

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 440**

**Representatives Miranda, Carruthers**

**Cosponsors: Representatives Antani, Cross, Crossman, Manchester, Riedel,  
Romanchuk, Scherer**

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**A BILL**

To amend sections 5739.01 and 5739.011 of the 1  
Revised Code to authorize sales tax exemptions 2  
for property and services used to clean or 3  
maintain manufacturing machinery and for 4  
employment services used to operate 5  
manufacturing machinery. 6

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

**Section 1.** That sections 5739.01 and 5739.011 of the 7  
Revised Code be amended to read as follows: 8

**Sec. 5739.01.** As used in this chapter: 9

(A) "Person" includes individuals, receivers, assignees, 10  
trustees in bankruptcy, estates, firms, partnerships, 11  
associations, joint-stock companies, joint ventures, clubs, 12  
societies, corporations, the state and its political 13  
subdivisions, and combinations of individuals of any form. 14

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

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

receipt by the consumer of automatic data processing, computer 46  
services, or electronic information services rather than the 47  
receipt of personal or professional services to which automatic 48  
data processing, computer services, or electronic information 49  
services are incidental or supplemental. Notwithstanding any 50  
other provision of this chapter, such transactions that occur 51  
between members of an affiliated group are not sales. An 52  
"affiliated group" means two or more persons related in such a 53  
way that one person owns or controls the business operation of 54  
another member of the group. In the case of corporations with 55  
stock, one corporation owns or controls another if it owns more 56  
than fifty per cent of the other corporation's common stock with 57  
voting rights. 58

(f) Telecommunications service, including prepaid calling 59  
service, prepaid wireless calling service, or ancillary service, 60  
is or is to be provided, but not including coin-operated 61  
telephone service; 62

(g) Landscaping and lawn care service is or is to be 63  
provided; 64

(h) Private investigation and security service is or is to 65  
be provided; 66

(i) Information services or tangible personal property is 67  
provided or ordered by means of a nine hundred telephone call; 68

(j) Building maintenance and janitorial service is or is 69  
to be provided; 70

(k) Employment service is or is to be provided; 71

(l) Employment placement service is or is to be provided; 72

(m) Exterminating service is or is to be provided; 73

(n) Physical fitness facility service is or is to be provided;	74 75
(o) Recreation and sports club service is or is to be provided;	76 77
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	78 79
(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.	80 81 82 83 84 85 86 87 88
(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;	89 90 91 92 93 94 95 96
(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.	97 98 99 100
(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal	101 102

service" means the removal of snow by any mechanized means, but 103  
does not include the providing of such service by a person that 104  
has less than five thousand dollars in sales of such service 105  
during the calendar year. 106

(u) Electronic publishing service is or is to be provided 107  
to a consumer for use in business, except that such transactions 108  
occurring between members of an affiliated group, as defined in 109  
division (B) (3) (e) of this section, are not sales. 110

(4) All transactions by which printed, imprinted, 111  
overprinted, lithographic, multilithic, blueprinted, 112  
photostatic, or other productions or reproductions of written or 113  
graphic matter are or are to be furnished or transferred; 114

(5) The production or fabrication of tangible personal 115  
property for a consideration for consumers who furnish either 116  
directly or indirectly the materials used in the production of 117  
fabrication work; and include the furnishing, preparing, or 118  
serving for a consideration of any tangible personal property 119  
consumed on the premises of the person furnishing, preparing, or 120  
serving such tangible personal property. Except as provided in 121  
section 5739.03 of the Revised Code, a construction contract 122  
pursuant to which tangible personal property is or is to be 123  
incorporated into a structure or improvement on and becoming a 124  
part of real property is not a sale of such tangible personal 125  
property. The construction contractor is the consumer of such 126  
tangible personal property, provided that the sale and 127  
installation of carpeting, the sale and installation of 128  
agricultural land tile, the sale and erection or installation of 129  
portable grain bins, or the provision of landscaping and lawn 130  
care service and the transfer of property as part of such 131  
service is never a construction contract. 132

As used in division (B) (5) of this section:	133
(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.	134 135 136 137 138 139 140 141 142
(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.	143 144 145 146
(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, or an ownership interest in a pass-through entity, as defined in section 5733.04 of the Revised Code, is transferred, if the corporation or pass-through entity is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders or owners;	147 148 149 150 151 152 153 154
(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;	155 156 157 158 159
(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of	160 161

such films for exhibition purposes is not a sale; 162

(9) On and after August 1, 2003, all transactions by which 163  
tangible personal property is or is to be stored, except such 164  
property that the consumer of the storage holds for sale in the 165  
regular course of business; 166

(10) All transactions in which "guaranteed auto 167  
protection" is provided whereby a person promises to pay to the 168  
consumer the difference between the amount the consumer receives 169  
from motor vehicle insurance and the amount the consumer owes to 170  
a person holding title to or a lien on the consumer's motor 171  
vehicle in the event the consumer's motor vehicle suffers a 172  
total loss under the terms of the motor vehicle insurance policy 173  
or is stolen and not recovered, if the protection and its price 174  
are included in the purchase or lease agreement; 175

(11) (a) Except as provided in division (B) (11) (b) of this 176  
section, on and after October 1, 2009, all transactions by which 177  
health care services are paid for, reimbursed, provided, 178  
delivered, arranged for, or otherwise made available by a 179  
medicaid health insuring corporation pursuant to the 180  
corporation's contract with the state. 181

(b) If the centers for medicare and medicaid services of 182  
the United States department of health and human services 183  
determines that the taxation of transactions described in 184  
division (B) (11) (a) of this section constitutes an impermissible 185  
health care-related tax under the "Social Security Act," section 186  
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 187  
the medicaid director shall notify the tax commissioner of that 188  
determination. Beginning with the first day of the month 189  
following that notification, the transactions described in 190  
division (B) (11) (a) of this section are not sales for the 191

purposes of this chapter or Chapter 5741. of the Revised Code. 192  
The tax commissioner shall order that the collection of taxes 193  
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 194  
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 195  
for transactions occurring on or after that date. 196

(12) All transactions by which a specified digital product 197  
is provided for permanent use or less than permanent use, 198  
regardless of whether continued payment is required. 199

Except as provided in this section, "sale" and "selling" 200  
do not include transfers of interest in leased property where 201  
the original lessee and the terms of the original lease 202  
agreement remain unchanged, or professional, insurance, or 203  
personal service transactions that involve the transfer of 204  
tangible personal property as an inconsequential element, for 205  
which no separate charges are made. 206

(C) "Vendor" means the person providing the service or by 207  
whom the transfer effected or license given by a sale is or is 208  
to be made or given and, for sales described in division (B) (3) 209  
(i) of this section, the telecommunications service vendor that 210  
provides the nine hundred telephone service; if two or more 211  
persons are engaged in business at the same place of business 212  
under a single trade name in which all collections on account of 213  
sales by each are made, such persons shall constitute a single 214  
vendor. 215

