

TESTIMONY in Support of Amendment SC3088
On behalf of the Ohio Society of Cosmetic Therapy Training
Vickie Mickie, Owner, About Face Cosmetic Therapy Center
June 2, 2021

Chairman Dolan, Vice-Chair Gavarone, Ranking Member Sykes,

My name is Vickie Mickie and I am the owner of About Face Cosmetic Therapy Center. I am here today on behalf of the Ohio Society of Cosmetic Therapy Training to ask for your support of an amendment to HB 110 (SC3088) that would provide minimum standards for my profession and for an industry that I helped build, but that was completely deconstructed by the General Assembly late one December night last year during lame duck, without our knowledge or input, when an amendment was added to an accounting bill.

We understand the will of this body to reduce regulation for occupational licensing so it is in this vein that we have worked hard to create a simple process for some minimum standards for our profession and protection for consumers.

First, when we talk about cosmetic therapists, we are not talking about putting on make-up. We are talking about hair removal from various body parts using a medical laser or electrical probe (electrolysis). To completely remove regulation on the use of these devices is irresponsible and potentially dangerous. Right now, the law in Ohio protects tattoo customers more than patients that require the use of these medical lasers.

We appreciate the emergency rules that the Medical Board prepared and Governor DeWine put into effect in an effort to provide a temporary fix, but those rules are set to expire and we are asking the committee to consider language in the budget, due to timing, to provide a statutory framework for minimum standards by July 1, 2021. The proposed language would eliminate licensure and instead provide a framework for some reduced education and then take a test from a private, national organization. It would then provide the medical board some limited authority to investigate bad actors on a complaint-only basis for patient protection.

The Medical Board has also been working hard to try to put rules into place that can help us continue to practice, but they are limited in their scope since they have no statutory authority over cosmetic therapists. They told us that they look at this problem as a patient safety issue.

We understand the Medical Board had no knowledge of the law change prior to the passage of the HB 442 last general assembly and neither did the nearly 200 mostly women-owned cosmetic therapy businesses that operate in Ohio.

Please support the inclusion of Amendment SC3088 in House Bill 110 that was submitted by my Senator, Stephanie Kunze. My life was turned upside down last year with one vote and I'm asking you to please help. If we had been invited to work with the General Assembly on a reduced regulatory structure for our profession, we are confident the proposal accomplishes your goals while protecting my industry, my business, my employees, my students, and my patients.

Thank you for the opportunity to testify today. I urge your support of Amendment SC3088 that is attached to my testimony. I am happy to try to answer any questions you may have and I have my counsel, Marty Sweterlitsch, here who can help address questions as well.

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Sub. H.B. 110
As Passed by the House

_____ moved to amend as follows:

- In line 76 of the title, after "4511.191," insert "4713.01," 1
- In line 77 of the title, after "4729.43," insert "4731.24," 2
- In line 81 of the title, after "4763.15," insert "4776.01," 3
- In line 103 of the title, after "5731.41," insert "5739.01," 4
- In line 147 of the title, after "4779.281," insert "4785.01,
4785.02, 4785.03, 4785.04, 4785.05, 4785.06, 4785.07, 4785.08,
4785.09, 4785.10, 4785.11, 4785.12, 4785.99," 5
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- In line 200 of the title, delete "and" 8
- In line 202 of the title, after "programs" insert ", and to
declare an emergency" 9
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- In line 260, after "4511.191," insert "4713.01, "; after
"4729.43," insert "4731.24," 11
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- In line 263, after "4763.15," insert "4776.01," 13
- In line 279, after "5731.41," insert "5739.01," 14
- In line 313, after "4779.281," insert "4785.01, 4785.02,
4785.03, 4785.04, 4785.05, 4785.06, 4785.07, 4785.08, 4785.09,
4785.10, 4785.11, 4785.12, 4785.99," 15
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- In line 1984, strike through "or"; after "4783.04" insert "or 4785.04" 18
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After line 48173, insert:	20
"Sec. 4713.01. As used in this chapter:	21
"Apprentice instructor" means an individual holding a	22
practicing license issued by the state cosmetology and barber	23
board who is engaged in learning or acquiring knowledge of the	24
occupation of an instructor of a branch of cosmetology at a school	25
of cosmetology.	26
"Beauty salon" means a salon in which an individual is	27
authorized to engage in all branches of cosmetology.	28
"Biennial licensing period" means the two-year period	29
beginning on the first day of February of an odd-numbered year and	30
ending on the last day of January of the next odd-numbered year.	31
"Boutique salon" means a salon in which an individual engages	32
in boutique services and no other branch of cosmetology.	33
"Boutique services" means braiding, threading, shampooing,	34
and makeup artistry.	35
"Braiding" means intertwining the hair in a systematic motion	36
to create patterns in a three-dimensional form, inverting the hair	37
against the scalp along part of a straight or curved row of	38
intertwined hair, or twisting the hair in a systematic motion, and	39
includes extending the hair with natural or synthetic hair fibers.	40
"Branch of cosmetology" means the practice of cosmetology,	41
practice of esthetics, practice of hair design, practice of	42
manicuring, practice of natural hair styling, or practice of	43
boutique services.	44
"Cosmetic therapy" means the permanent removal of hair from	45
the human body through the use of electric modalities and may	46
include the systematic friction, stroking, slapping, and kneading	47

~~or tapping of the face, neck, scalp, or shoulders~~ practice of 48
electrology, medical electrology, or facial massage as those terms 49
are defined in section 4785.01 of the Revised Code. 50

"Cosmetologist" means an individual authorized to engage in 51
all branches of cosmetology in a licensed facility. 52

"Cosmetology" means the art or practice of embellishment, 53
cleansing, beautification, and styling of hair, wigs, postiches, 54
face, body, or nails. 55

"Cosmetology instructor" means an individual authorized to 56
teach the theory and practice of all branches of cosmetology at a 57
school of cosmetology. 58

"Esthetician" means an individual who engages in the practice 59
of esthetics but no other branch of cosmetology in a licensed 60
facility. 61

"Esthetics instructor" means an individual who teaches the 62
theory and practice of esthetics, but no other branch of 63
cosmetology, at a school of cosmetology. 64

"Esthetics salon" means a salon in which an individual 65
engages in the practice of esthetics but no other branch of 66
cosmetology. 67

"Eye lash extensions" include temporary and semi-permanent 68
enhancements designed to add length, thickness, and fullness to 69
natural eyelashes. 70

"Hair designer" means an individual who engages in the 71
practice of hair design but no other branch of cosmetology in a 72
licensed facility. 73

"Hair design instructor" means an individual who teaches the 74
theory and practice of hair design, but no other branch of 75
cosmetology, at a school of cosmetology. 76

"Hair design salon" means a salon in which an individual engages in the practice of hair design but no other branch of cosmetology.	77 78 79
"Hair removal" includes tweezing, waxing, sugaring, and threading. "Hair removal" does not include electrolysis.	80 81
"Independent contractor" means an individual who is not an employee of a salon but practices a branch of cosmetology within a salon in a licensed facility.	82 83 84
"Instructor license" means a license to teach the theory and practice of a branch of cosmetology at a school of cosmetology.	85 86
"Licensed facility" means any premises, building, or part of a building licensed under section 4713.41 of the Revised Code in which cosmetology services are authorized by the state cosmetology and barber board to be performed.	87 88 89 90
"Advanced cosmetologist" means an individual authorized to work in a beauty salon and engage in all branches of cosmetology.	91 92
"Advanced esthetician" means an individual authorized to work in an esthetics salon, but no other type of salon, and engage in the practice of esthetics, but no other branch of cosmetology.	93 94 95
"Advanced hair designer" means an individual authorized to work in a hair design salon, but no other type of salon, and engage in the practice of hair design, but no other branch of cosmetology.	96 97 98 99
"Advanced license" means a license to work in a salon and practice the branch of cosmetology practiced at the salon.	100 101
"Advanced manicurist" means an individual authorized to work in a nail salon, but no other type of salon, and engage in the practice of manicuring, but no other branch of cosmetology.	102 103 104

"Advanced natural hair stylist" means an individual 105
 authorized to work in a natural hair style salon, but no other 106
 type of salon, and engage in the practice of natural hair styling, 107
 but no other branch of cosmetology. 108

"Makeup artistry" means the application of cosmetics for the 109
 purpose of skin beautification. "Makeup artistry" does not include 110
 any other services described in the practice of any other branch 111
 of cosmetology. 112

"Manicurist" means an individual who engages in the practice 113
 of manicuring but no other branch of cosmetology in a licensed 114
 facility. 115

"Manicurist instructor" means an individual who teaches the 116
 theory and practice of manicuring, but no other branch of 117
 cosmetology, at a school of cosmetology. 118

"Nail salon" means a salon in which an individual engages in 119
 the practice of manicuring but no other branch of cosmetology. 120

"Natural hair stylist" means an individual who engages in the 121
 practice of natural hair styling but no other branch of 122
 cosmetology in a licensed facility. 123

