

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**H. B. No. 595**

**Representative Carruthers**

---

**A BILL**

To amend section 5739.01 of the Revised Code to 1  
exempt from sales tax memberships to gyms or 2  
other recreational facilities operated by 3  
nonprofit 501(c)(3) organizations. 4

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

**Section 1.** That section 5739.01 of the Revised Code be 5  
amended to read as follows: 6

**Sec. 5739.01.** As used in this chapter: 7

(A) "Person" includes individuals, receivers, assignees, 8  
trustees in bankruptcy, estates, firms, partnerships, 9  
associations, joint-stock companies, joint ventures, clubs, 10  
societies, corporations, the state and its political 11  
subdivisions, and combinations of individuals of any form. 12

(B) "Sale" and "selling" include all of the following 13  
transactions for a consideration in any manner, whether 14  
absolutely or conditionally, whether for a price or rental, in 15  
money or by exchange, and by any means whatsoever: 16

(1) All transactions by which title or possession, or 17  
both, of tangible personal property, is or is to be transferred, 18

or a license to use or consume tangible personal property is or	19
is to be granted;	20
(2) All transactions by which lodging by a hotel is or is	21
to be furnished to transient guests;	22
(3) All transactions by which:	23
(a) An item of tangible personal property is or is to be	24
repaired, except property, the purchase of which would not be	25
subject to the tax imposed by section 5739.02 of the Revised	26
Code;	27
(b) An item of tangible personal property is or is to be	28
installed, except property, the purchase of which would not be	29
subject to the tax imposed by section 5739.02 of the Revised	30
Code or property that is or is to be incorporated into and will	31
become a part of a production, transmission, transportation, or	32
distribution system for the delivery of a public utility	33
service;	34
(c) The service of washing, cleaning, waxing, polishing,	35
or painting a motor vehicle is or is to be furnished;	36
(d) Laundry and dry cleaning services are or are to be	37
provided;	38
(e) Automatic data processing, computer services, or	39
electronic information services are or are to be provided for	40
use in business when the true object of the transaction is the	41
receipt by the consumer of automatic data processing, computer	42
services, or electronic information services rather than the	43
receipt of personal or professional services to which automatic	44
data processing, computer services, or electronic information	45
services are incidental or supplemental. Notwithstanding any	46
other provision of this chapter, such transactions that occur	47

between members of an affiliated group are not sales. An 48  
"affiliated group" means two or more persons related in such a 49  
way that one person owns or controls the business operation of 50  
another member of the group. In the case of corporations with 51  
stock, one corporation owns or controls another if it owns more 52  
than fifty per cent of the other corporation's common stock with 53  
voting rights. 54

(f) Telecommunications service, including prepaid calling 55  
service, prepaid wireless calling service, or ancillary service, 56  
is or is to be provided, but not including coin-operated 57  
telephone service; 58

(g) Landscaping and lawn care service is or is to be 59  
provided; 60

(h) Private investigation and security service is or is to 61  
be provided; 62

(i) Information services or tangible personal property is 63  
provided or ordered by means of a nine hundred telephone call; 64

(j) Building maintenance and janitorial service is or is 65  
to be provided; 66

(k) Exterminating service is or is to be provided; 67

(l) Physical fitness facility service is or is to be 68  
provided, unless such service is or is to be provided by an 69  
organization described under section 501(c)(3) of the Internal 70  
Revenue Code and exempt from federal income taxation under 71  
section 501(a) of the Internal Revenue Code; 72

(m) Recreation and sports club service is or is to be 73  
provided, unless such service is or is to be provided by an 74  
organization described under section 501(c)(3) of the Internal 75

<u>Revenue Code and exempt from federal income taxation under</u>	76
<u>section 501(a) of the Internal Revenue Code;</u>	77
(n) Satellite broadcasting service is or is to be provided;	78 79
(o) Personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	80 81 82 83 84 85 86 87
(p) The transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;	88 89 90 91 92 93 94
(q) Motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.	95 96 97 98
(r) Snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.	99 100 101 102 103
(s) Electronic publishing service is or is to be provided	104

to a consumer for use in business, except that such transactions 105  
occurring between members of an affiliated group, as defined in 106  
division (B) (3) (e) of this section, are not sales. 107

(4) All transactions by which printed, imprinted, 108  
overprinted, lithographic, multilithic, blueprinted, 109  
photostatic, or other productions or reproductions of written or 110  
graphic matter are or are to be furnished or transferred; 111

(5) The production or fabrication of tangible personal 112  
property for a consideration for consumers who furnish either 113  
directly or indirectly the materials used in the production of 114  
fabrication work; and include the furnishing, preparing, or 115  
serving for a consideration of any tangible personal property 116  
consumed on the premises of the person furnishing, preparing, or 117  
serving such tangible personal property. Except as provided in 118  
section 5739.03 of the Revised Code, a construction contract 119  
pursuant to which tangible personal property is or is to be 120  
incorporated into a structure or improvement on and becoming a 121  
part of real property is not a sale of such tangible personal 122  
property. The construction contractor is the consumer of such 123  
tangible personal property, provided that the sale and 124  
installation of carpeting, the sale and installation of 125  
agricultural land tile, the sale and erection or installation of 126  
portable grain bins, or the provision of landscaping and lawn 127  
care service and the transfer of property as part of such 128  
service is never a construction contract. 129