Physicians, dentists, hospitals, and veterinarians who are 216  
engaged in selling tangible personal property as received from 217  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 218  
articles, are vendors. Veterinarians who are engaged in 219  
transferring to others for a consideration drugs, the dispensing 220  
of which does not require an order of a licensed veterinarian or 221

physician under federal law, are vendors.	222
The operator of any peer-to-peer car sharing program shall	223
be considered to be the vendor.	224
(D) (1) "Consumer" means the person for whom the service is	225
provided, to whom the transfer effected or license given by a	226
sale is or is to be made or given, to whom the service described	227
in division (B) (3) (f) or (i) of this section is charged, or to	228
whom the admission is granted.	229
(2) Physicians, dentists, hospitals, and blood banks	230
operated by nonprofit institutions and persons licensed to	231
practice veterinary medicine, surgery, and dentistry are	232
consumers of all tangible personal property and services	233
purchased by them in connection with the practice of medicine,	234
dentistry, the rendition of hospital or blood bank service, or	235
the practice of veterinary medicine, surgery, and dentistry. In	236
addition to being consumers of drugs administered by them or by	237
their assistants according to their direction, veterinarians	238
also are consumers of drugs that under federal law may be	239
dispensed only by or upon the order of a licensed veterinarian	240
or physician, when transferred by them to others for a	241
consideration to provide treatment to animals as directed by the	242
veterinarian.	243
(3) A person who performs a facility management, or	244
similar service contract for a contractee is a consumer of all	245
tangible personal property and services purchased for use in	246
connection with the performance of such contract, regardless of	247
whether title to any such property vests in the contractee. The	248
purchase of such property and services is not subject to the	249
exception for resale under division (E) of this section.	250

(4) (a) In the case of a person who 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 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) 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.	281
(7) In the case of a transaction for health care services	282
under division (B) (11) of this section, a medicaid health	283
insuring corporation is the consumer of such services. The	284
purchase of such services by a medicaid health insuring	285
corporation is not subject to the exception for resale under	286
division (E) of this section or to the exemptions provided under	287
divisions (B) (12), (18), (19), and (22) of section 5739.02 of	288
the Revised Code.	289
(E) "Retail sale" and "sales at retail" include all sales,	290
except those in which the purpose of the consumer is to resell	291
the thing transferred or benefit of the service provided, by a	292
person engaging in business, in the form in which the same is,	293
or is to be, received by the person.	294
(F) "Business" includes any activity engaged in by any	295
person with the object of gain, benefit, or advantage, either	296
direct or indirect. "Business" does not include the activity of	297
a person in managing and investing the person's own funds.	298
(G) "Engaging in business" means commencing, conducting,	299
or continuing in business, and liquidating a business when the	300
liquidator thereof holds itself out to the public as conducting	301
such business. Making a casual sale is not engaging in business.	302
(H) (1) (a) "Price," except as provided in divisions (H) (2),	303
(3), and (4) of this section, means the total amount of	304
consideration, including cash, credit, property, and services,	305
for which tangible personal property or services are sold,	306
leased, or rented, valued in money, whether received in money or	307
otherwise, without any deduction for any of the following:	308
(i) The vendor's cost of the property sold;	309

(ii) The cost of materials used, labor or service costs,	310
interest, losses, all costs of transportation to the vendor, all	311
taxes imposed on the vendor, including the tax imposed under	312
Chapter 5751. of the Revised Code, and any other expense of the	313
vendor;	314
(iii) Charges by the vendor for any services necessary to	315
complete the sale;	316
(iv) On and after August 1, 2003, delivery charges. As	317
used in this division, "delivery charges" means charges by the	318
vendor for preparation and delivery to a location designated by	319
the consumer of tangible personal property or a service,	320
including transportation, shipping, postage, handling, crating,	321
and packing.	322
(v) Installation charges;	323
(vi) Credit for any trade-in.	324
(b) "Price" includes consideration received by the vendor	325
from a third party, if the vendor actually receives the	326
consideration from a party other than the consumer, and the	327
consideration is directly related to a price reduction or	328
discount on the sale; the vendor has an obligation to pass the	329
price reduction or discount through to the consumer; the amount	330
of the consideration attributable to the sale is fixed and	331
determinable by the vendor at the time of the sale of the item	332
to the consumer; and one of the following criteria is met:	333
(i) The consumer presents a coupon, certificate, or other	334
document to the vendor to claim a price reduction or discount	335
where the coupon, certificate, or document is authorized,	336
distributed, or granted by a third party with the understanding	337
that the third party will reimburse any vendor to whom the	338

coupon, certificate, or document is presented; 339

(ii) The consumer identifies the consumer's self to the 340  
seller as a member of a group or organization entitled to a 341  
price reduction or discount. A preferred customer card that is 342  
available to any patron does not constitute membership in such a 343  
group or organization. 344

(iii) The price reduction or discount is identified as a 345  
third party price reduction or discount on the invoice received 346  
by the consumer, or on a coupon, certificate, or other document 347  
presented by the consumer. 348

(c) "Price" does not include any of the following: 349

(i) Discounts, including cash, term, or coupons that are 350  
not reimbursed by a third party that are allowed by a vendor and 351  
taken by a consumer on a sale; 352

(ii) Interest, financing, and carrying charges from credit 353  
extended on the sale of tangible personal property or services, 354  
if the amount is separately stated on the invoice, bill of sale, 355  
or similar document given to the purchaser; 356

(iii) Any taxes legally imposed directly on the consumer 357  
that are separately stated on the invoice, bill of sale, or 358  
similar document given to the consumer. For the purpose of this 359  
division, the tax imposed under Chapter 5751. of the Revised 360  
Code is not a tax directly on the consumer, even if the tax or a 361  
portion thereof is separately stated. 362

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 363  
this section, any discount allowed by an automobile manufacturer 364  
to its employee, or to the employee of a supplier, on the 365  
purchase of a new motor vehicle from a new motor vehicle dealer 366  
in this state. 367

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

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

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

(4) In the case of transactions for health care services under division (B) (11) of this section, "price" means the amount

of managed care premiums received each month by a medicaid 398  
health insuring corporation. 399

(I) "Receipts" means the total amount of the prices of the 400  
sales of vendors, provided that the dollar value of gift cards 401  
distributed pursuant to an awards, loyalty, or promotional 402  
program, and cash discounts allowed and taken on sales at the 403  
time they are consummated are not included, minus any amount 404  
deducted as a bad debt pursuant to section 5739.121 of the 405  
Revised Code. "Receipts" does not include the sale price of 406  
property returned or services rejected by consumers when the 407  
full sale price and tax are refunded either in cash or by 408  
credit. 409

(J) "Place of business" means any location at which a 410  
person engages in business. 411