"Natural hair style instructor" means an individual who 124
 teaches the theory and practice of natural hair styling, but no 125
 other branch of cosmetology, at a school of cosmetology. 126

"Natural hair style salon" means a salon in which an 127
 individual engages in the practice of natural hair styling but no 128
 other branch of cosmetology. 129

"Practice of braiding" means utilizing the technique of 130
 intertwining hair in a systematic motion to create patterns in a 131
 three-dimensional form, including patterns that are inverted, 132
 upright, or singled against the scalp that follow along straight 133

or curved partings. It may include twisting or locking the hair 134
while adding bulk or length with human hair, synthetic hair, or 135
both and using simple devices such as clips, combs, and hairpins. 136
"Practice of braiding" does not include application of weaving, 137
bonding, and fusion of individual strands or wefts; application of 138
dyes, reactive chemicals, or other preparations to alter the color 139
or straighten, curl, or alter the structure of hair; embellishing 140
or beautifying hair by cutting or singeing, except as needed to 141
finish the ends of synthetic fibers used to add bulk to or 142
lengthen hair. 143

"Practice of cosmetology" means the practice of all branches 144
of cosmetology. 145

"Practice of esthetics" means the application of cosmetics, 146
tonics, antiseptics, creams, lotions, or other preparations for 147
the purpose of skin beautification and includes preparation of the 148
skin by manual massage techniques or by use of electrical, 149
mechanical, or other apparatus; enhancement of the skin by skin 150
care, facials, body treatments, hair removal, and other 151
treatments; and eye lash extension services. 152

"Practice of hair design" means embellishing or beautifying 153
hair, wigs, or hairpieces by arranging, dressing, pressing, 154
curling, waving, permanent waving, cleansing, cutting, singeing, 155
bleaching, coloring, braiding, weaving, or similar work. "Practice 156
of hair design" includes utilizing techniques performed by hand 157
that result in tension on hair roots such as twisting, wrapping, 158
weaving, extending, locking, or braiding of the hair. 159

"Practice of manicuring" means cleaning, trimming, shaping 160
the free edge of, or applying polish to the nails of any 161
individual; applying nail enhancements and embellishments to any 162
individual; massaging the hands and lower arms up to the elbow of 163

any individual; massaging the feet and lower legs up to the knee 164
of any individual; using lotions or softeners on the hands and 165
feet of any individual; or any combination of these types of 166
services. 167

"Practice of natural hair styling" means utilizing techniques 168
performed by hand that result in tension on hair roots such as 169
twisting, wrapping, weaving, extending, locking, or braiding of 170
the hair. "Practice of natural hair styling" does not include the 171
application of dyes, reactive chemicals, or other preparations to 172
alter the color or to straighten, curl, or alter the structure of 173
the hair. "Practice of natural hair styling" also does not include 174
embellishing or beautifying hair by cutting or singeing, except as 175
needed to finish off the end of a braid, or by dressing, pressing, 176
curling, waving, permanent waving, or similar work. 177

"Practicing license" means a license to practice a branch of 178
cosmetology in a licensed facility. 179

"Salon" means a licensed facility on any premises, building, 180
or part of a building in which an individual engages in the 181
practice of one or more branches of cosmetology. "Salon" does not 182
include a barber shop licensed under Chapter 4709. of the Revised 183
Code. "Salon" does not mean a tanning facility, although a tanning 184
facility may be located in a salon. 185

"School of cosmetology" means any premises, building, or part 186
of a building in which students are instructed in the theories and 187
practices of one or more branches of cosmetology. 188

"Shampooing" means the act of cleansing and conditioning an 189
individual's hair under the supervision of an individual licensed 190
under this chapter and in preparation to immediately receive a 191
service from a licensee. 192

"Student" means an individual, other than an apprentice instructor, who is engaged in learning or acquiring knowledge of the practice of a branch of cosmetology at a school of cosmetology.

"Tanning facility" means any premises, building, or part of a building that contains one or more rooms or booths with any of the following:

(A) Equipment or beds used for tanning human skin by the use of fluorescent sun lamps using ultraviolet or other artificial radiation;

(B) Equipment or booths that use chemicals applied to human skin, including chemical applications commonly referred to as spray-on, mist-on, or sunless tans;

(C) Equipment or beds that use visible light for cosmetic purposes.

"Threading" includes a service that results in the removal of hair from its follicle from around the eyebrows and from other parts of the face with the use of a single strand of thread and an astringent, if the service does not use chemicals of any kind, wax, or any implements, instruments, or tools to remove hair."

After line 48978, insert:

"Sec. 4731.24. Except as provided in sections 4731.281 and 4731.40 of the Revised Code, all receipts of the state medical board, from any source, shall be deposited in the state treasury. The funds shall be deposited to the credit of the state medical board operating fund, which is hereby created. Except as provided in sections 4730.252, 4731.225, 4731.24, 4759.071, 4760.133, 4761.091, 4762.133, 4774.133, and 4778.141 of the Revised Code,

all funds deposited into the state treasury under this section 221
 shall be used solely for the administration and enforcement of 222
 this chapter and Chapters 4730., 4759., 4760., 4761., 4762., 223
 4774., ~~and 4778.~~, and 4785. of the Revised Code by the board." 224

After line 50257, insert: 225

"**Sec. 4776.01.** As used in this chapter: 226

(A) "License" means an authorization evidenced by a license, 227
 certificate, registration, permit, card, or other authority that 228
 is issued or conferred by a licensing agency to a licensee or to 229
 an applicant for an initial license by which the licensee or 230
 initial license applicant has or claims the privilege to engage in 231
 a profession, occupation, or occupational activity, or, except in 232
 the case of the state dental board, to have control of and operate 233
 certain specific equipment, machinery, or premises, over which the 234
 licensing agency has jurisdiction. 235

(B) Except as provided in section 4776.20 of the Revised 236
 Code, "licensee" means the person to whom the license is issued by 237
 a licensing agency. "Licensee" includes a person who, for purposes 238
 of section 3796.13 of the Revised Code, has complied with sections 239
 4776.01 to 4776.04 of the Revised Code and has been determined by 240
 the department of commerce or state board of pharmacy, as the 241
 applicable licensing agency, to meet the requirements for 242
 employment. 243

(C) Except as provided in section 4776.20 of the Revised 244
 Code, "licensing agency" means any of the following: 245

(1) The board authorized by Chapters 4701., 4717., 4725., 246
 4729., 4730., 4731., 4732., 4734., 4740., 4741., 4747., 4751., 247
 4753., 4755., 4757., 4759., 4760., 4761., 4762., 4774., 4778., 248

4779., ~~and~~ 4783., and 4785. of the Revised Code to issue a license 249
 to engage in a specific profession, occupation, or occupational 250
 activity, or to have charge of and operate certain specific 251
 equipment, machinery, or premises. 252

(2) The state dental board, relative to its authority to 253
 issue a license pursuant to section 4715.12, 4715.16, 4715.21, or 254
 4715.27 of the Revised Code; 255

(3) The department of commerce or state board of pharmacy, 256
 relative to its authority under Chapter 3796. of the Revised Code 257
 and any rules adopted under that chapter with respect to a person 258
 who is subject to section 3796.13 of the Revised Code; 259

(4) The director of agriculture, relative to the director's 260
 authority to issue licenses under Chapter 928. of the Revised 261
 Code. 262

(D) "Applicant for an initial license" includes persons 263
 seeking a license for the first time and persons seeking a license 264
 by reciprocity, endorsement, or similar manner of a license issued 265
 in another state. "Applicant for an initial license" also includes 266
 a person who, for purposes of section 3796.13 of the Revised Code, 267
 is required to comply with sections 4776.01 to 4776.04 of the 268
 Revised Code. 269

(E) "Applicant for a restored license" includes persons 270
 seeking restoration of a license under section 4730.14, 4730.28, 271
 4731.222, 4731.281, 4759.062, 4759.063, 4760.06, 4760.061, 272
 4761.06, 4761.061, 4762.06, 4762.061, 4774.06, 4774.061, 4778.07, 273
 or 4778.071 of the Revised Code. "Applicant for a restored 274
 license" does not include a person seeking restoration of a 275
 license under section 4751.33 of the Revised Code. 276

