, softgel, 973  
gelcap, or liquid form, or, if not intended for ingestion in 974  
such a form, is not represented as conventional food for use as 975  
a sole item of a meal or of the diet; that is required to be 976  
labeled as a dietary supplement, identifiable by the "supplement 977  
facts" box found on the label, as required by 21 C.F.R. 101.36; 978  
and that contains one or more of the following dietary 979

ingredients:	980
(i) A vitamin;	981
(ii) A mineral;	982
(iii) An herb or other botanical;	983
(iv) An amino acid;	984
(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;	985 986
(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE) (2) (b) (i) to (v) of this section.	987 988 989
(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.	990 991 992 993 994
(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.	995 996
(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.	997 998 999 1000 1001 1002 1003 1004 1005
(GGG) "Prescription" means an order, formula, or recipe	1006

issued in any form of oral, written, electronic, or other means 1007  
of transmission by a duly licensed practitioner authorized by 1008  
the laws of this state to issue a prescription. 1009

(HHH) "Durable medical equipment" means equipment, 1010  
including repair and replacement parts for such equipment, that 1011  
can withstand repeated use, is primarily and customarily used to 1012  
serve a medical purpose, generally is not useful to a person in 1013  
the absence of illness or injury, and is not worn in or on the 1014  
body. "Durable medical equipment" does not include mobility 1015  
enhancing equipment. 1016

(III) "Mobility enhancing equipment" means equipment, 1017  
including repair and replacement parts for such equipment, that 1018  
is primarily and customarily used to provide or increase the 1019  
ability to move from one place to another and is appropriate for 1020  
use either in a home or a motor vehicle, that is not generally 1021  
used by persons with normal mobility, and that does not include 1022  
any motor vehicle or equipment on a motor vehicle normally 1023  
provided by a motor vehicle manufacturer. "Mobility enhancing 1024  
equipment" does not include durable medical equipment. 1025

(JJJ) "Prosthetic device" means a replacement, corrective, 1026  
or supportive device, including repair and replacement parts for 1027  
the device, worn on or in the human body to artificially replace 1028  
a missing portion of the body, prevent or correct physical 1029  
deformity or malfunction, or support a weak or deformed portion 1030  
of the body. As used in this division, "prosthetic device" does 1031  
not include corrective eyeglasses, contact lenses, or dental 1032  
prosthesis. 1033

(KKK) (1) "Fractional aircraft ownership program" means a 1034  
program in which persons within an affiliated group sell and 1035  
manage fractional ownership program aircraft, provided that at 1036

least one hundred airworthy aircraft are operated in the program	1037
and the program meets all of the following criteria:	1038
(a) Management services are provided by at least one	1039
program manager within an affiliated group on behalf of the	1040
fractional owners.	1041
(b) Each program aircraft is owned or possessed by at	1042
least one fractional owner.	1043
(c) Each fractional owner owns or possesses at least a	1044
one-sixteenth interest in at least one fixed-wing program	1045
aircraft.	1046
(d) A dry-lease aircraft interchange arrangement is in	1047
effect among all of the fractional owners.	1048
(e) Multi-year program agreements are in effect regarding	1049
the fractional ownership, management services, and dry-lease	1050
aircraft interchange arrangement aspects of the program.	1051
(2) As used in division (KKK)(1) of this section:	1052
(a) "Affiliated group" has the same meaning as in division	1053
(B)(3)(e) of this section.	1054
(b) "Fractional owner" means a person that owns or	1055
possesses at least a one-sixteenth interest in a program	1056
aircraft and has entered into the agreements described in	1057
division (KKK)(1)(e) of this section.	1058
(c) "Fractional ownership program aircraft" or "program	1059
aircraft" means a turbojet aircraft that is owned or possessed	1060
by a fractional owner and that has been included in a dry-lease	1061
aircraft interchange arrangement and agreement under divisions	1062
(KKK)(1)(d) and (e) of this section, or an aircraft a program	1063
manager owns or possesses primarily for use in a fractional	1064