(K) "Premises" includes any real property or portion 412  
thereof upon which any person engages in selling tangible 413  
personal property at retail or making retail sales and also 414  
includes any real property or portion thereof designated for, or 415  
devoted to, use in conjunction with the business engaged in by 416  
such person. 417

(L) "Casual sale" means a sale of an item of tangible 418  
personal property that was obtained by the person making the 419  
sale, through purchase or otherwise, for the person's own use 420  
and was previously subject to any state's taxing jurisdiction on 421  
its sale or use, and includes such items acquired for the 422  
seller's use that are sold by an auctioneer employed directly by 423  
the person for such purpose, provided the location of such sales 424  
is not the auctioneer's permanent place of business. As used in 425  
this division, "permanent place of business" includes any 426  
location where such auctioneer has conducted more than two 427

auctions during the year. 428

(M) "Hotel" means every establishment kept, used, 429  
maintained, advertised, or held out to the public to be a place 430  
where sleeping accommodations are offered to guests, in which 431  
five or more rooms are used for the accommodation of such 432  
guests, whether the rooms are in one or several structures, 433  
except as otherwise provided in division (G) of section 5739.09 434  
of the Revised Code. 435

(N) "Transient guests" means persons occupying a room or 436  
rooms for sleeping accommodations for less than thirty 437  
consecutive days. 438

(O) "Making retail sales" means the effecting of 439  
transactions wherein one party is obligated to pay the price and 440  
the other party is obligated to provide a service or to transfer 441  
title to or possession of the item sold. "Making retail sales" 442  
does not include the preliminary acts of promoting or soliciting 443  
the retail sales, other than the distribution of printed matter 444  
which displays or describes and prices the item offered for 445  
sale, nor does it include delivery of a predetermined quantity 446  
of tangible personal property or transportation of property or 447  
personnel to or from a place where a service is performed. 448

(P) "Used directly in the rendition of a public utility 449  
service" means that property that is to be incorporated into and 450  
will become a part of the consumer's production, transmission, 451  
transportation, or distribution system and that retains its 452  
classification as tangible personal property after such 453  
incorporation; fuel or power used in the production, 454  
transmission, transportation, or distribution system; and 455  
tangible personal property used in the repair and maintenance of 456  
the production, transmission, transportation, or distribution 457

system, including only such motor vehicles as are specially 458  
designed and equipped for such use. Tangible personal property 459  
and services used primarily in providing highway transportation 460  
for hire are not used directly in the rendition of a public 461  
utility service. In this definition, "public utility" includes a 462  
citizen of the United States holding, and required to hold, a 463  
certificate of public convenience and necessity issued under 49 464  
U.S.C. 41102. 465

(Q) "Refining" means removing or separating a desirable 466  
product from raw or contaminated materials by distillation or 467  
physical, mechanical, or chemical processes. 468

(R) "Assembly" and "assembling" mean attaching or fitting 469  
together parts to form a product, but do not include packaging a 470  
product. 471

(S) "Manufacturing operation" means a process in which 472  
materials are changed, converted, or transformed into a 473  
different state or form from which they previously existed and 474  
includes refining materials, assembling parts, and preparing raw 475  
materials and parts by mixing, measuring, blending, or otherwise 476  
committing such materials or parts to the manufacturing process. 477  
"Manufacturing operation" does not include packaging. 478

(T) "Fiscal officer" means, with respect to a regional 479  
transit authority, the secretary-treasurer thereof, and with 480  
respect to a county that is a transit authority, the fiscal 481  
officer of the county transit board if one is appointed pursuant 482  
to section 306.03 of the Revised Code or the county auditor if 483  
the board of county commissioners operates the county transit 484  
system. 485

(U) "Transit authority" means a regional transit authority 486

created pursuant to section 306.31 of the Revised Code or a 487  
county in which a county transit system is created pursuant to 488  
section 306.01 of the Revised Code. For the purposes of this 489  
chapter, a transit authority must extend to at least the entire 490  
area of a single county. A transit authority that includes 491  
territory in more than one county must include all the area of 492  
the most populous county that is a part of such transit 493  
authority. County population shall be measured by the most 494  
recent census taken by the United States census bureau. 495

(V) "Legislative authority" means, with respect to a 496  
regional transit authority, the board of trustees thereof, and 497  
with respect to a county that is a transit authority, the board 498  
of county commissioners. 499

(W) "Territory of the transit authority" means all of the 500  
area included within the territorial boundaries of a transit 501  
authority as they from time to time exist. Such territorial 502  
boundaries must at all times include all the area of a single 503  
county or all the area of the most populous county that is a 504  
part of such transit authority. County population shall be 505  
measured by the most recent census taken by the United States 506  
census bureau. 507

(X) "Providing a service" means providing or furnishing 508  
anything described in division (B) (3) of this section for 509  
consideration. 510

(Y) (1) (a) "Automatic data processing" means processing of 511  
others' data, including keypunching or similar data entry 512  
services together with verification thereof, or providing access 513  
to computer equipment for the purpose of processing data. 514

(b) "Computer services" means providing services 515

consisting of specifying computer hardware configurations and 516  
evaluating technical processing characteristics, computer 517  
programming, and training of computer programmers and operators, 518  
provided in conjunction with and to support the sale, lease, or 519  
operation of taxable computer equipment or systems. 520

(c) "Electronic information services" means providing 521  
access to computer equipment by means of telecommunications 522  
equipment for the purpose of either of the following: 523

(i) Examining or acquiring data stored in or accessible to 524  
the computer equipment; 525

(ii) Placing data into the computer equipment to be 526  
retrieved by designated recipients with access to the computer 527  
equipment. 528

For transactions occurring on or after the effective date 529  
of the amendment of this section by H.B. 157 of the 127th 530  
general assembly, December 21, 2007, "electronic information 531  
services" does not include electronic publishing. 532

(d) "Automatic data processing, computer services, or 533  
electronic information services" shall not include personal or 534  
professional services. 535

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 536  
section, "personal and professional services" means all services 537  
other than automatic data processing, computer services, or 538  
electronic information services, including but not limited to: 539

(a) Accounting and legal services such as advice on tax 540  
matters, asset management, budgetary matters, quality control, 541  
information security, and auditing and any other situation where 542  
the service provider receives data or information and studies, 543  
alters, analyzes, interprets, or adjusts such material; 544

(b) Analyzing business policies and procedures;	545
(c) Identifying management information needs;	546
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	547 548 549
(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;	550 551 552 553 554
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	555 556 557
(g) Testing of business procedures;	558
(h) Training personnel in business procedure applications;	559
(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;	560 561 562 563 564 565 566
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	567 568
(k) Providing digital advertising services.	569
The services listed in divisions (Y) (2) (a) to (k) of this section are not automatic data processing or computer services.	570 571

(Z) "Highway transportation for hire" means the 572  
transportation of personal property belonging to others for 573  
consideration by any of the following: 574