(F) "Criminal records check" has the same meaning as in 277

section 109.572 of the Revised Code."	278
After line 50549, insert:	279
<u>"Sec. 4785.01. As used in this chapter:</u>	280
<u>(A) "Electrology" means the permanent removal of hair from</u>	281
<u>the human body through the use of electric modalities and may</u>	282
<u>include galvanic treatment or other modalities to assist or permit</u>	283
<u>hair removal from the human body. "Electrology" does not include</u>	284
<u>the use of light-based medical devices.</u>	285
<u>(B) "Medical electrology" means the permanent reduction of</u>	286
<u>hair from the human body through the use of electric modalities,</u>	287
<u>including the use of light-based medical devices.</u>	288
<u>(C) "Facial massage" means the systematic application of</u>	289
<u>friction, stroking, slapping, kneading, or tapping of the face,</u>	290
<u>neck, scalp, or shoulders during the practice of electrology or</u>	291
<u>medical electrology.</u>	292
<u>(D) "Light-based medical device" means any device that meets</u>	293
<u>all of the following criteria:</u>	294
<u>(1) The device can be made to produce or amplify</u>	295
<u>electromagnetic radiation at wavelengths equal to or greater than</u>	296
<u>one hundred eighty nm but less than or equal to 1.0×10^6 nm.</u>	297
<u>(2) The device is manufactured, designed, intended, or</u>	298
<u>promoted for in vivo irradiation of any part of the human body for</u>	299
<u>the purpose of affecting the structure or function of the body.</u>	300
<u>(3) The device has been specifically approved by the United</u>	301
<u>States food and drug administration for the removal of hair from</u>	302
<u>the human body.</u>	303
<u>Sec. 4785.02. (A) Except as provided in division (B) of this</u>	304

section, no person shall recklessly engage in electrology, medical electrology, or facial massage unless the person is certified to do so under this chapter. 305
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(B) The following persons may engage in electrology, medical electrology, or facial massage without a certificate issued under this chapter: 308
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(1) A physician licensed pursuant to Chapter 4731. of the Revised Code; 311
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(2) A person engaging in electrology, medical electrology, or facial massage within the authority delegated by a licensed physician, in accordance with rules adopted by the state medical board, and who is either of the following: 313
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(a) A physician assistant registered pursuant to Chapter 4730. of the Revised Code with whom the physician has an effective supervision agreement authorizing the physician assistant to engage in electrology, medical electrology, or facial massage, as applicable; 317
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(b) A registered nurse or licensed practical nurse licensed pursuant to Chapter 4723. of the Revised Code. 322
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(3) A person who engages in electrology, medical electrology, or facial massage under supervision as part of the applicable required training under section 4785.04, 4785.05, or 4785.06 of the Revised Code. 324
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Sec. 4785.03. (A) The state medical board shall enforce this chapter and any rules adopted pursuant to it. 328
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(B) The state medical board shall adopt rules as the board considers necessary to carry out this chapter, including rules to 330
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<u>establish the following:</u>	332
<u>(1) The application fee required under section 4785.04 of the Revised Code and the renewal fee required under section 4785.08 of the Revised Code.</u>	333 334 335
<u>(2) Standards for the training hours required under sections 4785.04, 4785.05, and 4785.06 of the Revised Code, including a requirement that the training hours must be completed through a training facility and program of coursework approved by the state board of career colleges and schools or the department of higher education;</u>	336 337 338 339 340 341
<u>(3) Standards for the continuing education required under section 4785.08 of the Revised Code, which may include education on cardiopulmonary resuscitation and first aid;</u>	342 343 344
<u>(4) A list of specific criminal offenses for which a conviction, judicial finding of guilt, or plea of guilty may disqualify a person from obtaining an initial certificate in accordance with division (B) of section 9.79 of the Revised Code;</u>	345 346 347 348
<u>(5) Minimum standards for the practice of electrology, medical electrology, and facial massage, including a requirement that certificate holders must follow national standards of sterilization and hygiene as recommended by the American electrology association.</u>	349 350 351 352 353
<u>(C) The amount of each fee established under division (B)(1) of this section shall not exceed two hundred dollars.</u>	354 355
<u>(D) The board shall include sexually oriented offenses under section 2950.01 of the Revised Code in the list the board adopts under division (B)(4) of this section.</u>	356 357 358
<u>Sec. 4785.04. (A) A person seeking a certificate to engage in</u>	359

<u>electrology under this chapter shall do both of the following:</u>	360
<u>(1) Submit all of the following to the state medical board:</u>	361
<u>(a) A completed application on a form provided by the board;</u>	362
<u>(b) An application fee in the amount established by the board</u>	363
<u>under section 4785.03 of the Revised Code;</u>	364
<u>(c) Proof that the person is at least sixteen years of age;</u>	365
<u>(d) Proof that the person has passed one of the following</u>	366
<u>examinations:</u>	367
<u>(i) The certified laser hair removal professional examination</u>	368
<u>administered by the society for clinical and medical hair removal;</u>	369
<u>(ii) The certified professional electrologist examination</u>	370
<u>offered by the American electrology association;</u>	371
<u>(iii) An examination regarding the practice of electrology</u>	372
<u>approved by the board.</u>	373
<u>(e) Proof that the person has successfully completed a</u>	374
<u>minimum of six hundred hours of training that meets the standards</u>	375
<u>established by the board under section 4785.03 of the Revised</u>	376
<u>Code.</u>	377
<u>(2) Comply with sections 4776.01 to 4776.04 of the Revised</u>	378
<u>Code.</u>	379
<u>(B) Except as provided in division (C) of this section, the</u>	380
<u>board shall issue a certificate to engage in electrology if the</u>	381
<u>board determines that the person satisfies the requirements of</u>	382
<u>division (A) of this section.</u>	383
<u>(C) The board shall not issue a certificate under this</u>	384
<u>section unless the board, in its discretion, decides that the</u>	385
<u>results of the required criminal records check do not make the</u>	386

person ineligible for a certificate. The board shall not refuse to 387
issue a certificate under this section to an applicant because of 388
a conviction of or plea of guilty to an offense unless the refusal 389
is in accordance with section 9.79 of the Revised Code. 390

Sec. 4785.05. (A)(1) A person seeking a certificate to engage 391
in medical electrology under this chapter shall do all of the 392
following: 393

(a) Submit all of the items listed under division (A)(1) of 394
section 4785.04 of the Revised Code to the state medical board; 395

(b) Comply with sections 4776.01 to 4776.04 of the Revised 396
Code; 397

(c) Submit to the board proof that the person has 398
successfully completed a minimum of fifty hours of training in the 399
use of light-based medical devices for the purpose of hair 400
removal, including at least twenty hours of in-person clinical 401
education, that meets the standards established by the board under 402
section 4785.03 of the Revised Code. 403

(2) The board may allow up to thirty hours of the training 404
required under division (A)(1)(c) of this section to be completed 405
online. 406

(B) Except as provided in division (C) of this section, the 407
board shall issue a certificate to engage in medical electrology 408
if the board determines that the person satisfies the requirements 409
of division (A) of this section. 410

(C) The board shall not issue a certificate under this 411
section unless the board, in its discretion, decides that the 412
results of the required criminal records check do not make the 413
person ineligible for a certificate. The board shall not refuse to 414

issue a certificate under this section to an applicant because of a conviction of or plea of guilty to an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

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Sec. 4785.06. (A) A person who is applying for, or holds, a certificate to engage in electrology or medical electrology under this chapter may apply for an additional certificate to engage in facial massage by submitting proof to the state medical board that the person has successfully completed a minimum of thirty hours of training in facial massage that meets the standards established by the board under section 4785.03 of the Revised Code.

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(B) The board shall issue a certificate to engage in facial massage if the board determines that the person satisfies the requirements of division (A) of this section.

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Sec. 4785.07. The state medical board may issue certificates to engage in electrology, medical electrology, or facial massage to a person who holds a certificate or license to do so in another state if the other state has substantially similar training requirements and includes in-person clinical training for medical electrologists.

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The board may enter into a licensure compact with other states with respect to certificates issued under this chapter.

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Sec. 4785.08. (A) A certificate to engage in electrology, medical electrology, or facial massage issued under this chapter is valid for two years beginning on the date the certificate is issued and may be renewed.

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(B) A person seeking to renew a certificate under this chapter shall, before the certificate expires, apply for renewal

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of the certificate. To be eligible for renewal, an applicant shall 442
submit all of the following to the state medical board: 443

(1) A completed application for renewal on a form prescribed 444
by the board; 445

(2) Proof that the applicant has completed not less than 446
twelve hours of continuing education that meets the standards 447
established by the board under section 4785.03 of the Revised 448
Code; 449

(3) A fee in the amount established by the board under 450
section 4785.03 of the Revised Code. 451

(C) The board shall renew a certificate issued under this 452
chapter if the board determines that the person satisfies the 453
requirements of division (B) of this section. 454

Sec. 4785.09. (A) A person who holds a certificate issued 455
under this chapter shall do all of the following: 456

(1) Follow minimum standards of practice adopted by the state 457
medical board under section 4785.03 of the Revised Code; 458

(2) Obtain written consent from a parent or legal guardian 459
before performing electrology or medical electrology on a person 460
who is under eighteen years of age; 461

(3) Keep the applicable certificate on the premises where the 462
person engages in electrology, medical electrology, or facial 463
massage; 464

(4) Keep evidence of completion of the required continuing 465
education on the premises where the person engages in electrology, 466
medical electrology, or facial massage; 467

(5) Maintain appropriate professional liability insurance 468

coverage or advise patients in writing that the certificate holder is not insured.