As used in division (B) (5) of this section: 130

(a) "Agricultural land tile" means fired clay or concrete 131  
tile, or flexible or rigid perforated plastic pipe or tubing, 132  
incorporated or to be incorporated into a subsurface drainage 133  
system appurtenant to land used or to be used primarily in 134

production by farming, agriculture, horticulture, or 135  
floriculture. The term does not include such materials when they 136  
are or are to be incorporated into a drainage system appurtenant 137  
to a building or structure even if the building or structure is 138  
used or to be used in such production. 139

(b) "Portable grain bin" means a structure that is used or 140  
to be used by a person engaged in farming or agriculture to 141  
shelter the person's grain and that is designed to be 142  
disassembled without significant damage to its component parts. 143

(6) All transactions in which all of the shares of stock 144  
of a closely held corporation are transferred, or an ownership 145  
interest in a pass-through entity, as defined in section 5733.04 146  
of the Revised Code, is transferred, if the corporation or pass- 147  
through entity is not engaging in business and its entire assets 148  
consist of boats, planes, motor vehicles, or other tangible 149  
personal property operated primarily for the use and enjoyment 150  
of the shareholders or owners; 151

(7) All transactions in which a warranty, maintenance or 152  
service contract, or similar agreement by which the vendor of 153  
the warranty, contract, or agreement agrees to repair or 154  
maintain the tangible personal property of the consumer is or is 155  
to be provided; 156

(8) The transfer of copyrighted motion picture films used 157  
solely for advertising purposes, except that the transfer of 158  
such films for exhibition purposes is not a sale; 159

(9) All transactions by which tangible personal property 160  
is or is to be stored, except such property that the consumer of 161  
the storage holds for sale in the regular course of business; 162

(10) All transactions in which "guaranteed auto 163

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. 194

Except as provided in this section, "sale" and "selling" 195  
do not include transfers of interest in leased property where 196  
the original lessee and the terms of the original lease 197  
agreement remain unchanged, or professional, insurance, or 198  
personal service transactions that involve the transfer of 199  
tangible personal property as an inconsequential element, for 200  
which no separate charges are made. 201

(C) "Vendor" means the person providing the service or by 202  
whom the transfer effected or license given by a sale is or is 203  
to be made or given and, for sales described in division (B)(3) 204  
(i) of this section, the telecommunications service vendor that 205  
provides the nine hundred telephone service; if two or more 206  
persons are engaged in business at the same place of business 207  
under a single trade name in which all collections on account of 208  
sales by each are made, such persons shall constitute a single 209  
vendor. 210

Physicians, dentists, hospitals, and veterinarians who are 211  
engaged in selling tangible personal property as received from 212  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 213  
articles, are vendors. Veterinarians who are engaged in 214  
transferring to others for a consideration drugs, the dispensing 215  
of which does not require an order of a licensed veterinarian or 216  
physician under federal law, are vendors. 217

The operator of any peer-to-peer car sharing program shall 218  
be considered to be the vendor. 219

(D)(1) "Consumer" means the person for whom the service is 220  
provided, to whom the transfer effected or license given by a 221  
sale is or is to be made or given, to whom the service described 222



in division (B) (3) (f) or (i) of this section is charged, or to 223  
whom the admission is granted. 224

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

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

(4) (a) In the case of a person who purchases printed 246  
matter for the purpose of distributing it or having it 247  
distributed to the public or to a designated segment of the 248  
public, free of charge, that person is the consumer of that 249  
printed matter, and the purchase of that printed matter for that 250  
purpose is a sale. 251

(b) In the case of a person who produces, rather than 252

purchases, printed matter for the purpose of distributing it or 253  
having it distributed to the public or to a designated segment 254  
of the public, free of charge, that person is the consumer of 255  
all tangible personal property and services purchased for use or 256  
consumption in the production of that printed matter. That 257  
person is not entitled to claim exemption under division (B) (42) 258  
(f) of section 5739.02 of the Revised Code for any material 259  
incorporated into the printed matter or any equipment, supplies, 260  
or services primarily used to produce the printed matter. 261

(c) The distribution of printed matter to the public or to 262  
a designated segment of the public, free of charge, is not a 263  
sale to the members of the public to whom the printed matter is 264  
distributed or to any persons who purchase space in the printed 265  
matter for advertising or other purposes. 266

(5) A person who makes sales of any of the services listed 267  
in division (B) (3) of this section is the consumer of any 268  
tangible personal property used in performing the service. The 269  
purchase of that property is not subject to the resale exception 270  
under division (E) of this section. 271

(6) A person who engages in highway transportation for 272  
hire is the consumer of all packaging materials purchased by 273  
that person and used in performing the service, except for 274  
packaging materials sold by such person in a transaction 275  
separate from the service. 276

(7) In the case of a transaction for health care services 277  
under division (B) (11) of this section, a medicaid health 278  
insuring corporation is the consumer of such services. The 279  
purchase of such services by a medicaid health insuring 280  
corporation is not subject to the exception for resale under 281  
division (E) of this section or to the exemptions provided under 282

divisions (B) (12), (18), (19), and (22) of section 5739.02 of the Revised Code.	283 284
(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.	285 286 287 288 289
(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.	290 291 292 293
(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.	294 295 296 297
(H) (1) (a) "Price," except as provided in divisions (H) (2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:	298 299 300 301 302 303
(i) The vendor's cost of the property sold;	304
(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;	305 306 307 308 309
(iii) Charges by the vendor for any services necessary to complete the sale;	310 311