(1) The holder of a permit or certificate issued by this 575  
state or the United States authorizing the holder to engage in 576  
transportation of personal property belonging to others for 577  
consideration over or on highways, roadways, streets, or any 578  
similar public thoroughfare; 579

(2) A person who engages in the transportation of personal 580  
property belonging to others for consideration over or on 581  
highways, roadways, streets, or any similar public thoroughfare 582  
but who could not have engaged in such transportation on 583  
December 11, 1985, unless the person was the holder of a permit 584  
or certificate of the types described in division (Z)(1) of this 585  
section; 586

(3) A person who leases a motor vehicle to and operates it 587  
for a person described by division (Z)(1) or (2) of this 588  
section. 589

(AA)(1) "Telecommunications service" means the electronic 590  
transmission, conveyance, or routing of voice, data, audio, 591  
video, or any other information or signals to a point, or 592  
between or among points. "Telecommunications service" includes 593  
such transmission, conveyance, or routing in which computer 594  
processing applications are used to act on the form, code, or 595  
protocol of the content for purposes of transmission, 596  
conveyance, or routing without regard to whether the service is 597  
referred to as voice-over internet protocol service or is 598  
classified by the federal communications commission as enhanced 599  
or value-added. "Telecommunications service" does not include 600  
any of the following: 601

(a) Data processing and information services that allow 602  
data to be generated, acquired, stored, processed, or retrieved 603  
and delivered by an electronic transmission to a consumer where 604  
the consumer's primary purpose for the underlying transaction is 605  
the processed data or information; 606

(b) Installation or maintenance of wiring or equipment on 607  
a customer's premises; 608

(c) Tangible personal property; 609

(d) Advertising, including directory advertising; 610

(e) Billing and collection services provided to third 611  
parties; 612

(f) Internet access service; 613

(g) Radio and television audio and video programming 614  
services, regardless of the medium, including the furnishing of 615  
transmission, conveyance, and routing of such services by the 616  
programming service provider. Radio and television audio and 617  
video programming services include, but are not limited to, 618  
cable service, as defined in 47 U.S.C. 522(6), and audio and 619  
video programming services delivered by commercial mobile radio 620  
service providers, as defined in 47 C.F.R. 20.3; 621

(h) Ancillary service; 622

(i) Digital products delivered electronically, including 623  
software, music, video, reading materials, or ring tones. 624

(2) "Ancillary service" means a service that is associated 625  
with or incidental to the provision of telecommunications 626  
service, including conference bridging service, detailed 627  
telecommunications billing service, directory assistance, 628  
vertical service, and voice mail service. As used in this 629

division: 630

(a) "Conference bridging service" means an ancillary 631  
service that links two or more participants of an audio or video 632  
conference call, including providing a telephone number. 633  
"Conference bridging service" does not include 634  
telecommunications services used to reach the conference bridge. 635

(b) "Detailed telecommunications billing service" means an 636  
ancillary service of separately stating information pertaining 637  
to individual calls on a customer's billing statement. 638

(c) "Directory assistance" means an ancillary service of 639  
providing telephone number or address information. 640

(d) "Vertical service" means an ancillary service that is 641  
offered in connection with one or more telecommunications 642  
services, which offers advanced calling features that allow 643  
customers to identify callers and manage multiple calls and call 644  
connections, including conference bridging service. 645

(e) "Voice mail service" means an ancillary service that 646  
enables the customer to store, send, or receive recorded 647  
messages. "Voice mail service" does not include any vertical 648  
services that the customer may be required to have in order to 649  
utilize the voice mail service. 650

(3) "900 service" means an inbound toll telecommunications 651  
service purchased by a subscriber that allows the subscriber's 652  
customers to call in to the subscriber's prerecorded 653  
announcement or live service, and which is typically marketed 654  
under the name "900 service" and any subsequent numbers 655  
designated by the federal communications commission. "900 656  
service" does not include the charge for collection services 657  
provided by the seller of the telecommunications service to the 658

subscriber, or services or products sold by the subscriber to 659  
the subscriber's customer. 660

(4) "Prepaid calling service" means the right to access 661  
exclusively telecommunications services, which must be paid for 662  
in advance and which enables the origination of calls using an 663  
access number or authorization code, whether manually or 664  
electronically dialed, and that is sold in predetermined units 665  
or dollars of which the number declines with use in a known 666  
amount. 667

(5) "Prepaid wireless calling service" means a 668  
telecommunications service that provides the right to utilize 669  
mobile telecommunications service as well as other non- 670  
telecommunications services, including the download of digital 671  
products delivered electronically, and content and ancillary 672  
services, that must be paid for in advance and that is sold in 673  
predetermined units or dollars of which the number declines with 674  
use in a known amount. 675

(6) "Value-added non-voice data service" means a 676  
telecommunications service in which computer processing 677  
applications are used to act on the form, content, code, or 678  
protocol of the information or data primarily for a purpose 679  
other than transmission, conveyance, or routing. 680

(7) "Coin-operated telephone service" means a 681  
telecommunications service paid for by inserting money into a 682  
telephone accepting direct deposits of money to operate. 683

(8) "Customer" has the same meaning as in section 5739.034 684  
of the Revised Code. 685

(BB) "Laundry and dry cleaning services" means removing 686  
soil or dirt from towels, linens, articles of clothing, or other 687

fabric items that belong to others and supplying towels, linens, 688  
articles of clothing, or other fabric items. "Laundry and dry 689  
cleaning services" does not include the provision of self- 690  
service facilities for use by consumers to remove soil or dirt 691  
from towels, linens, articles of clothing, or other fabric 692  
items. 693

(CC) "Magazines distributed as controlled circulation 694  
publications" means magazines containing at least twenty-four 695  
pages, at least twenty-five per cent editorial content, issued 696  
at regular intervals four or more times a year, and circulated 697  
without charge to the recipient, provided that such magazines 698  
are not owned or controlled by individuals or business concerns 699  
which conduct such publications as an auxiliary to, and 700  
essentially for the advancement of the main business or calling 701  
of, those who own or control them. 702

(DD) "Landscaping and lawn care service" means the 703  
services of planting, seeding, sodding, removing, cutting, 704  
trimming, pruning, mulching, aerating, applying chemicals, 705  
watering, fertilizing, and providing similar services to 706  
establish, promote, or control the growth of trees, shrubs, 707  
flowers, grass, ground cover, and other flora, or otherwise 708  
maintaining a lawn or landscape grown or maintained by the owner 709  
for ornamentation or other nonagricultural purpose. However, 710  
"landscaping and lawn care service" does not include the 711  
providing of such services by a person who has less than five 712  
thousand dollars in sales of such services during the calendar 713  
year. 714

(EE) "Private investigation and security service" means 715  
the performance of any activity for which the provider of such 716  
service is required to be licensed pursuant to Chapter 4749. of 717

the Revised Code, or would be required to be so licensed in 718  
performing such services in this state, and also includes the 719  
services of conducting polygraph examinations and of monitoring 720  
or overseeing the activities on or in, or the condition of, the 721  
consumer's home, business, or other facility by means of 722  
electronic or similar monitoring devices. "Private investigation 723  
and security service" does not include special duty services 724  
provided by off-duty police officers, deputy sheriffs, and other 725  
peace officers regularly employed by the state or a political 726  
subdivision. 727