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(B) The board may inspect a certificate issued under this chapter or evidence of completion of continuing education on the premises where a certificate holder engages in electrology, medical electrology, or facial massage on receiving a complaint regarding the certificate holder.

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(C) No person shall recklessly fail to comply with division (A)(1) or (2) of this section.

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Sec. 4785.10. (A) As used in this section:

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(1) "On-site supervision" means the delegating physician is physically in the same facility as the certificate holder during the use of a light-based medical device, but does not require the physician to be in the same room.

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(2) "Off-site supervision" means the delegating physician is continuously available, including through electronic means, for direct communication with the certificate holder during the use of a light-based medical device and as needed to address possible complications.

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(3) "Telehealth" means a health care service delivered to a patient through the use of interactive audio, video, or other telecommunications or electronic technology from a site other than the site where the patient is located.

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(B) A person who holds a certificate to engage in medical electrology under this chapter may use a light-based medical device only if all of the following conditions are met:

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(1) A physician licensed pursuant to Chapter 4731. of the Revised Code has delegated the authority to use a light-based

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medical device for the purpose of hair removal to the certificate holder. 497
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(2) The delegating physician uses a light-based medical device for the purpose of hair removal within the physician's normal course of practice and expertise. 499
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(3) The delegating physician has seen and evaluated the patient, in person or through telehealth, to determine whether the proposed application of the specific light-based medical device is appropriate. 502
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(4) The delegating physician has evaluated the patient, in person or through telehealth, following the initial application of the light-based medical device, but before any continuation of treatment, to determine that the patient responded well to that initial application of the light-based medical device. 506
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(C) A certificate holder who is authorized to use a light-based medical device under division (B) of this section may do so under off-site supervision from a delegating physician, including during initial patient visits, if the delegating physician has provided on-site supervision of the certificate holder and the physician is satisfied that the certificate holder is capable of competently performing the service with off-site supervision. 511
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Sec. 4785.11. (A) The state medical board shall investigate complaints regarding a person who applies for or holds a certificate issued under this chapter. 519
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(B) If, after an investigation conducted by the board and after notice and a hearing in accordance with Chapter 119. of the Revised Code, the board finds that a certificate holder or applicant violated this chapter or any rule adopted pursuant to 522
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<u>it, the board may do any of the following:</u>	526
<u>(1) Refuse to issue a certificate to an applicant;</u>	527
<u>(2) Refuse to renew the certificate of a certificate holder;</u>	528
<u>(3) Suspend or revoke the certificate of a certificate holder.</u>	529
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<u>Sec. 4785.12. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state medical board shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate issued pursuant to this chapter.</u>	531
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<u>Sec. 4785.99. Whoever violates division (A) of section 4785.02 of the Revised Code or division (C) of section 4785.09 of the Revised Code is guilty of a misdemeanor of the third degree."</u>	536
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After line 62681, insert:	539
"Sec. 5739.01. As used in this chapter:	540
(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.	541
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(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:	546
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(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a	550
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license to use or consume tangible personal property is or is to	552
be granted;	553
(2) All transactions by which lodging by a hotel is or is to	554
be furnished to transient guests;	555
(3) All transactions by which:	556
(a) An item of tangible personal property is or is to be	557
repaired, except property, the purchase of which would not be	558
subject to the tax imposed by section 5739.02 of the Revised Code;	559
(b) An item of tangible personal property is or is to be	560
installed, except property, the purchase of which would not be	561
subject to the tax imposed by section 5739.02 of the Revised Code	562
or property that is or is to be incorporated into and will become	563
a part of a production, transmission, transportation, or	564
distribution system for the delivery of a public utility service;	565
(c) The service of washing, cleaning, waxing, polishing, or	566
painting a motor vehicle is or is to be furnished;	567
(d) Laundry and dry cleaning services are or are to be	568
provided;	569
(e) Automatic data processing, computer services, or	570
electronic information services are or are to be provided for use	571
in business when the true object of the transaction is the receipt	572
by the consumer of automatic data processing, computer services,	573
or electronic information services rather than the receipt of	574
personal or professional services to which automatic data	575
processing, computer services, or electronic information services	576
are incidental or supplemental. Notwithstanding any other	577
provision of this chapter, such transactions that occur between	578
members of an affiliated group are not sales. An "affiliated	579
group" means two or more persons related in such a way that one	580

person owns or controls the business operation of another member	581
of the group. In the case of corporations with stock, one	582
corporation owns or controls another if it owns more than fifty	583
per cent of the other corporation's common stock with voting	584
rights.	585
(f) Telecommunications service, including prepaid calling	586
service, prepaid wireless calling service, or ancillary service,	587
is or is to be provided, but not including coin-operated telephone	588
service;	589
(g) Landscaping and lawn care service is or is to be	590
provided;	591
(h) Private investigation and security service is or is to be	592
provided;	593
(i) Information services or tangible personal property is	594
provided or ordered by means of a nine hundred telephone call;	595
(j) Building maintenance and janitorial service is or is to	596
be provided;	597
(k) Employment service is or is to be provided;	598
(l) Employment placement service is or is to be provided;	599
(m) Exterminating service is or is to be provided;	600
(n) Physical fitness facility service is or is to be	601
provided;	602
(o) Recreation and sports club service is or is to be	603
provided;	604
(p) Satellite broadcasting service is or is to be provided;	605
(q) Personal care service is or is to be provided to an	606
individual. As used in this division, "personal care service"	607

includes skin care, the application of cosmetics, manicuring, 608
pedicuring, ~~hair removal~~, tattooing, body piercing, tanning, 609
massage, and other similar services. "Personal care service" does 610
not include a service provided by or on the order of a licensed 611
physician or licensed chiropractor, hair removal, or the cutting, 612
coloring, or styling of an individual's hair. 613

(r) The transportation of persons by motor vehicle or 614
aircraft is or is to be provided, when the transportation is 615
entirely within this state, except for transportation provided by 616
an ambulance service, by a transit bus, as defined in section 617
5735.01 of the Revised Code, and transportation provided by a 618
citizen of the United States holding a certificate of public 619
convenience and necessity issued under 49 U.S.C. 41102; 620

(s) Motor vehicle towing service is or is to be provided. As 621
used in this division, "motor vehicle towing service" means the 622
towing or conveyance of a wrecked, disabled, or illegally parked 623
motor vehicle. 624

(t) Snow removal service is or is to be provided. As used in 625
this division, "snow removal service" means the removal of snow by 626
any mechanized means, but does not include the providing of such 627
service by a person that has less than five thousand dollars in 628
sales of such service during the calendar year. 629

(u) Electronic publishing service is or is to be provided to 630
a consumer for use in business, except that such transactions 631
occurring between members of an affiliated group, as defined in 632
division (B)(3)(e) of this section, are not sales. 633

(4) All transactions by which printed, imprinted, 634
overprinted, lithographic, multilithic, blueprinted, photostatic, 635
or other productions or reproductions of written or graphic matter 636
are or are to be furnished or transferred; 637

(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.

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

(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.

(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.

(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;

(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;

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

(9) All transactions by which tangible personal property is
or is to be stored, except such property that the consumer of the
storage holds for sale in the regular course of business;

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

(11)(a) Except as provided in division (B)(11)(b) of this section, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid health insuring corporation pursuant to the corporation's contract with the state.

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

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

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

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

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

The operator of any peer-to-peer car sharing program shall be considered to be the vendor.

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

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their assistants according to

their direction, veterinarians also are consumers of drugs that 758
under federal law may be dispensed only by or upon the order of a 759
licensed veterinarian or physician, when transferred by them to 760
others for a consideration to provide treatment to animals as 761
directed by the veterinarian. 762

(3) A person who performs a facility management, or similar 763
service contract for a contractee is a consumer of all tangible 764
personal property and services purchased for use in connection 765
with the performance of such contract, regardless of whether title 766
to any such property vests in the contractee. The purchase of such 767
property and services is not subject to the exception for resale 768
under division (E) of this section. 769

(4)(a) In the case of a person who purchases printed matter 770
for the purpose of distributing it or having it distributed to the 771
public or to a designated segment of the public, free of charge, 772
that person is the consumer of that printed matter, and the 773
purchase of that printed matter for that purpose is a sale. 774

(b) In the case of a person who produces, rather than 775
purchases, printed matter for the purpose of distributing it or 776
having it distributed to the public or to a designated segment of 777
the public, free of charge, that person is the consumer of all 778
tangible personal property and services purchased for use or 779
consumption in the production of that printed matter. That person 780
is not entitled to claim exemption under division (B)(42)(f) of 781
section 5739.02 of the Revised Code for any material incorporated 782
into the printed matter or any equipment, supplies, or services 783
primarily used to produce the printed matter. 784