aircraft ownership program. 1065

(d) "Management services" means administrative and 1066  
aviation support services furnished under a fractional aircraft 1067  
ownership program in accordance with a management services 1068  
agreement under division (KKK) (1) (e) of this section, and 1069  
offered by the program manager to the fractional owners, 1070  
including, at a minimum, the establishment and implementation of 1071  
safety guidelines; the coordination of the scheduling of the 1072  
program aircraft and crews; program aircraft maintenance; 1073  
program aircraft insurance; crew training for crews employed, 1074  
furnished, or contracted by the program manager or the 1075  
fractional owner; the satisfaction of record-keeping 1076  
requirements; and the development and use of an operations 1077  
manual and a maintenance manual for the fractional aircraft 1078  
ownership program. 1079

(e) "Program manager" means the person that offers 1080  
management services to fractional owners pursuant to a 1081  
management services agreement under division (KKK) (1) (e) of this 1082  
section. 1083

(LLL) "Electronic publishing" means providing access to 1084  
one or more of the following primarily for business customers, 1085  
including the federal government or a state government or a 1086  
political subdivision thereof, to conduct research: news; 1087  
business, financial, legal, consumer, or credit materials; 1088  
editorials, columns, reader commentary, or features; photos or 1089  
images; archival or research material; legal notices, identity 1090  
verification, or public records; scientific, educational, 1091  
instructional, technical, professional, trade, or other literary 1092  
materials; or other similar information which has been gathered 1093  
and made available by the provider to the consumer in an 1094

electronic format. Providing electronic publishing includes the 1095  
functions necessary for the acquisition, formatting, editing, 1096  
storage, and dissemination of data or information that is the 1097  
subject of a sale. 1098

(MMM) "Medicaid health insuring corporation" means a 1099  
health insuring corporation that holds a certificate of 1100  
authority under Chapter 1751. of the Revised Code and is under 1101  
contract with the department of job and family services pursuant 1102  
to section 5111.17 of the Revised Code. 1103

(NNN) "Managed care premium" means any premium, 1104  
capitation, or other payment a medicaid health insuring 1105  
corporation receives for providing or arranging for the 1106  
provision of health care services to its members or enrollees 1107  
residing in this state. 1108

(OOO) "Captive deer" means deer and other cervidae that 1109  
have been legally acquired, or their offspring, that are 1110  
privately owned for agricultural or farming purposes. 1111

(PPP) "Gift card" means a document, card, certificate, or 1112  
other record, whether tangible or intangible, that may be 1113  
redeemed by a consumer for a dollar value when making a purchase 1114  
of tangible personal property or services. 1115

(QQQ) "Specified digital product" means an electronically 1116  
transferred digital audiovisual work, digital audio work, or 1117  
digital book. 1118

As used in division (QQQ) of this section: 1119

(1) "Digital audiovisual work" means a series of related 1120  
images that, when shown in succession, impart an impression of 1121  
motion, together with accompanying sounds, if any. 1122

(2) "Digital audio work" means a work that results from 1123  
the fixation of a series of musical, spoken, or other sounds, 1124  
including digitized sound files that are downloaded onto a 1125  
device and that may be used to alert the customer with respect 1126  
to a communication. 1127

(3) "Digital book" means a work that is generally 1128  
recognized in the ordinary and usual sense as a book. 1129

(4) "Electronically transferred" means obtained by the 1130  
purchaser by means other than tangible storage media. 1131

(RRR) "Digital advertising services" means providing 1132  
access, by means of telecommunications equipment, to computer 1133  
equipment that is used to enter, upload, download, review, 1134  
manipulate, store, add, or delete data for the purpose of 1135  
electronically displaying, delivering, placing, or transferring 1136  
promotional advertisements to potential customers about products 1137  
or services or about industry or business brands. 1138

**Section 2.** That existing section 5739.01 of the Revised 1139  
Code is hereby repealed. 1140

**Section 3.** The amendment by this act of section 5739.01 of 1141  
the Revised Code applies on and after the first day of the first 1142  
month that begins at least thirty days after the effective date 1143  
of this act. 1144