(FF) "Information services" means providing conversation, 728  
giving consultation or advice, playing or making a voice or 729  
other recording, making or keeping a record of the number of 730  
callers, and any other service provided to a consumer by means 731  
of a nine hundred telephone call, except when the nine hundred 732  
telephone call is the means by which the consumer makes a 733  
contribution to a recognized charity. 734

(GG) "Research and development" means designing, creating, 735  
or formulating new or enhanced products, equipment, or 736  
manufacturing processes, and also means conducting scientific or 737  
technological inquiry and experimentation in the physical 738  
sciences with the goal of increasing scientific knowledge which 739  
may reveal the bases for new or enhanced products, equipment, or 740  
manufacturing processes. 741

(HH) "Qualified research and development equipment" means 742  
capitalized tangible personal property, and leased personal 743  
property that would be capitalized if purchased, used by a 744  
person primarily to perform research and development. Tangible 745  
personal property primarily used in testing, as defined in 746  
division (A) (4) of section 5739.011 of the Revised Code, or used 747

for recording or storing test results, is not qualified research 748  
and development equipment unless such property is primarily used 749  
by the consumer in testing the product, equipment, or 750  
manufacturing process being created, designed, or formulated by 751  
the consumer in the research and development activity or in 752  
recording or storing such test results. 753

(II) "Building maintenance and janitorial service" means 754  
cleaning the interior or exterior of a building and any tangible 755  
personal property located therein or thereon, including any 756  
services incidental to such cleaning for which no separate 757  
charge is made. However, "building maintenance and janitorial 758  
service" does not include the providing of such service by a 759  
person who has less than five thousand dollars in sales of such 760  
service during the calendar year. As used in this division, 761  
"cleaning" does not include sanitation services necessary for an 762  
establishment described in 21 U.S.C. 608 to comply with rules 763  
and regulations adopted pursuant to that section. 764

(JJ) "Employment service" means providing or supplying 765  
personnel, on a temporary or long-term basis, to perform work or 766  
labor under the supervision or control of another, when the 767  
personnel so provided or supplied receive their wages, salary, 768  
or other compensation from the provider or supplier of the 769  
employment service or from a third party that provided or 770  
supplied the personnel to the provider or supplier. "Employment 771  
service" does not include: 772

(1) Acting as a contractor or subcontractor, where the 773  
personnel performing the work are not under the direct control 774  
of the purchaser. 775

(2) Medical and health care services. 776

(3) Supplying personnel to a purchaser pursuant to a 777  
contract of at least one year between the service provider and 778  
the purchaser that specifies that each employee covered under 779  
the contract is assigned to the purchaser on a permanent basis. 780

(4) Transactions between members of an affiliated group, 781  
as defined in division (B) (3) (e) of this section. 782

(5) Transactions where the personnel so provided or 783  
supplied by a provider or supplier to a purchaser of an 784  
employment service are then provided or supplied by that 785  
purchaser to a third party as an employment service, except 786  
"employment service" does include the transaction between that 787  
purchaser and the third party. 788

(6) Transactions where the personnel so provided or 789  
supplied operate or use machinery, equipment, or other tangible 790  
personal property that is a "thing transferred," as described by 791  
section 5739.011 of the Revised Code, and is used primarily in a 792  
manufacturing operation to produce tangible personal property 793  
for sale for the purposes of division (B) (42) (g) of section 794  
5739.02 of the Revised Code. 795

(KK) "Employment placement service" means locating or 796  
finding employment for a person or finding or locating an 797  
employee to fill an available position. 798

(LL) "Exterminating service" means eradicating or 799  
attempting to eradicate vermin infestations from a building or 800  
structure, or the area surrounding a building or structure, and 801  
includes activities to inspect, detect, or prevent vermin 802  
infestation of a building or structure. 803

(MM) "Physical fitness facility service" means all 804  
transactions by which a membership is granted, maintained, or 805

renewed, including initiation fees, membership dues, renewal 806  
fees, monthly minimum fees, and other similar fees and dues, by 807  
a physical fitness facility such as an athletic club, health 808  
spa, or gymnasium, which entitles the member to use the facility 809  
for physical exercise. 810

(NN) "Recreation and sports club service" means all 811  
transactions by which a membership is granted, maintained, or 812  
renewed, including initiation fees, membership dues, renewal 813  
fees, monthly minimum fees, and other similar fees and dues, by 814  
a recreation and sports club, which entitles the member to use 815  
the facilities of the organization. "Recreation and sports club" 816  
means an organization that has ownership of, or controls or 817  
leases on a continuing, long-term basis, the facilities used by 818  
its members and includes an aviation club, gun or shooting club, 819  
yacht club, card club, swimming club, tennis club, golf club, 820  
country club, riding club, amateur sports club, or similar 821  
organization. 822

(OO) "Livestock" means farm animals commonly raised for 823  
food, food production, or other agricultural purposes, 824  
including, but not limited to, cattle, sheep, goats, swine, 825  
poultry, and captive deer. "Livestock" does not include 826  
invertebrates, amphibians, reptiles, domestic pets, animals for 827  
use in laboratories or for exhibition, or other animals not 828  
commonly raised for food or food production. 829

(PP) "Livestock structure" means a building or structure 830  
used exclusively for the housing, raising, feeding, or 831  
sheltering of livestock, and includes feed storage or handling 832  
structures and structures for livestock waste handling. 833

(QQ) "Horticulture" means the growing, cultivation, and 834  
production of flowers, fruits, herbs, vegetables, sod, 835

mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code. 836  
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(RR) "Horticulture structure" means a building or 839  
structure used exclusively for the commercial growing, raising, 840  
or overwintering of horticultural products, and includes the 841  
area used for stocking, storing, and packing horticultural 842  
products when done in conjunction with the production of those 843  
products. 844

(SS) "Newspaper" means an unbound publication bearing a 845  
title or name that is regularly published, at least as 846  
frequently as biweekly, and distributed from a fixed place of 847  
business to the public in a specific geographic area, and that 848  
contains a substantial amount of news matter of international, 849  
national, or local events of interest to the general public. 850

(TT) "Peer-to-peer car sharing program" has the same 851  
meaning as in section 4516.01 of the Revised Code. 852

(UU) (1) "Lease" or "rental" means any transfer of the 853  
possession or control of tangible personal property for a fixed 854  
or indefinite term, for consideration. "Lease" or "rental" 855  
includes future options to purchase or extend, and agreements 856  
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 857  
trailers where the amount of consideration may be increased or 858  
decreased by reference to the amount realized upon the sale or 859  
disposition of the property. "Lease" or "rental" does not 860  
include: 861