(c) The distribution of printed matter to the public or to a 785
designated segment of the public, free of charge, is not a sale to 786
the members of the public to whom the printed matter is 787

distributed or to any persons who purchase space in the printed matter for advertising or other purposes. 788
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(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. 790
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(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. 795
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(7) In the case of a transaction for health care services under division (B)(11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid health insuring corporation is not subject to the exception for resale under division (E) of this section or to the exemptions provided under divisions (B)(12), (18), (19), and (22) of section 5739.02 of the Revised Code. 800
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(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person. 807
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(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds. 812
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(G) "Engaging in business" means commencing, conducting, or 816

continuing in business, and liquidating a business when the 817
 liquidator thereof holds itself out to the public as conducting 818
 such business. Making a casual sale is not engaging in business. 819

(H)(1)(a) "Price," except as provided in divisions (H)(2), 820
 (3), and (4) of this section, means the total amount of 821
 consideration, including cash, credit, property, and services, for 822
 which tangible personal property or services are sold, leased, or 823
 rented, valued in money, whether received in money or otherwise, 824
 without any deduction for any of the following: 825

(i) The vendor's cost of the property sold; 826

(ii) The cost of materials used, labor or service costs, 827
 interest, losses, all costs of transportation to the vendor, all 828
 taxes imposed on the vendor, including the tax imposed under 829
 Chapter 5751. of the Revised Code, and any other expense of the 830
 vendor; 831

(iii) Charges by the vendor for any services necessary to 832
 complete the sale; 833

(iv) Delivery charges. As used in this division, "delivery 834
 charges" means charges by the vendor for preparation and delivery 835
 to a location designated by the consumer of tangible personal 836
 property or a service, including transportation, shipping, 837
 postage, handling, crating, and packing. 838

(v) Installation charges; 839

(vi) Credit for any trade-in. 840

(b) "Price" includes consideration received by the vendor 841
 from a third party, if the vendor actually receives the 842
 consideration from a party other than the consumer, and the 843
 consideration is directly related to a price reduction or discount 844
 on the sale; the vendor has an obligation to pass the price 845

reduction or discount through to the consumer; the amount of the
consideration attributable to the sale is fixed and determinable
by the vendor at the time of the sale of the item to the consumer;
and one of the following criteria is met:

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

(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, 875
the tax imposed under Chapter 5751. of the Revised Code is not a 876
tax directly on the consumer, even if the tax or a portion thereof 877
is separately stated. 878

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 879
section, any discount allowed by an automobile manufacturer to its 880
employee, or to the employee of a supplier, on the purchase of a 881
new motor vehicle from a new motor vehicle dealer in this state. 882

(v) The dollar value of a gift card that is not sold by a 883
vendor or purchased by a consumer and that is redeemed by the 884
consumer in purchasing tangible personal property or services if 885
the vendor is not reimbursed and does not receive compensation 886
from a third party to cover all or part of the gift card value. 887
For the purposes of this division, a gift card is not sold by a 888
vendor or purchased by a consumer if it is distributed pursuant to 889
an awards, loyalty, or promotional program. Past and present 890
purchases of tangible personal property or services by the 891
consumer shall not be treated as consideration exchanged for a 892
gift card. 893

(2) In the case of a sale of any new motor vehicle by a new 894
motor vehicle dealer, as defined in section 4517.01 of the Revised 895
Code, in which another motor vehicle is accepted by the dealer as 896
part of the consideration received, "price" has the same meaning 897
as in division (H)(1) of this section, reduced by the credit 898
afforded the consumer by the dealer for the motor vehicle received 899
in trade. 900

(3) In the case of a sale of any watercraft or outboard motor 901
by a watercraft dealer licensed in accordance with section 902
1547.543 of the Revised Code, in which another watercraft, 903
watercraft and trailer, or outboard motor is accepted by the 904

dealer as part of the consideration received, "price" has the same 905
meaning as in division (H)(1) of this section, reduced by the 906
credit afforded the consumer by the dealer for the watercraft, 907
watercraft and trailer, or outboard motor received in trade. As 908
used in this division, "watercraft" includes an outdrive unit 909
attached to the watercraft. 910

(4) In the case of transactions for health care services 911
under division (B)(11) of this section, "price" means the amount 912
of managed care premiums received each month by a medicaid health 913
insuring corporation. 914

(I) "Receipts" means the total amount of the prices of the 915
sales of vendors, provided that the dollar value of gift cards 916
distributed pursuant to an awards, loyalty, or promotional 917
program, and cash discounts allowed and taken on sales at the time 918
they are consummated are not included, minus any amount deducted 919
as a bad debt pursuant to section 5739.121 of the Revised Code. 920
"Receipts" does not include the sale price of property returned or 921
services rejected by consumers when the full sale price and tax 922
are refunded either in cash or by credit. 923

(J) "Place of business" means any location at which a person 924
engages in business. 925

(K) "Premises" includes any real property or portion thereof 926
upon which any person engages in selling tangible personal 927
property at retail or making retail sales and also includes any 928
real property or portion thereof designated for, or devoted to, 929
use in conjunction with the business engaged in by such person. 930

(L) "Casual sale" means a sale of an item of tangible 931
personal property that was obtained by the person making the sale, 932
through purchase or otherwise, for the person's own use and was 933
previously subject to any state's taxing jurisdiction on its sale 934

or use, and includes such items acquired for the seller's use that
are sold by an auctioneer employed directly by the person for such
purpose, provided the location of such sales is not the
auctioneer's permanent place of business. As used in this
division, "permanent place of business" includes any location
where such auctioneer has conducted more than two auctions during
the year.

(M) "Hotel" means every establishment kept, used, maintained,
advertised, or held out to the public to be a place where sleeping
accommodations are offered to guests, in which five or more rooms
are used for the accommodation of such guests, whether the rooms
are in one or several structures, except as otherwise provided in
section 5739.091 of the Revised Code.

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

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

(P) "Used directly in the rendition of a public utility
service" means that property that is to be incorporated into and
will become a part of the consumer's production, transmission,
transportation, or distribution system and that retains its

classification as tangible personal property after such 965
incorporation; fuel or power used in the production, transmission, 966
transportation, or distribution system; and tangible personal 967
property used in the repair and maintenance of the production, 968
transmission, transportation, or distribution system, including 969
only such motor vehicles as are specially designed and equipped 970
for such use. Tangible personal property and services used 971
primarily in providing highway transportation for hire are not 972
used directly in the rendition of a public utility service. In 973
this definition, "public utility" includes a citizen of the United 974
States holding, and required to hold, a certificate of public 975
convenience and necessity issued under 49 U.S.C. 41102. 976

(Q) "Refining" means removing or separating a desirable 977
product from raw or contaminated materials by distillation or 978
physical, mechanical, or chemical processes. 979

(R) "Assembly" and "assembling" mean attaching or fitting 980
together parts to form a product, but do not include packaging a 981
product. 982

(S) "Manufacturing operation" means a process in which 983
materials are changed, converted, or transformed into a different 984
state or form from which they previously existed and includes 985
refining materials, assembling parts, and preparing raw materials 986
and parts by mixing, measuring, blending, or otherwise committing 987
such materials or parts to the manufacturing process. 988
"Manufacturing operation" does not include packaging. 989

(T) "Fiscal officer" means, with respect to a regional 990
transit authority, the secretary-treasurer thereof, and with 991
respect to a county that is a transit authority, the fiscal 992
officer of the county transit board if one is appointed pursuant 993
to section 306.03 of the Revised Code or the county auditor if the 994

board of county commissioners operates the county transit system. 995

(U) "Transit authority" means a regional transit authority 996
 created pursuant to section 306.31 of the Revised Code or a county 997
 in which a county transit system is created pursuant to section 998
 306.01 of the Revised Code. For the purposes of this chapter, a 999
 transit authority must extend to at least the entire area of a 1000
 single county. A transit authority that includes territory in more 1001
 than one county must include all the area of the most populous 1002
 county that is a part of such transit authority. County population 1003
 shall be measured by the most recent census taken by the United 1004
 States census bureau. 1005

(V) "Legislative authority" means, with respect to a regional 1006
 transit authority, the board of trustees thereof, and with respect 1007
 to a county that is a transit authority, the board of county 1008
 commissioners. 1009

(W) "Territory of the transit authority" means all of the 1010
 area included within the territorial boundaries of a transit 1011
 authority as they from time to time exist. Such territorial 1012
 boundaries must at all times include all the area of a single 1013
 county or all the area of the most populous county that is a part 1014
 of such transit authority. County population shall be measured by 1015
 the most recent census taken by the United States census bureau. 1016

(X) "Providing a service" means providing or furnishing 1017
 anything described in division (B)(3) of this section for 1018
 consideration. 1019

(Y)(1)(a) "Automatic data processing" means processing of 1020
 others' data, including keypunching or similar data entry services 1021
 together with verification thereof, or providing access to 1022
 computer equipment for the purpose of processing data. 1023

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

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

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

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

"Electronic information services" does not include electronic publishing.