(iv) Delivery charges. As used in this division, "delivery	312
charges" means charges by the vendor for preparation and	313
delivery to a location designated by the consumer of tangible	314
personal property or a service, including transportation,	315
shipping, postage, handling, crating, and packing.	316
(v) Installation charges;	317
(vi) Credit for any trade-in.	318
(b) "Price" includes consideration received by the vendor	319
from a third party, if the vendor actually receives the	320
consideration from a party other than the consumer, and the	321
consideration is directly related to a price reduction or	322
discount on the sale; the vendor has an obligation to pass the	323
price reduction or discount through to the consumer; the amount	324
of the consideration attributable to the sale is fixed and	325
determinable by the vendor at the time of the sale of the item	326
to the consumer; and one of the following criteria is met:	327
(i) The consumer presents a coupon, certificate, or other	328
document to the vendor to claim a price reduction or discount	329
where the coupon, certificate, or document is authorized,	330
distributed, or granted by a third party with the understanding	331
that the third party will reimburse any vendor to whom the	332
coupon, certificate, or document is presented;	333
(ii) The consumer identifies the consumer's self to the	334
seller as a member of a group or organization entitled to a	335
price reduction or discount. A preferred customer card that is	336
available to any patron does not constitute membership in such a	337
group or organization.	338
(iii) The price reduction or discount is identified as a	339
third party price reduction or discount on the invoice received	340

by the consumer, or on a coupon, certificate, or other document 341  
presented by the consumer. 342

(c) "Price" does not include any of the following: 343

(i) Discounts, including cash, term, or coupons that are 344  
not reimbursed by a third party that are allowed by a vendor and 345  
taken by a consumer on a sale; 346

(ii) Interest, financing, and carrying charges from credit 347  
extended on the sale of tangible personal property or services, 348  
if the amount is separately stated on the invoice, bill of sale, 349  
or similar document given to the purchaser; 350

(iii) Any taxes legally imposed directly on the consumer 351  
that are separately stated on the invoice, bill of sale, or 352  
similar document given to the consumer. For the purpose of this 353  
division, the tax imposed under Chapter 5751. of the Revised 354  
Code is not a tax directly on the consumer, even if the tax or a 355  
portion thereof is separately stated. 356

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 357  
this section, any discount allowed by an automobile manufacturer 358  
to its employee, or to the employee of a supplier, on the 359  
purchase of a new motor vehicle from a new motor vehicle dealer 360  
in this state. 361

(v) The dollar value of a gift card that is not sold by a 362  
vendor or purchased by a consumer and that is redeemed by the 363  
consumer in purchasing tangible personal property or services if 364  
the vendor is not reimbursed and does not receive compensation 365  
from a third party to cover all or part of the gift card value. 366  
For the purposes of this division, a gift card is not sold by a 367  
vendor or purchased by a consumer if it is distributed pursuant 368  
to an awards, loyalty, or promotional program. Past and present 369

purchases of tangible personal property or services by the 370  
consumer shall not be treated as consideration exchanged for a 371  
gift card. 372

(2) In the case of a sale of any new motor vehicle by a 373  
new motor vehicle dealer, as defined in section 4517.01 of the 374  
Revised Code, in which another motor vehicle is accepted by the 375  
dealer as part of the consideration received, "price" has the 376  
same meaning as in division (H) (1) of this section, reduced by 377  
the credit afforded the consumer by the dealer for the motor 378  
vehicle received in trade. 379

(3) In the case of a sale of any watercraft or outboard 380  
motor by a watercraft dealer licensed in accordance with section 381  
1547.543 of the Revised Code, in which another watercraft, 382  
watercraft and trailer, or outboard motor is accepted by the 383  
dealer as part of the consideration received, "price" has the 384  
same meaning as in division (H) (1) of this section, reduced by 385  
the credit afforded the consumer by the dealer for the 386  
watercraft, watercraft and trailer, or outboard motor received 387  
in trade. As used in this division, "watercraft" includes an 388  
outdrive unit attached to the watercraft. 389

(4) In the case of transactions for health care services 390  
under division (B) (11) of this section, "price" means the amount 391  
of managed care premiums received each month by a medicaid 392  
health insuring corporation. 393

(I) "Receipts" means the total amount of the prices of the 394  
sales of vendors, provided that the dollar value of gift cards 395  
distributed pursuant to an awards, loyalty, or promotional 396  
program, and cash discounts allowed and taken on sales at the 397  
time they are consummated are not included, minus any amount 398  
deducted as a bad debt pursuant to section 5739.121 of the 399

Revised Code. "Receipts" does not include the sale price of 400  
property returned or services rejected by consumers when the 401  
full sale price and tax are refunded either in cash or by 402  
credit. 403

(J) "Place of business" means any location at which a 404  
person engages in business. 405

(K) "Premises" includes any real property or portion 406  
thereof upon which any person engages in selling tangible 407  
personal property at retail or making retail sales and also 408  
includes any real property or portion thereof designated for, or 409  
devoted to, use in conjunction with the business engaged in by 410  
such person. 411

(L) "Casual sale" means a sale of an item of tangible 412  
personal property that was obtained by the person making the 413  
sale, through purchase or otherwise, for the person's own use 414  
and was previously subject to any state's taxing jurisdiction on 415  
its sale or use, and includes such items acquired for the 416  
seller's use that are sold by an auctioneer employed directly by 417  
the person for such purpose, provided the location of such sales 418  
is not the auctioneer's permanent place of business. As used in 419  
this division, "permanent place of business" includes any 420  
location where such auctioneer has conducted more than two 421  
auctions during the year. 422