(a) A transfer of possession or control of tangible 862  
personal property under a security agreement or a deferred 863  
payment plan that requires the transfer of title upon completion 864

of the required payments; 865

(b) A transfer of possession or control of tangible 866  
personal property under an agreement that requires the transfer 867  
of title upon completion of required payments and payment of an 868  
option price that does not exceed the greater of one hundred 869  
dollars or one per cent of the total required payments; 870

(c) Providing tangible personal property along with an 871  
operator for a fixed or indefinite period of time, if the 872  
operator is necessary for the property to perform as designed. 873  
For purposes of this division, the operator must do more than 874  
maintain, inspect, or set up the tangible personal property. 875

(2) "Lease" and "rental," as defined in division (UU) of 876  
this section, shall not apply to leases or rentals that exist 877  
before June 26, 2003. 878

(3) "Lease" and "rental" have the same meaning as in 879  
division (UU) (1) of this section regardless of whether a 880  
transaction is characterized as a lease or rental under 881  
generally accepted accounting principles, the Internal Revenue 882  
Code, Title XIII of the Revised Code, or other federal, state, 883  
or local laws. 884

(VV) "Mobile telecommunications service" has the same 885  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 886  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 887  
amended, and, on and after August 1, 2003, includes related fees 888  
and ancillary services, including universal service fees, 889  
detailed billing service, directory assistance, service 890  
initiation, voice mail service, and vertical services, such as 891  
caller ID and three-way calling. 892

(WW) "Certified service provider" has the same meaning as 893

in section 5740.01 of the Revised Code. 894

(XX) "Satellite broadcasting service" means the 895  
distribution or broadcasting of programming or services by 896  
satellite directly to the subscriber's receiving equipment 897  
without the use of ground receiving or distribution equipment, 898  
except the subscriber's receiving equipment or equipment used in 899  
the uplink process to the satellite, and includes all service 900  
and rental charges, premium channels or other special services, 901  
installation and repair service charges, and any other charges 902  
having any connection with the provision of the satellite 903  
broadcasting service. 904

(YY) "Tangible personal property" means personal property 905  
that can be seen, weighed, measured, felt, or touched, or that 906  
is in any other manner perceptible to the senses. For purposes 907  
of this chapter and Chapter 5741. of the Revised Code, "tangible 908  
personal property" includes motor vehicles, electricity, water, 909  
gas, steam, and prewritten computer software. 910

(ZZ) "Municipal gas utility" means a municipal corporation 911  
that owns or operates a system for the distribution of natural 912  
gas. 913

(AAA) "Computer" means an electronic device that accepts 914  
information in digital or similar form and manipulates it for a 915  
result based on a sequence of instructions. 916

(BBB) "Computer software" means a set of coded 917  
instructions designed to cause a computer or automatic data 918  
processing equipment to perform a task. 919

(CCC) "Delivered electronically" means delivery of 920  
computer software from the seller to the purchaser by means 921  
other than tangible storage media. 922

(DDD) "Prewritten computer software" means computer 923  
software, including prewritten upgrades, that is not designed 924  
and developed by the author or other creator to the 925  
specifications of a specific purchaser. The combining of two or 926  
more prewritten computer software programs or prewritten 927  
portions thereof does not cause the combination to be other than 928  
prewritten computer software. "Prewritten computer software" 929  
includes software designed and developed by the author or other 930  
creator to the specifications of a specific purchaser when it is 931  
sold to a person other than the purchaser. If a person modifies 932  
or enhances computer software of which the person is not the 933  
author or creator, the person shall be deemed to be the author 934  
or creator only of such person's modifications or enhancements. 935  
Prewritten computer software or a prewritten portion thereof 936  
that is modified or enhanced to any degree, where such 937  
modification or enhancement is designed and developed to the 938  
specifications of a specific purchaser, remains prewritten 939  
computer software; provided, however, that where there is a 940  
reasonable, separately stated charge or an invoice or other 941  
statement of the price given to the purchaser for the 942  
modification or enhancement, the modification or enhancement 943  
shall not constitute prewritten computer software. 944

(EEE) (1) "Food" means substances, whether in liquid, 945  
concentrated, solid, frozen, dried, or dehydrated form, that are 946  
sold for ingestion or chewing by humans and are consumed for 947  
their taste or nutritional value. "Food" does not include 948  
alcoholic beverages, dietary supplements, soft drinks, or 949  
tobacco. 950

(2) As used in division (EEE) (1) of this section: 951

(a) "Alcoholic beverages" means beverages that are 952

suitable for human consumption and contain one-half of one per cent or more of alcohol by volume. 953  
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(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients: 955  
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(i) A vitamin; 965

(ii) A mineral; 966

(iii) An herb or other botanical; 967

(iv) An amino acid; 968

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; 969  
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(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE) (2) (b) (i) to (v) of this section. 971  
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(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. 974  
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(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. 979  
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(FFF) "Drug" means a compound, substance, or preparation, 981  
and any component of a compound, substance, or preparation, 982  
other than food, dietary supplements, or alcoholic beverages 983  
that is recognized in the official United States pharmacopoeia, 984  
official homeopathic pharmacopoeia of the United States, or 985  
official national formulary, and supplements to them; is 986  
intended for use in the diagnosis, cure, mitigation, treatment, 987  
or prevention of disease; or is intended to affect the structure 988  
or any function of the body. 989

(GGG) "Prescription" means an order, formula, or recipe 990  
issued in any form of oral, written, electronic, or other means 991  
of transmission by a duly licensed practitioner authorized by 992  
the laws of this state to issue a prescription. 993

(HHH) "Durable medical equipment" means equipment, 994  
including repair and replacement parts for such equipment, that 995  
can withstand repeated use, is primarily and customarily used to 996  
serve a medical purpose, generally is not useful to a person in 997  
the absence of illness or injury, and is not worn in or on the 998  
body. "Durable medical equipment" does not include mobility 999  
enhancing equipment. 1000

(III) "Mobility enhancing equipment" means equipment, 1001  
including repair and replacement parts for such equipment, that 1002  
is primarily and customarily used to provide or increase the 1003  
ability to move from one place to another and is appropriate for 1004  
use either in a home or a motor vehicle, that is not generally 1005  
used by persons with normal mobility, and that does not include 1006  
any motor vehicle or equipment on a motor vehicle normally 1007  
provided by a motor vehicle manufacturer. "Mobility enhancing 1008  
equipment" does not include durable medical equipment. 1009

(JJJ) "Prosthetic device" means a replacement, corrective, 1010

or supportive device, including repair and replacement parts for 1011  
the device, worn on or in the human body to artificially replace 1012  
a missing portion of the body, prevent or correct physical 1013  
deformity or malfunction, or support a weak or deformed portion 1014  
of the body. As used in this division, before July 1, 2019, 1015  
"prosthetic device" does not include corrective eyeglasses, 1016  
contact lenses, or dental prosthesis. On or after July 1, 2019, 1017  
"prosthetic device" does not include dental prosthesis but does 1018  
include corrective eyeglasses or contact lenses. 1019