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

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

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

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;	1052
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	1053 1054 1055
(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;	1056 1057 1058 1059
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	1060 1061 1062
(g) Testing of business procedures;	1063
(h) Training personnel in business procedure applications;	1064
(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;	1065 1066 1067 1068 1069 1070
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	1071 1072
(k) Providing digital advertising services.	1073
The services listed in divisions (Y)(2)(a) to (k) of this section are not automatic data processing or computer services.	1074 1075
(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:	1076 1077 1078
(1) The holder of a permit or certificate issued by this	1079

state or the United States authorizing the holder to engage in 1080
transportation of personal property belonging to others for 1081
consideration over or on highways, roadways, streets, or any 1082
similar public thoroughfare; 1083

(2) A person who engages in the transportation of personal 1084
property belonging to others for consideration over or on 1085
highways, roadways, streets, or any similar public thoroughfare 1086
but who could not have engaged in such transportation on December 1087
11, 1985, unless the person was the holder of a permit or 1088
certificate of the types described in division (Z)(1) of this 1089
section; 1090

(3) A person who leases a motor vehicle to and operates it 1091
for a person described by division (Z)(1) or (2) of this section. 1092

(AA)(1) "Telecommunications service" means the electronic 1093
transmission, conveyance, or routing of voice, data, audio, video, 1094
or any other information or signals to a point, or between or 1095
among points. "Telecommunications service" includes such 1096
transmission, conveyance, or routing in which computer processing 1097
applications are used to act on the form, code, or protocol of the 1098
content for purposes of transmission, conveyance, or routing 1099
without regard to whether the service is referred to as voice-over 1100
internet protocol service or is classified by the federal 1101
communications commission as enhanced or value-added. 1102
"Telecommunications service" does not include any of the 1103
following: 1104

(a) Data processing and information services that allow data 1105
to be generated, acquired, stored, processed, or retrieved and 1106
delivered by an electronic transmission to a consumer where the 1107
consumer's primary purpose for the underlying transaction is the 1108
processed data or information; 1109

(b) Installation or maintenance of wiring or equipment on a customer's premises;	1110 1111
(c) Tangible personal property;	1112
(d) Advertising, including directory advertising;	1113
(e) Billing and collection services provided to third parties;	1114 1115
(f) Internet access service;	1116
(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;	1117 1118 1119 1120 1121 1122 1123 1124
(h) Ancillary service;	1125
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	1126 1127
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	1128 1129 1130 1131 1132
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number.	1133 1134 1135
"Conference bridging service" does not include telecommunications services used to reach the conference bridge.	1136 1137

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

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

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

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

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

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

(5) "Prepaid wireless calling service" means a 1168
telecommunications service that provides the right to utilize 1169
mobile telecommunications service as well as other 1170
non-telecommunications services, including the download of digital 1171
products delivered electronically, and content and ancillary 1172
services, that must be paid for in advance and that is sold in 1173
predetermined units or dollars of which the number declines with 1174
use in a known amount. 1175

(6) "Value-added non-voice data service" means a 1176
telecommunications service in which computer processing 1177
applications are used to act on the form, content, code, or 1178
protocol of the information or data primarily for a purpose other 1179
than transmission, conveyance, or routing. 1180

(7) "Coin-operated telephone service" means a 1181
telecommunications service paid for by inserting money into a 1182
telephone accepting direct deposits of money to operate. 1183

(8) "Customer" has the same meaning as in section 5739.034 of 1184
the Revised Code. 1185

(BB) "Laundry and dry cleaning services" means removing soil 1186
or dirt from towels, linens, articles of clothing, or other fabric 1187
items that belong to others and supplying towels, linens, articles 1188
of clothing, or other fabric items. "Laundry and dry cleaning 1189
services" does not include the provision of self-service 1190
facilities for use by consumers to remove soil or dirt from 1191
towels, linens, articles of clothing, or other fabric items. 1192

(CC) "Magazines distributed as controlled circulation 1193
publications" means magazines containing at least twenty-four 1194
pages, at least twenty-five per cent editorial content, issued at 1195
regular intervals four or more times a year, and circulated 1196
without charge to the recipient, provided that such magazines are 1197

not owned or controlled by individuals or business concerns which 1198
 conduct such publications as an auxiliary to, and essentially for 1199
 the advancement of the main business or calling of, those who own 1200
 or control them. 1201

(DD) "Landscaping and lawn care service" means the services 1202
 of planting, seeding, sodding, removing, cutting, trimming, 1203
 pruning, mulching, aerating, applying chemicals, watering, 1204
 fertilizing, and providing similar services to establish, promote, 1205
 or control the growth of trees, shrubs, flowers, grass, ground 1206
 cover, and other flora, or otherwise maintaining a lawn or 1207
 landscape grown or maintained by the owner for ornamentation or 1208
 other nonagricultural purpose. However, "landscaping and lawn care 1209
 service" does not include the providing of such services by a 1210
 person who has less than five thousand dollars in sales of such 1211
 services during the calendar year. 1212

(EE) "Private investigation and security service" means the 1213
 performance of any activity for which the provider of such service 1214
 is required to be licensed pursuant to Chapter 4749. of the 1215
 Revised Code, or would be required to be so licensed in performing 1216
 such services in this state, and also includes the services of 1217
 conducting polygraph examinations and of monitoring or overseeing 1218
 the activities on or in, or the condition of, the consumer's home, 1219
 business, or other facility by means of electronic or similar 1220
 monitoring devices. "Private investigation and security service" 1221
 does not include special duty services provided by off-duty police 1222
 officers, deputy sheriffs, and other peace officers regularly 1223
 employed by the state or a political subdivision. 1224

(FF) "Information services" means providing conversation, 1225
 giving consultation or advice, playing or making a voice or other 1226
 recording, making or keeping a record of the number of callers, 1227

and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

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

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year. As used in this division, "cleaning" does not

include sanitation services necessary for an establishment	1258
described in 21 U.S.C. 608 to comply with rules and regulations	1259
adopted pursuant to that section.	1260
(JJ) "Employment service" means providing or supplying	1261
personnel, on a temporary or long-term basis, to perform work or	1262
labor under the supervision or control of another, when the	1263
personnel so provided or supplied receive their wages, salary, or	1264
other compensation from the provider or supplier of the employment	1265
service or from a third party that provided or supplied the	1266
personnel to the provider or supplier. "Employment service" does	1267
not include:	1268
(1) Acting as a contractor or subcontractor, where the	1269
personnel performing the work are not under the direct control of	1270
the purchaser.	1271
(2) Medical and health care services.	1272
(3) Supplying personnel to a purchaser pursuant to a contract	1273
of at least one year between the service provider and the	1274
purchaser that specifies that each employee covered under the	1275
contract is assigned to the purchaser on a permanent basis.	1276
(4) Transactions between members of an affiliated group, as	1277
defined in division (B)(3)(e) of this section.	1278
(5) Transactions where the personnel so provided or supplied	1279
by a provider or supplier to a purchaser of an employment service	1280
are then provided or supplied by that purchaser to a third party	1281
as an employment service, except "employment service" does include	1282
the transaction between that purchaser and the third party.	1283
(KK) "Employment placement service" means locating or finding	1284
employment for a person or finding or locating an employee to fill	1285
an available position.	1286

(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.

(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.

(NN) "Recreation and sports club 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 recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

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

(PP) "Livestock structure" means a building or structure used 1317
exclusively for the housing, raising, feeding, or sheltering of 1318
livestock, and includes feed storage or handling structures and 1319
structures for livestock waste handling. 1320

(QQ) "Horticulture" means the growing, cultivation, and 1321
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 1322
and nursery stock. As used in this division, "nursery stock" has 1323
the same meaning as in section 927.51 of the Revised Code. 1324

(RR) "Horticulture structure" means a building or structure 1325
used exclusively for the commercial growing, raising, or 1326
overwintering of horticultural products, and includes the area 1327
used for stocking, storing, and packing horticultural products 1328
when done in conjunction with the production of those products. 1329

(SS) "Newspaper" means an unbound publication bearing a title 1330
or name that is regularly published, at least as frequently as 1331
biweekly, and distributed from a fixed place of business to the 1332
public in a specific geographic area, and that contains a 1333
substantial amount of news matter of international, national, or 1334
local events of interest to the general public. 1335

(TT)(1) "Feminine hygiene products" means tampons, panty 1336
liners, menstrual cups, sanitary napkins, and other similar 1337
tangible personal property designed for feminine hygiene in 1338
connection with the human menstrual cycle, but does not include 1339
grooming and hygiene products. 1340

(2) "Grooming and hygiene products" means soaps and cleaning 1341
solutions, shampoo, toothpaste, mouthwash, antiperspirants, and 1342
sun tan lotions and screens, regardless of whether any of these 1343
products are over-the-counter drugs. 1344

(3) "Over-the-counter drugs" means a drug that contains a 1345

label that identifies the product as a drug as required by 21 1346
C.F.R. 201.66, which label includes a drug facts panel or a 1347
statement of the active ingredients with a list of those 1348
ingredients contained in the compound, substance, or preparation. 1349