(M) "Hotel" means every establishment kept, used, 423  
maintained, advertised, or held out to the public to be a place 424  
where sleeping accommodations are offered to guests, in which 425  
five or more rooms are used for the accommodation of such 426  
guests, whether the rooms are in one or several structures, 427  
except as otherwise provided in section 5739.091 of the Revised 428  
Code. 429

(N) "Transient guests" means persons occupying a room or 430  
rooms for sleeping accommodations for less than thirty 431  
consecutive days. 432

(O) "Making retail sales" means the effecting of 433  
transactions wherein one party is obligated to pay the price and 434  
the other party is obligated to provide a service or to transfer 435  
title to or possession of the item sold. "Making retail sales" 436  
does not include the preliminary acts of promoting or soliciting 437  
the retail sales, other than the distribution of printed matter 438  
which displays or describes and prices the item offered for 439  
sale, nor does it include delivery of a predetermined quantity 440  
of tangible personal property or transportation of property or 441  
personnel to or from a place where a service is performed. 442

(P) "Used directly in the rendition of a public utility 443  
service" means that property that is to be incorporated into and 444  
will become a part of the consumer's production, transmission, 445  
transportation, or distribution system and that retains its 446  
classification as tangible personal property after such 447  
incorporation; fuel or power used in the production, 448  
transmission, transportation, or distribution system; and 449  
tangible personal property used in the repair and maintenance of 450  
the production, transmission, transportation, or distribution 451  
system, including only such motor vehicles as are specially 452  
designed and equipped for such use. Tangible personal property 453  
and services used primarily in providing highway transportation 454  
for hire are not used directly in the rendition of a public 455  
utility service. In this definition, "public utility" includes a 456  
citizen of the United States holding, and required to hold, a 457  
certificate of public convenience and necessity issued under 49 458  
U.S.C. 41102. 459



(Q) "Refining" means removing or separating a desirable 460  
product from raw or contaminated materials by distillation or 461  
physical, mechanical, or chemical processes. 462

(R) "Assembly" and "assembling" mean attaching or fitting 463  
together parts to form a product, but do not include packaging a 464  
product. 465

(S) "Manufacturing operation" means a process in which 466  
materials are changed, converted, or transformed into a 467  
different state or form from which they previously existed and 468  
includes refining materials, assembling parts, and preparing raw 469  
materials and parts by mixing, measuring, blending, or otherwise 470  
committing such materials or parts to the manufacturing process. 471  
"Manufacturing operation" does not include packaging. 472

(T) "Fiscal officer" means, with respect to a regional 473  
transit authority, the secretary-treasurer thereof, and with 474  
respect to a county that is a transit authority, the fiscal 475  
officer of the county transit board if one is appointed pursuant 476  
to section 306.03 of the Revised Code or the county auditor if 477  
the board of county commissioners operates the county transit 478  
system. 479

(U) "Transit authority" means a regional transit authority 480  
created pursuant to section 306.31 of the Revised Code or a 481  
county in which a county transit system is created pursuant to 482  
section 306.01 of the Revised Code. For the purposes of this 483  
chapter, a transit authority must extend to at least the entire 484  
area of a single county. A transit authority that includes 485  
territory in more than one county must include all the area of 486  
the most populous county that is a part of such transit 487  
authority. County population shall be measured by the most 488  
recent census taken by the United States census bureau. 489

(V) "Legislative authority" means, with respect to a 490  
regional transit authority, the board of trustees thereof, and 491  
with respect to a county that is a transit authority, the board 492  
of county commissioners. 493

(W) "Territory of the transit authority" means all of the 494  
area included within the territorial boundaries of a transit 495  
authority as they from time to time exist. Such territorial 496  
boundaries must at all times include all the area of a single 497  
county or all the area of the most populous county that is a 498  
part of such transit authority. County population shall be 499  
measured by the most recent census taken by the United States 500  
census bureau. 501

(X) "Providing a service" means providing or furnishing 502  
anything described in division (B) (3) of this section for 503  
consideration. 504

(Y) (1) (a) "Automatic data processing" means processing of 505  
others' data, including keypunching or similar data entry 506  
services together with verification thereof, or providing access 507  
to computer equipment for the purpose of processing data. 508

(b) "Computer services" means providing services 509  
consisting of specifying computer hardware configurations and 510  
evaluating technical processing characteristics, computer 511  
programming, and training of computer programmers and operators, 512  
provided in conjunction with and to support the sale, lease, or 513  
operation of taxable computer equipment or systems. 514

(c) "Electronic information services" means providing 515  
access to computer equipment by means of telecommunications 516  
equipment for the purpose of either of the following: 517