(KKK) (1) "Fractional aircraft ownership program" means a 1020  
program in which persons within an affiliated group sell and 1021  
manage fractional ownership program aircraft, provided that at 1022  
least one hundred airworthy aircraft are operated in the program 1023  
and the program meets all of the following criteria: 1024

(a) Management services are provided by at least one 1025  
program manager within an affiliated group on behalf of the 1026  
fractional owners. 1027

(b) Each program aircraft is owned or possessed by at 1028  
least one fractional owner. 1029

(c) Each fractional owner owns or possesses at least a 1030  
one-sixteenth interest in at least one fixed-wing program 1031  
aircraft. 1032

(d) A dry-lease aircraft interchange arrangement is in 1033  
effect among all of the fractional owners. 1034

(e) Multi-year program agreements are in effect regarding 1035  
the fractional ownership, management services, and dry-lease 1036  
aircraft interchange arrangement aspects of the program. 1037

(2) As used in division (KKK) (1) of this section: 1038

(a) "Affiliated group" has the same meaning as in division 1039  
(B) (3) (e) of this section. 1040

(b) "Fractional owner" means a person that owns or 1041  
possesses at least a one-sixteenth interest in a program 1042  
aircraft and has entered into the agreements described in 1043  
division (KKK) (1) (e) of this section. 1044

(c) "Fractional ownership program aircraft" or "program 1045  
aircraft" means a turbojet aircraft that is owned or possessed 1046  
by a fractional owner and that has been included in a dry-lease 1047  
aircraft interchange arrangement and agreement under divisions 1048  
(KKK) (1) (d) and (e) of this section, or an aircraft a program 1049  
manager owns or possesses primarily for use in a fractional 1050  
aircraft ownership program. 1051

(d) "Management services" means administrative and 1052  
aviation support services furnished under a fractional aircraft 1053  
ownership program in accordance with a management services 1054  
agreement under division (KKK) (1) (e) of this section, and 1055  
offered by the program manager to the fractional owners, 1056  
including, at a minimum, the establishment and implementation of 1057  
safety guidelines; the coordination of the scheduling of the 1058  
program aircraft and crews; program aircraft maintenance; 1059  
program aircraft insurance; crew training for crews employed, 1060  
furnished, or contracted by the program manager or the 1061  
fractional owner; the satisfaction of record-keeping 1062  
requirements; and the development and use of an operations 1063  
manual and a maintenance manual for the fractional aircraft 1064  
ownership program. 1065

(e) "Program manager" means the person that offers 1066  
management services to fractional owners pursuant to a 1067  
management services agreement under division (KKK) (1) (e) of this 1068

section. 1069

(LLL) "Electronic publishing" means providing access to 1070  
one or more of the following primarily for business customers, 1071  
including the federal government or a state government or a 1072  
political subdivision thereof, to conduct research: news; 1073  
business, financial, legal, consumer, or credit materials; 1074  
editorials, columns, reader commentary, or features; photos or 1075  
images; archival or research material; legal notices, identity 1076  
verification, or public records; scientific, educational, 1077  
instructional, technical, professional, trade, or other literary 1078  
materials; or other similar information which has been gathered 1079  
and made available by the provider to the consumer in an 1080  
electronic format. Providing electronic publishing includes the 1081  
functions necessary for the acquisition, formatting, editing, 1082  
storage, and dissemination of data or information that is the 1083  
subject of a sale. 1084

(MMM) "Medicaid health insuring corporation" means a 1085  
health insuring corporation that holds a certificate of 1086  
authority under Chapter 1751. of the Revised Code and is under 1087  
contract with the department of medicaid pursuant to section 1088  
5167.10 of the Revised Code. 1089

(NNN) "Managed care premium" means any premium, 1090  
capitation, or other payment a medicaid health insuring 1091  
corporation receives for providing or arranging for the 1092  
provision of health care services to its members or enrollees 1093  
residing in this state. 1094

(OOO) "Captive deer" means deer and other cervidae that 1095  
have been legally acquired, or their offspring, that are 1096  
privately owned for agricultural or farming purposes. 1097

(PPP) "Gift card" means a document, card, certificate, or 1098  
other record, whether tangible or intangible, that may be 1099  
redeemed by a consumer for a dollar value when making a purchase 1100  
of tangible personal property or services. 1101

(QQQ) "Specified digital product" means an electronically 1102  
transferred digital audiovisual work, digital audio work, or 1103  
digital book. 1104

As used in division (QQQ) of this section: 1105

(1) "Digital audiovisual work" means a series of related 1106  
images that, when shown in succession, impart an impression of 1107  
motion, together with accompanying sounds, if any. 1108

(2) "Digital audio work" means a work that results from 1109  
the fixation of a series of musical, spoken, or other sounds, 1110  
including digitized sound files that are downloaded onto a 1111  
device and that may be used to alert the customer with respect 1112  
to a communication. 1113

(3) "Digital book" means a work that is generally 1114  
recognized in the ordinary and usual sense as a book. 1115

(4) "Electronically transferred" means obtained by the 1116  
purchaser by means other than tangible storage media. 1117

(RRR) "Digital advertising services" means providing 1118  
access, by means of telecommunications equipment, to computer 1119  
equipment that is used to enter, upload, download, review, 1120  
manipulate, store, add, or delete data for the purpose of 1121  
electronically displaying, delivering, placing, or transferring 1122  
promotional advertisements to potential customers about products 1123  
or services or about industry or business brands. 1124

~~(SSS) "Peer-to-peer car sharing program" has the same 1125~~

~~meaning as in section 4516.01 of the Revised Code.~~ 1126

**Sec. 5739.011.** (A) As used in this section: 1127

(1) "Manufacturer" means a person who is engaged in 1128  
manufacturing, processing, assembling, or refining a product for 1129  
sale and, solely for the purposes of division (B) (12) of this 1130  
section, a person who meets all the qualifications of that 1131  
division. 1132

(2) "Manufacturing facility" means a single location where 1133  
a manufacturing operation is conducted, including locations 1134  
consisting of one or more buildings or structures in a 1135  
contiguous area owned or controlled by the manufacturer. 1136

(3) "Materials handling" means the movement of the product 1137  
being or to be manufactured, during which movement the product 1138  
is not undergoing any substantial change or alteration in its 1139  
state or form. 1140

(4) "Testing" means a process or procedure to identify the 1141  
properties or assure the quality of a material or product. 1142

(5) "Completed product" means a manufactured item that is 1143  
in the form and condition as it will be sold by the 1144  
manufacturer. An item is completed when all processes that 1145  
change or alter its state or form or enhance its value are 1146  
finished, even though the item subsequently will be tested to 1147  
ensure its quality or be packaged for storage or shipment. 1148