(UU)(1) "Lease" or "rental" means any transfer of the 1350
possession or control of tangible personal property for a fixed or 1351
indefinite term, for consideration. "Lease" or "rental" includes 1352
future options to purchase or extend, and agreements described in 1353
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 1354
the amount of consideration may be increased or decreased by 1355
reference to the amount realized upon the sale or disposition of 1356
the property. "Lease" or "rental" does not include: 1357

(a) A transfer of possession or control of tangible personal 1358
property under a security agreement or a deferred payment plan 1359
that requires the transfer of title upon completion of the 1360
required payments; 1361

(b) A transfer of possession or control of tangible personal 1362
property under an agreement that requires the transfer of title 1363
upon completion of required payments and payment of an option 1364
price that does not exceed the greater of one hundred dollars or 1365
one per cent of the total required payments; 1366

(c) Providing tangible personal property along with an 1367
operator for a fixed or indefinite period of time, if the operator 1368
is necessary for the property to perform as designed. For purposes 1369
of this division, the operator must do more than maintain, 1370
inspect, or set up the tangible personal property. 1371

(2) "Lease" and "rental," as defined in division (UU) of this 1372
section, shall not apply to leases or rentals that exist before 1373
June 26, 2003. 1374

(3) "Lease" and "rental" have the same meaning as in division 1375
 (UU)(1) of this section regardless of whether a transaction is 1376
 characterized as a lease or rental under generally accepted 1377
 accounting principles, the Internal Revenue Code, Title XIII of 1378
 the Revised Code, or other federal, state, or local laws. 1379

(VV) "Mobile telecommunications service" has the same meaning 1380
 as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 1381
 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 1382
 on and after August 1, 2003, includes related fees and ancillary 1383
 services, including universal service fees, detailed billing 1384
 service, directory assistance, service initiation, voice mail 1385
 service, and vertical services, such as caller ID and three-way 1386
 calling. 1387

(WW) "Certified service provider" has the same meaning as in 1388
 section 5740.01 of the Revised Code. 1389

(XX) "Satellite broadcasting service" means the distribution 1390
 or broadcasting of programming or services by satellite directly 1391
 to the subscriber's receiving equipment without the use of ground 1392
 receiving or distribution equipment, except the subscriber's 1393
 receiving equipment or equipment used in the uplink process to the 1394
 satellite, and includes all service and rental charges, premium 1395
 channels or other special services, installation and repair 1396
 service charges, and any other charges having any connection with 1397
 the provision of the satellite broadcasting service. 1398

(YY) "Tangible personal property" means personal property 1399
 that can be seen, weighed, measured, felt, or touched, or that is 1400
 in any other manner perceptible to the senses. For purposes of 1401
 this chapter and Chapter 5741. of the Revised Code, "tangible 1402
 personal property" includes motor vehicles, electricity, water, 1403
 gas, steam, and prewritten computer software. 1404

(ZZ) "Municipal gas utility" means a municipal corporation 1405
that owns or operates a system for the distribution of natural 1406
gas. 1407

(AAA) "Computer" means an electronic device that accepts 1408
information in digital or similar form and manipulates it for a 1409
result based on a sequence of instructions. 1410

(BBB) "Computer software" means a set of coded instructions 1411
designed to cause a computer or automatic data processing 1412
equipment to perform a task. 1413

(CCC) "Delivered electronically" means delivery of computer 1414
software from the seller to the purchaser by means other than 1415
tangible storage media. 1416

(DDD) "Prewritten computer software" means computer software, 1417
including prewritten upgrades, that is not designed and developed 1418
by the author or other creator to the specifications of a specific 1419
purchaser. The combining of two or more prewritten computer 1420
software programs or prewritten portions thereof does not cause 1421
the combination to be other than prewritten computer software. 1422
"Prewritten computer software" includes software designed and 1423
developed by the author or other creator to the specifications of 1424
a specific purchaser when it is sold to a person other than the 1425
purchaser. If a person modifies or enhances computer software of 1426
which the person is not the author or creator, the person shall be 1427
deemed to be the author or creator only of such person's 1428
modifications or enhancements. Prewritten computer software or a 1429
prewritten portion thereof that is modified or enhanced to any 1430
degree, where such modification or enhancement is designed and 1431
developed to the specifications of a specific purchaser, remains 1432
prewritten computer software; provided, however, that where there 1433
is a reasonable, separately stated charge or an invoice or other 1434

statement of the price given to the purchaser for the modification 1435
or enhancement, the modification or enhancement shall not 1436
constitute prewritten computer software. 1437

(EEE)(1) "Food" means substances, whether in liquid, 1438
concentrated, solid, frozen, dried, or dehydrated form, that are 1439
sold for ingestion or chewing by humans and are consumed for their 1440
taste or nutritional value. "Food" does not include alcoholic 1441
beverages, dietary supplements, soft drinks, or tobacco. 1442

(2) As used in division (EEE)(1) of this section: 1443

(a) "Alcoholic beverages" means beverages that are suitable 1444
for human consumption and contain one-half of one per cent or more 1445
of alcohol by volume. 1446

(b) "Dietary supplements" means any product, other than 1447
tobacco, that is intended to supplement the diet and that is 1448
intended for ingestion in tablet, capsule, powder, softgel, 1449
gelcap, or liquid form, or, if not intended for ingestion in such 1450
a form, is not represented as conventional food for use as a sole 1451
item of a meal or of the diet; that is required to be labeled as a 1452
dietary supplement, identifiable by the "supplement facts" box 1453
found on the label, as required by 21 C.F.R. 101.36; and that 1454
contains one or more of the following dietary ingredients: 1455

(i) A vitamin; 1456

(ii) A mineral; 1457

(iii) An herb or other botanical; 1458

(iv) An amino acid; 1459

(v) A dietary substance for use by humans to supplement the 1460
diet by increasing the total dietary intake; 1461

(vi) A concentrate, metabolite, constituent, extract, or 1462

combination of any ingredient described in divisions 1463
(EEE)(2)(b)(i) to (v) of this section. 1464

(c) "Soft drinks" means nonalcoholic beverages that contain 1465
natural or artificial sweeteners. "Soft drinks" does not include 1466
beverages that contain milk or milk products, soy, rice, or 1467
similar milk substitutes, or that contains greater than fifty per 1468
cent vegetable or fruit juice by volume. 1469

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 1470
tobacco, or any other item that contains tobacco. 1471

(FFF) "Drug" means a compound, substance, or preparation, and 1472
any component of a compound, substance, or preparation, other than 1473
food, dietary supplements, or alcoholic beverages that is 1474
recognized in the official United States pharmacopoeia, official 1475
homeopathic pharmacopoeia of the United States, or official 1476
national formulary, and supplements to them; is intended for use 1477
in the diagnosis, cure, mitigation, treatment, or prevention of 1478
disease; or is intended to affect the structure or any function of 1479
the body. 1480

(GGG) "Prescription" means an order, formula, or recipe 1481
issued in any form of oral, written, electronic, or other means of 1482
transmission by a duly licensed practitioner authorized by the 1483
laws of this state to issue a prescription. 1484

(HHH) "Durable medical equipment" means equipment, including 1485
repair and replacement parts for such equipment, that can 1486
withstand repeated use, is primarily and customarily used to serve 1487
a medical purpose, generally is not useful to a person in the 1488
absence of illness or injury, and is not worn in or on the body. 1489
"Durable medical equipment" does not include mobility enhancing 1490
equipment. 1491

(III) "Mobility enhancing equipment" means equipment, 1492
including repair and replacement parts for such equipment, that is 1493
primarily and customarily used to provide or increase the ability 1494
to move from one place to another and is appropriate for use 1495
either in a home or a motor vehicle, that is not generally used by 1496
persons with normal mobility, and that does not include any motor 1497
vehicle or equipment on a motor vehicle normally provided by a 1498
motor vehicle manufacturer. "Mobility enhancing equipment" does 1499
not include durable medical equipment. 1500

(JJJ) "Prosthetic device" means a replacement, corrective, or 1501
supportive device, including repair and replacement parts for the 1502
device, worn on or in the human body to artificially replace a 1503
missing portion of the body, prevent or correct physical deformity 1504
or malfunction, or support a weak or deformed portion of the body. 1505
As used in this division, before July 1, 2019, "prosthetic device" 1506
does not include corrective eyeglasses, contact lenses, or dental 1507
prosthesis. On or after July 1, 2019, "prosthetic device" does not 1508
include dental prosthesis but does include corrective eyeglasses 1509
or contact lenses. 1510

(KKK)(1) "Fractional aircraft ownership program" means a 1511
program in which persons within an affiliated group sell and 1512
manage fractional ownership program aircraft, provided that at 1513
least one hundred airworthy aircraft are operated in the program 1514
and the program meets all of the following criteria: 1515

(a) Management services are provided by at least one program 1516
manager within an affiliated group on behalf of the fractional 1517
owners. 1518

(b) Each program aircraft is owned or possessed by at least 1519
one fractional owner. 1520