(i) Examining or acquiring data stored in or accessible to 518

the computer equipment;	519
(ii) Placing data into the computer equipment to be	520
retrieved by designated recipients with access to the computer	521
equipment.	522
"Electronic information services" does not include	523
electronic publishing.	524
(d) "Automatic data processing, computer services, or	525
electronic information services" shall not include personal or	526
professional services.	527
(2) As used in divisions (B) (3) (e) and (Y) (1) of this	528
section, "personal and professional services" means all services	529
other than automatic data processing, computer services, or	530
electronic information services, including but not limited to:	531
(a) Accounting and legal services such as advice on tax	532
matters, asset management, budgetary matters, quality control,	533
information security, and auditing and any other situation where	534
the service provider receives data or information and studies,	535
alters, analyzes, interprets, or adjusts such material;	536
(b) Analyzing business policies and procedures;	537
(c) Identifying management information needs;	538
(d) Feasibility studies, including economic and technical	539
analysis of existing or potential computer hardware or software	540
needs and alternatives;	541
(e) Designing policies, procedures, and custom software	542
for collecting business information, and determining how data	543
should be summarized, sequenced, formatted, processed,	544
controlled, and reported so that it will be meaningful to	545
management;	546

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	547 548 549
(g) Testing of business procedures;	550
(h) Training personnel in business procedure applications;	551
(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;	552 553 554 555 556 557 558
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	559 560
(k) Providing digital advertising services.	561
The services listed in divisions (Y) (2) (a) to (k) of this section are not automatic data processing or computer services.	562 563
(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:	564 565 566
(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;	567 568 569 570 571
(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare	572 573 574

but who could not have engaged in such transportation on 575  
December 11, 1985, unless the person was the holder of a permit 576  
or certificate of the types described in division (Z) (1) of this 577  
section; 578

(3) A person who leases a motor vehicle to and operates it 579  
for a person described by division (Z) (1) or (2) of this 580  
section. 581

(AA) (1) "Telecommunications service" means the electronic 582  
transmission, conveyance, or routing of voice, data, audio, 583  
video, or any other information or signals to a point, or 584  
between or among points. "Telecommunications service" includes 585  
such transmission, conveyance, or routing in which computer 586  
processing applications are used to act on the form, code, or 587  
protocol of the content for purposes of transmission, 588  
conveyance, or routing without regard to whether the service is 589  
referred to as voice-over internet protocol service or is 590  
classified by the federal communications commission as enhanced 591  
or value-added. "Telecommunications service" does not include 592  
any of the following: 593

(a) Data processing and information services that allow 594  
data to be generated, acquired, stored, processed, or retrieved 595  
and delivered by an electronic transmission to a consumer where 596  
the consumer's primary purpose for the underlying transaction is 597  
the processed data or information; 598

(b) Installation or maintenance of wiring or equipment on 599  
a customer's premises; 600

(c) Tangible personal property; 601

(d) Advertising, including directory advertising; 602

(e) Billing and collection services provided to third 603

parties;	604
(f) Internet access service;	605
(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;	606 607 608 609 610 611 612 613
(h) Ancillary service;	614
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	615 616
(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:	617 618 619 620 621 622
(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. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	623 624 625 626 627
(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.	628 629 630
(c) "Directory assistance" means an ancillary service of	631

providing telephone number or address information. 632

(d) "Vertical service" means an ancillary service that is 633  
offered in connection with one or more telecommunications 634  
services, which offers advanced calling features that allow 635  
customers to identify callers and manage multiple calls and call 636  
connections, including conference bridging service. 637

(e) "Voice mail service" means an ancillary service that 638  
enables the customer to store, send, or receive recorded 639  
messages. "Voice mail service" does not include any vertical 640  
services that the customer may be required to have in order to 641  
utilize the voice mail service. 642

(3) "900 service" means an inbound toll telecommunications 643  
service purchased by a subscriber that allows the subscriber's 644  
customers to call in to the subscriber's prerecorded 645  
announcement or live service, and which is typically marketed 646  
under the name "900 service" and any subsequent numbers 647  
designated by the federal communications commission. "900 648  
service" does not include the charge for collection services 649  
provided by the seller of the telecommunications service to the 650  
subscriber, or services or products sold by the subscriber to 651  
the subscriber's customer. 652

(4) "Prepaid calling service" means the right to access 653  
exclusively telecommunications services, which must be paid for 654  
in advance and which enables the origination of calls using an 655  
access number or authorization code, whether manually or 656  
electronically dialed, and that is sold in predetermined units 657  
or dollars of which the number declines with use in a known 658  
amount. 659

(5) "Prepaid wireless calling service" means a 660

telecommunications service that provides the right to utilize 661  
mobile telecommunications service as well as other non- 662  
telecommunications services, including the download of digital 663  
products delivered electronically, and content and ancillary 664  
services, that must be paid for in advance and that is sold in 665  
predetermined units or dollars of which the number declines with 666  
use in a known amount. 667

(6) "Value-added non-voice data service" means a 668  
telecommunications service in which computer processing 669  
applications are used to act on the form, content, code, or 670  
protocol of the information or data primarily for a purpose 671  
other than transmission, conveyance, or routing. 672

(7) "Coin-operated telephone service" means a 673  
telecommunications service paid for by inserting money into a 674  
telephone accepting direct deposits of money to operate. 675

(8) "Customer" has the same meaning as in section 5739.034 676  
of the Revised Code. 677

(BB) "Laundry and dry cleaning services" means removing 678  
soil or dirt from towels, linens, articles of clothing, or other 679  
fabric items that belong to others and supplying towels, linens, 680  
articles of clothing, or other fabric items. "Laundry and dry 681  
cleaning services" does not include the provision of self- 682  
service facilities for use by consumers to remove soil or dirt 683  
from towels, linens, articles of clothing, or other fabric 684  
items. 685