(6) "Continuous manufacturing operation" means the process 1149  
in which raw materials or components are moved through the steps 1150  
whereby manufacturing occurs. Materials handling of raw 1151  
materials or parts from the point of receipt or preproduction 1152  
storage or of a completed product, to or from storage, to or 1153  
from packaging, or to the place from which the completed product 1154

will be shipped, is not a part of a continuous manufacturing operation. 1155  
1156

(7) "Food" has the same meaning as in section 3717.01 of the Revised Code. 1157  
1158

(B) For purposes of division (B) (42) (g) of section 5739.02 of the Revised Code, the "thing transferred" includes, but is not limited to, any of the following: 1159  
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(1) Production machinery and equipment that act upon the product or machinery and equipment that treat the materials or parts in preparation for the manufacturing operation; 1162  
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(2) Materials handling equipment that moves the product through a continuous manufacturing operation; equipment that temporarily stores the product during the manufacturing operation; or, excluding motor vehicles licensed to operate on public highways, equipment used in intraplant or interplant transfers of work in process where the plant or plants between which such transfers occur are manufacturing facilities operated by the same person; 1165  
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(3) Catalysts, solvents, water, acids, oil, and similar consumables that interact with the product and that are an integral part of the manufacturing operation; 1173  
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(4) Machinery, equipment, and other tangible personal property used during the manufacturing operation that control, physically support, produce power for, lubricate, or are otherwise necessary for the functioning of production machinery and equipment and the continuation of the manufacturing operation; 1176  
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(5) Machinery, equipment, fuel, power, material, parts, and other tangible personal property used to manufacture 1182  
1183

machinery, equipment, or other tangible personal property used	1184
in manufacturing a product for sale;	1185
(6) Machinery, equipment, and other tangible personal	1186
property used by a manufacturer to test raw materials, the	1187
product being manufactured, or the completed product;	1188
(7) Machinery and equipment used to handle or temporarily	1189
store scrap that is intended to be reused in the manufacturing	1190
operation at the same manufacturing facility;	1191
(8) Coke, gas, water, steam, and similar substances used	1192
in the manufacturing operation; machinery and equipment used	1193
for, and fuel consumed in, producing or extracting those	1194
substances; machinery, equipment, and other tangible personal	1195
property used to treat, filter, pump, or otherwise make the	1196
substance suitable for use in the manufacturing operation; and	1197
machinery and equipment used for, and fuel consumed in,	1198
producing electricity for use in the manufacturing operation;	1199
(9) Machinery, equipment, and other tangible personal	1200
property used to transport or transmit electricity, coke, gas,	1201
water, steam, or similar substances used in the manufacturing	1202
operation from the point of generation, if produced by the	1203
manufacturer, or from the point where the substance enters the	1204
manufacturing facility, if purchased by the manufacturer, to the	1205
manufacturing operation;	1206
(10) Machinery, equipment, and other tangible personal	1207
property that treats, filters, cools, refines, or otherwise	1208
renders water, steam, acid, oil, solvents, or similar substances	1209
used in the manufacturing operation reusable, provided that the	1210
substances are intended for reuse and not for disposal, sale, or	1211
transportation from the manufacturing facility;	1212

(11) Parts, components, and repair and installation	1213
services for items described in division (B) of this section;	1214
(12) Machinery and equipment, detergents, supplies,	1215
solvents, and any other tangible personal property located at a	1216
manufacturing facility that are used in the process of removing	1217
soil, dirt, or other contaminants from, or otherwise preparing	1218
in a suitable condition for use, towels, linens, articles of	1219
clothing, floor mats, mop heads, or other similar items, to be	1220
supplied to a consumer as part of laundry and dry cleaning	1221
services as defined in division (BB) of section 5739.01 of the	1222
Revised Code, only when the towels, linens, articles of	1223
clothing, floor mats, mop heads, or other similar items belong	1224
to the provider of the services;	1225
(13) Equipment and supplies used to clean processing	1226
equipment that is part of a continuous manufacturing operation	1227
to produce food for human consumption;	1228
<u>(14) Equipment, supplies, and building and janitorial</u>	1229
<u>services used to clean or maintain any tangible personal</u>	1230
<u>property, machinery, or equipment that is described in division</u>	1231
<u>(B) of this section and is part of a continuous manufacturing</u>	1232
<u>operation.</u>	1233
(C) For purposes of division (B) (42) (g) of section 5739.02	1234
of the Revised Code, the "thing transferred" does not include	1235
any of the following:	1236
(1) Tangible personal property used in administrative,	1237
personnel, security, inventory control, record-keeping,	1238
ordering, billing, or similar functions;	1239
(2) Tangible personal property used in storing raw	1240
materials or parts prior to the commencement of the	1241

manufacturing operation or used to handle or store a completed	1242
product, including storage that actively maintains a completed	1243
product in a marketable state or form;	1244
(3) Tangible personal property used to handle or store	1245
scrap or waste intended for disposal, sale, or other	1246
disposition, other than reuse in the manufacturing operation at	1247
the same manufacturing facility;	1248
(4) Tangible personal property that is or is to be	1249
incorporated into realty;	1250
(5) Machinery, equipment, and other tangible personal	1251
property used for ventilation, dust or gas collection, humidity	1252
or temperature regulation, or similar environmental control,	1253
except machinery, equipment, and other tangible personal	1254
property that totally regulates the environment in a special and	1255
limited area of the manufacturing facility where the regulation	1256
is essential for production to occur;	1257
(6) Tangible personal property used for the protection and	1258
safety of workers, unless the property is attached to or	1259
incorporated into machinery and equipment used in a continuous	1260
manufacturing operation;	1261
(7) Tangible personal property used to store fuel, water,	1262
solvents, acid, oil, or similar items consumed in the	1263
manufacturing operation;	1264
(8) Except as provided in <del>division</del> <u>divisions</u> (B) (13) <u>and</u>	1265
<u>(14)</u> of this section, machinery, equipment, and other tangible	1266
personal property used to clean, repair, or maintain real or	1267
personal property in the manufacturing facility;	1268
(9) Motor vehicles registered for operation on public	1269
highways.	1270

(D) For purposes of division (B) (42) (g) of section 5739.02 1271  
of the Revised Code, if the "thing transferred" is a machine 1272  
used by a manufacturer in both a taxable and an exempt manner, 1273  
it shall be totally taxable or totally exempt from taxation 1274  
based upon its quantified primary use. If the "things 1275  
transferred" are fungibles, they shall be taxed based upon the 1276  
proportion of the fungibles used in a taxable manner. 1277

**Section 2.** That existing sections 5739.01 and 5739.011 of 1278  
the Revised Code are hereby repealed. 1279

**Section 3.** The amendment by this act of sections 5739.01 1280  
and 5739.011 of the Revised Code applies on and after the first 1281  
day of the first month that begins at least thirty days after 1282  
the effective date of this act. 1283