(c) Each fractional owner owns or possesses at least a 1521

one-sixteenth interest in at least one fixed-wing program	1522
aircraft.	1523
(d) A dry-lease aircraft interchange arrangement is in effect	1524
among all of the fractional owners.	1525
(e) Multi-year program agreements are in effect regarding the	1526
fractional ownership, management services, and dry-lease aircraft	1527
interchange arrangement aspects of the program.	1528
(2) As used in division (KKK)(1) of this section:	1529
(a) "Affiliated group" has the same meaning as in division	1530
(B)(3)(e) of this section.	1531
(b) "Fractional owner" means a person that owns or possesses	1532
at least a one-sixteenth interest in a program aircraft and has	1533
entered into the agreements described in division (KKK)(1)(e) of	1534
this section.	1535
(c) "Fractional ownership program aircraft" or "program	1536
aircraft" means a turbojet aircraft that is owned or possessed by	1537
a fractional owner and that has been included in a dry-lease	1538
aircraft interchange arrangement and agreement under divisions	1539
(KKK)(1)(d) and (e) of this section, or an aircraft a program	1540
manager owns or possesses primarily for use in a fractional	1541
aircraft ownership program.	1542
(d) "Management services" means administrative and aviation	1543
support services furnished under a fractional aircraft ownership	1544
program in accordance with a management services agreement under	1545
division (KKK)(1)(e) of this section, and offered by the program	1546
manager to the fractional owners, including, at a minimum, the	1547
establishment and implementation of safety guidelines; the	1548
coordination of the scheduling of the program aircraft and crews;	1549
program aircraft maintenance; program aircraft insurance; crew	1550

training for crews employed, furnished, or contracted by the
 program manager or the fractional owner; the satisfaction of
 record-keeping requirements; and the development and use of an
 operations manual and a maintenance manual for the fractional
 aircraft ownership program.

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

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

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

(NNN) "Managed care premium" means any premium, capitation,
 or other payment a medicaid health insuring corporation receives

for providing or arranging for the provision of health care	1581
services to its members or enrollees residing in this state.	1582
(OOO) "Captive deer" means deer and other cervidae that have	1583
been legally acquired, or their offspring, that are privately	1584
owned for agricultural or farming purposes.	1585
(PPP) "Gift card" means a document, card, certificate, or	1586
other record, whether tangible or intangible, that may be redeemed	1587
by a consumer for a dollar value when making a purchase of	1588
tangible personal property or services.	1589
(QQQ) "Specified digital product" means an electronically	1590
transferred digital audiovisual work, digital audio work, or	1591
digital book.	1592
As used in division (QQQ) of this section:	1593
(1) "Digital audiovisual work" means a series of related	1594
images that, when shown in succession, impart an impression of	1595
motion, together with accompanying sounds, if any.	1596
(2) "Digital audio work" means a work that results from the	1597
fixation of a series of musical, spoken, or other sounds,	1598
including digitized sound files that are downloaded onto a device	1599
and that may be used to alert the customer with respect to a	1600
communication.	1601
(3) "Digital book" means a work that is generally recognized	1602
in the ordinary and usual sense as a book.	1603
(4) "Electronically transferred" means obtained by the	1604
purchaser by means other than tangible storage media.	1605
(RRR) "Digital advertising services" means providing access,	1606
by means of telecommunications equipment, to computer equipment	1607
that is used to enter, upload, download, review, manipulate,	1608

store, add, or delete data for the purpose of electronically 1609
 displaying, delivering, placing, or transferring promotional 1610
 advertisements to potential customers about products or services 1611
 or about industry or business brands. 1612

(SSS) "Peer-to-peer car sharing program" has the same meaning 1613
 as in section 4516.01 of the Revised Code." 1614

In line 66959, after "4511.191," insert "4713.01,"; after 1615
 "4729.43," insert "4731.24," 1616

In line 66962, after "4763.15," insert "4776.01," 1617

In line 66978, after "5731.41," insert "5739.01," 1618

After line 83272, insert: 1619

"Section 747.__. (A) For purposes of this section, 1620
 "electrology," "medical electrology," and "facial massage" have 1621
 the same meanings as in section 4785.01 of the Revised Code, as 1622
 enacted by this act. 1623

(B) Notwithstanding division (A) of section 4785.02 of the 1624
 Revised Code, as enacted by this act, during the two-year period 1625
 beginning on the effective date of this section, a person who held 1626
 a cosmetic therapist license issued pursuant to Chapter 4731. of 1627
 the Revised Code on April 11, 2021, may engage in electrology, 1628
 medical electrology, or facial massage without a certificate 1629
 issued under Chapter 4785. of the Revised Code. 1630

(C) A person who engages in electrology, medical electrology, 1631
 or facial massage without a certificate under division (B) of this 1632
 section shall do both of the following: 1633

(1) Keep proof of the cosmetic therapist license on the 1634
 premises where the person engages in electrology, medical 1635
 electrology, or facial massage during the two-year period; 1636

(2) Obtain the appropriate certificate under Chapter 4785. of 1637
 the Revised Code before the end of the two-year period if the 1638
 person wishes to continue to engage in electrology, medical 1639
 electrology, or facial massage after the two-year period. 1640

(D) The state medical board may inspect the proof of cosmetic 1641
 therapist license required under division (C)(1) of this section 1642
 on receiving a complaint related to the person engaging in 1643
 electrology, medical electrology, or facial massage. 1644

(E) Notwithstanding any provision of the Revised Code to the 1645
 contrary, provisions of law applicable to a person who holds a 1646
 certificate under Chapter 4785. of the Revised Code apply in the 1647
 same manner to a person who engages in electrology, medical 1648
 electrology, or facial massage without a certificate under 1649
 division (B) of this section." 1650

In line 83528, delete "section" and insert "sections 5739.01 1651
 and" 1652

After line 83624, insert: 1653

"Section 4776.01 of the Revised Code as amended by both H.B. 1654
 166 and S.B. 57 of the 133rd General Assembly." 1655

After line 83631, insert: 1656

"**Section 820.**____. The amendment of division (A)(9) of section 1657
 109.572, the amendment of sections 4713.01, 4731.24, 4776.01, and 1658
 5739.01, and the enactment of sections 4785.01, 4785.02, 4785.03, 1659
 4785.04, 4785.05, 4785.06, 4785.07, 4785.08, 4785,09, 4785.10, 1660
 4785.11, 4785.12, and 4785.99 of the Revised Code by this act, and 1661
 Section 747.____ of this act are hereby declared to be an emergency 1662
 measure necessary for the immediate preservation of the public 1663
 peace, health, and safety. The reason for such necessity is that 1664
 immediate action is necessary to protect the public from the 1665

unregulated practice of electrology and medical electrology. 1666
 Therefore, the amendment and enactment of those sections shall go 1667
 into immediate effect." 1668

The motion was _____ agreed to.

SYNOPSIS

Electrologist and medical electrologist certification 1669

R.C. 4785.01, 4785.02, 4785.03, 4785.04, 4785.05, 4785.06, 1670
4785.07, 4785.08, 4785.09, 4785.10, 4785.11, 4785.12, 4785.99, and 1671
5739.01 and Sections 747.__, 803.93, and 820.__, with conforming 1672
changes in R.C. 109.572, 4713.01, 4731.24, and 4776.01 1673

Prohibits a person from engaging in electrology, medical 1674
 electrology, or facial massage unless the person holds a 1675
 certificate to do so issued by the State Medical Board (H.B. 442 1676
 from the 133rd General Assembly eliminated the Board's authority 1677
 to license cosmetic therapists, which included electrology, 1678
 medical electrology, and facial massage). 1679

Exempts certain persons from the certificate requirement, 1680
 including, for the two-year period beginning on the amendment's 1681
 effective date, a person who held a cosmetic therapist license 1682
 issued on April 11, 2021. 1683

Specifies the requirements for the certificates and requires 1684
 the Board to issue a certificate if the requirements are met. 1685

Specifies the activities in which a certificate holder may 1686
 and may not engage. 1687

Establishes procedures for the certificate renewal of the 1688
 certificates. 1689

Requires the Board to adopt rules to implement and enforce	1690
the regulation of electrology, medical electrology, and facial	1691
massage.	1692
Requires the use of light-based medical devices by a	1693
certified medical electrologist to occur only under the delegation	1694
of authority by a licensed physician under specified circumstances	1695
(an administrative rule currently defines the use of light-based	1696
medical devices for the purpose of hair removal as the practice of	1697
medicine and requires physician delegation).	1698
Establishes grounds and procedures under which the Board may	1699
take disciplinary action against a certificate holder or	1700
applicant.	1701
Establishes criminal penalties for violating certain	1702
prohibitions under the amendment.	1703
Maintains the State Cosmetology and Barber Board's continuing	1704
law authority to regulate the practice of electrology, medical	1705
electrology, or facial massage in a salon.	1706
-- Exempts hair removal from sales tax.	1707
-- Declares an emergency.	1708