(CC) "Magazines distributed as controlled circulation 686  
publications" means magazines containing at least twenty-four 687  
pages, at least twenty-five per cent editorial content, issued 688  
at regular intervals four or more times a year, and circulated 689



without charge to the recipient, provided that such magazines 690  
are not owned or controlled by individuals or business concerns 691  
which conduct such publications as an auxiliary to, and 692  
essentially for the advancement of the main business or calling 693  
of, those who own or control them. 694

(DD) "Landscaping and lawn care service" means the 695  
services of planting, seeding, sodding, removing, cutting, 696  
trimming, pruning, mulching, aerating, applying chemicals, 697  
watering, fertilizing, and providing similar services to 698  
establish, promote, or control the growth of trees, shrubs, 699  
flowers, grass, ground cover, and other flora, or otherwise 700  
maintaining a lawn or landscape grown or maintained by the owner 701  
for ornamentation or other nonagricultural purpose. However, 702  
"landscaping and lawn care service" does not include the 703  
providing of such services by a person who has less than five 704  
thousand dollars in sales of such services during the calendar 705  
year. 706

(EE) "Private investigation and security service" means 707  
the performance of any activity for which the provider of such 708  
service is required to be licensed pursuant to Chapter 4749. of 709  
the Revised Code, or would be required to be so licensed in 710  
performing such services in this state, and also includes the 711  
services of conducting polygraph examinations and of monitoring 712  
or overseeing the activities on or in, or the condition of, the 713  
consumer's home, business, or other facility by means of 714  
electronic or similar monitoring devices. "Private investigation 715  
and security service" does not include special duty services 716  
provided by off-duty police officers, deputy sheriffs, and other 717  
peace officers regularly employed by the state or a political 718  
subdivision. 719

(FF) "Information services" means providing conversation, 720  
giving consultation or advice, playing or making a voice or 721  
other recording, making or keeping a record of the number of 722  
callers, and any other service provided to a consumer by means 723  
of a nine hundred telephone call, except when the nine hundred 724  
telephone call is the means by which the consumer makes a 725  
contribution to a recognized charity. 726

(GG) "Research and development" means designing, creating, 727  
or formulating new or enhanced products, equipment, or 728  
manufacturing processes, and also means conducting scientific or 729  
technological inquiry and experimentation in the physical 730  
sciences with the goal of increasing scientific knowledge which 731  
may reveal the bases for new or enhanced products, equipment, or 732  
manufacturing processes. 733

(HH) "Qualified research and development equipment" means 734  
capitalized tangible personal property, and leased personal 735  
property that would be capitalized if purchased, used by a 736  
person primarily to perform research and development. Tangible 737  
personal property primarily used in testing, as defined in 738  
division (A) (4) of section 5739.011 of the Revised Code, or used 739  
for recording or storing test results, is not qualified research 740  
and development equipment unless such property is primarily used 741  
by the consumer in testing the product, equipment, or 742  
manufacturing process being created, designed, or formulated by 743  
the consumer in the research and development activity or in 744  
recording or storing such test results. 745

(II) "Building maintenance and janitorial service" means 746  
cleaning the interior or exterior of a building and any tangible 747  
personal property located therein or thereon, including any 748  
services incidental to such cleaning for which no separate 749

charge is made. However, "building maintenance and janitorial 750  
service" does not include the providing of such service by a 751  
person who has less than five thousand dollars in sales of such 752  
service during the calendar year. As used in this division, 753  
"cleaning" does not include sanitation services necessary for an 754  
establishment described in 21 U.S.C. 608 to comply with rules 755  
and regulations adopted pursuant to that section. 756

(JJ) "Exterminating service" means eradicating or 757  
attempting to eradicate vermin infestations from a building or 758  
structure, or the area surrounding a building or structure, and 759  
includes activities to inspect, detect, or prevent vermin 760  
infestation of a building or structure. 761

(KK) "Physical fitness facility service" means all 762  
transactions by which a membership is granted, maintained, or 763  
renewed, including initiation fees, membership dues, renewal 764  
fees, monthly minimum fees, and other similar fees and dues, by 765  
a physical fitness facility such as an athletic club, health 766  
spa, or gymnasium, which entitles the member to use the facility 767  
for physical exercise. 768

(LL) "Recreation and sports club service" means all 769  
transactions by which a membership is granted, maintained, or 770  
renewed, including initiation fees, membership dues, renewal 771  
fees, monthly minimum fees, and other similar fees and dues, by 772  
a recreation and sports club, which entitles the member to use 773  
the facilities of the organization. "Recreation and sports club" 774  
means an organization that has ownership of, or controls or 775  
leases on a continuing, long-term basis, the facilities used by 776  
its members and includes an aviation club, gun or shooting club, 777  
yacht club, card club, swimming club, tennis club, golf club, 778  
country club, riding club, amateur sports club, or similar 779

organization.	780
(MM) "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.	781 782 783 784 785 786 787
(NN) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.	788 789 790 791
(OO) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.	792 793 794 795 796
(PP) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.	797 798 799 800 801 802
(QQ) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.	803 804 805 806 807 808

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

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

(3) "Over-the-counter drugs" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. 201.66, which label includes a drug facts panel or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation.

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

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

(b) A transfer of possession or control of tangible

personal property under an agreement that requires the transfer 838  
of title upon completion of required payments and payment of an 839  
option price that does not exceed the greater of one hundred 840  
dollars or one per cent of the total required payments; 841

(c) Providing tangible personal property along with an 842  
operator for a fixed or indefinite period of time, if the 843  
operator is necessary for the property to perform as designed. 844  
For purposes of this division, the operator must do more than 845  
maintain, inspect, or set up the tangible personal property. 846

(2) "Lease" and "rental," as defined in division (SS) of 847  
this section, shall not apply to leases or rentals that exist 848  
before June 26, 2003. 849

(3) "Lease" and "rental" have the same meaning as in 850  
division (SS) (1) of this section regardless of whether a 851  
transaction is characterized as a lease or rental under 852  
generally accepted accounting principles, the Internal Revenue 853  
Code, Title XIII of the Revised Code, or other federal, state, 854  
or local laws. 855

(TT) "Mobile telecommunications service" has the same 856  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 857  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 858  
amended, and, on and after August 1, 2003, includes related fees 859  
and ancillary services, including universal service fees, 860  
detailed billing service, directory assistance, service 861  
initiation, voice mail service, and vertical services, such as 862  
caller ID and three-way calling. 863

(UU) "Certified service provider" has the same meaning as 864  
in section 5740.01 of the Revised Code. 865

(VV) "Satellite broadcasting service" means the 866

distribution or broadcasting of programming or services by 867  
satellite directly to the subscriber's receiving equipment 868  
without the use of ground receiving or distribution equipment, 869  
except the subscriber's receiving equipment or equipment used in 870  
the uplink process to the satellite, and includes all service 871  
and rental charges, premium channels or other special services, 872  
installation and repair service charges, and any other charges 873  
having any connection with the provision of the satellite 874  
broadcasting service. 875

(WW) "Tangible personal property" means personal property 876  
that can be seen, weighed, measured, felt, or touched, or that 877  
is in any other manner perceptible to the senses. For purposes 878  
of this chapter and Chapter 5741. of the Revised Code, "tangible 879  
personal property" includes motor vehicles, electricity, water, 880  
gas, steam, and prewritten computer software. 881

(XX) "Municipal gas utility" means a municipal corporation 882  
that owns or operates a system for the distribution of natural 883  
gas. 884

(YY) "Computer" means an electronic device that accepts 885  
information in digital or similar form and manipulates it for a 886  
result based on a sequence of instructions. 887

(ZZ) "Computer software" means a set of coded instructions 888  
designed to cause a computer or automatic data processing 889  
equipment to perform a task. 890

(AAA) "Delivered electronically" means delivery of 891  
computer software from the seller to the purchaser by means 892  
other than tangible storage media. 893

(BBB) "Prewritten computer software" means computer 894  
software, including prewritten upgrades, that is not designed 895

and developed by the author or other creator to the 896  
specifications of a specific purchaser. The combining of two or 897  
more prewritten computer software programs or prewritten 898  
portions thereof does not cause the combination to be other than 899  
prewritten computer software. "Prewritten computer software" 900  
includes software designed and developed by the author or other 901  
creator to the specifications of a specific purchaser when it is 902  
sold to a person other than the purchaser. If a person modifies 903  
or enhances computer software of which the person is not the 904  
author or creator, the person shall be deemed to be the author 905  
or creator only of such person's modifications or enhancements. 906  
Prewritten computer software or a prewritten portion thereof 907  
that is modified or enhanced to any degree, where such 908  
modification or enhancement is designed and developed to the 909  
specifications of a specific purchaser, remains prewritten 910  
computer software; provided, however, that where there is a 911  
reasonable, separately stated charge or an invoice or other 912  
statement of the price given to the purchaser for the 913  
modification or enhancement, the modification or enhancement 914  
shall not constitute prewritten computer software. 915

(CCC) (1) "Food" means substances, whether in liquid, 916  
concentrated, solid, frozen, dried, or dehydrated form, that are 917  
sold for ingestion or chewing by humans and are consumed for 918  
their taste or nutritional value. "Food" does not include 919  
alcoholic beverages, dietary supplements, soft drinks, or 920  
tobacco. 921

(2) As used in division (CCC) (1) of this section: 922

(a) "Alcoholic beverages" means beverages that are 923  
suitable for human consumption and contain one-half of one per 924  
cent or more of alcohol by volume. 925



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

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

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

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

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

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

(DDD) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation,

other than food, dietary supplements, or alcoholic beverages 954  
that is recognized in the official United States pharmacopoeia, 955  
official homeopathic pharmacopoeia of the United States, or 956  
official national formulary, and supplements to them; is 957  
intended for use in the diagnosis, cure, mitigation, treatment, 958  
or prevention of disease; or is intended to affect the structure 959  
or any function of the body. 960

(EEE) "Prescription" means an order, formula, or recipe 961  
issued in any form of oral, written, electronic, or other means 962  
of transmission by a duly licensed practitioner authorized by 963  
the laws of this state to issue a prescription. 964

(FFF) "Durable medical equipment" means equipment, 965  
including repair and replacement parts for such equipment, that 966  
can withstand repeated use, is primarily and customarily used to 967  
serve a medical purpose, generally is not useful to a person in 968  
the absence of illness or injury, and is not worn in or on the 969  
body. "Durable medical equipment" does not include mobility 970  
enhancing equipment. 971

(GGG) "Mobility enhancing equipment" means equipment, 972  
including repair and replacement parts for such equipment, that 973  
is primarily and customarily used to provide or increase the 974  
ability to move from one place to another and is appropriate for 975  
use either in a home or a motor vehicle, that is not generally 976  
used by persons with normal mobility, and that does not include 977  
any motor vehicle or equipment on a motor vehicle normally 978  
provided by a motor vehicle manufacturer. "Mobility enhancing 979  
equipment" does not include durable medical equipment. 980

(HHH) "Prosthetic device" means a replacement, corrective, 981  
or supportive device, including repair and replacement parts for 982  
the device, worn on or in the human body to artificially replace 983

a missing portion of the body, prevent or correct physical 984  
deformity or malfunction, or support a weak or deformed portion 985  
of the body. As used in this division, before July 1, 2019, 986  
"prosthetic device" does not include corrective eyeglasses, 987  
contact lenses, or dental prosthesis. On or after July 1, 2019, 988  
"prosthetic device" does not include dental prosthesis but does 989  
include corrective eyeglasses or contact lenses. 990

(III) (1) "Fractional aircraft ownership program" means a 991  
program in which persons within an affiliated group sell and 992  
manage fractional ownership program aircraft, provided that at 993  
least one hundred airworthy aircraft are operated in the program 994  
and the program meets all of the following criteria: 995

(a) Management services are provided by at least one 996  
program manager within an affiliated group on behalf of the 997  
fractional owners. 998

(b) Each program aircraft is owned or possessed by at 999  
least one fractional owner. 1000

(c) Each fractional owner owns or possesses at least a 1001  
one-sixteenth interest in at least one fixed-wing program 1002  
aircraft. 1003

(d) A dry-lease aircraft interchange arrangement is in 1004  
effect among all of the fractional owners. 1005

(e) Multi-year program agreements are in effect regarding 1006  
the fractional ownership, management services, and dry-lease 1007  
aircraft interchange arrangement aspects of the program. 1008

(2) As used in division (III) (1) of this section: 1009

(a) "Affiliated group" has the same meaning as in division 1010  
(B) (3) (e) of this section. 1011

(b) "Fractional owner" means a person that owns or 1012  
possesses at least a one-sixteenth interest in a program 1013  
aircraft and has entered into the agreements described in 1014  
division (III) (1) (e) of this section. 1015

(c) "Fractional ownership program aircraft" or "program 1016  
aircraft" means a turbojet aircraft that is owned or possessed 1017  
by a fractional owner and that has been included in a dry-lease 1018  
aircraft interchange arrangement and agreement under divisions 1019  
(III) (1) (d) and (e) of this section, or an aircraft a program 1020  
manager owns or possesses primarily for use in a fractional 1021  
aircraft ownership program. 1022

(d) "Management services" means administrative and 1023  
aviation support services furnished under a fractional aircraft 1024  
ownership program in accordance with a management services 1025  
agreement under division (III) (1) (e) of this section, and 1026  
offered by the program manager to the fractional owners, 1027  
including, at a minimum, the establishment and implementation of 1028  
safety guidelines; the coordination of the scheduling of the 1029  
program aircraft and crews; program aircraft maintenance; 1030  
program aircraft insurance; crew training for crews employed, 1031  
furnished, or contracted by the program manager or the 1032  
fractional owner; the satisfaction of record-keeping 1033  
requirements; and the development and use of an operations 1034  
manual and a maintenance manual for the fractional aircraft 1035  
ownership program. 1036

(e) "Program manager" means the person that offers 1037  
management services to fractional owners pursuant to a 1038  
management services agreement under division (III) (1) (e) of this 1039  
section. 1040

(JJJ) "Electronic publishing" means providing access to 1041

one or more of the following primarily for business customers, 1042  
including the federal government or a state government or a 1043  
political subdivision thereof, to conduct research: news; 1044  
business, financial, legal, consumer, or credit materials; 1045  
editorials, columns, reader commentary, or features; photos or 1046  
images; archival or research material; legal notices, identity 1047  
verification, or public records; scientific, educational, 1048  
instructional, technical, professional, trade, or other literary 1049  
materials; or other similar information which has been gathered 1050  
and made available by the provider to the consumer in an 1051  
electronic format. Providing electronic publishing includes the 1052  
functions necessary for the acquisition, formatting, editing, 1053  
storage, and dissemination of data or information that is the 1054  
subject of a sale. 1055

(KKK) "Medicaid health insuring corporation" means a 1056  
health insuring corporation that holds a certificate of 1057  
authority under Chapter 1751. of the Revised Code and is under 1058  
contract with the department of medicaid pursuant to section 1059  
5167.10 of the Revised Code. 1060

(LLL) "Managed care premium" means any premium, 1061  
capitation, or other payment a medicaid health insuring 1062  
corporation receives for providing or arranging for the 1063  
provision of health care services to its members or enrollees 1064  
residing in this state. 1065

(MMM) "Captive deer" means deer and other cervidae that 1066  
have been legally acquired, or their offspring, that are 1067  
privately owned for agricultural or farming purposes. 1068

(NNN) "Gift card" means a document, card, certificate, or 1069  
other record, whether tangible or intangible, that may be 1070  
redeemed by a consumer for a dollar value when making a purchase 1071

of tangible personal property or services. 1072

(000) "Specified digital product" means an electronically 1073  
transferred digital audiovisual work, digital audio work, or 1074  
digital book. 1075

As used in division (000) of this section: 1076

(1) "Digital audiovisual work" means a series of related 1077  
images that, when shown in succession, impart an impression of 1078  
motion, together with accompanying sounds, if any. 1079

(2) "Digital audio work" means a work that results from 1080  
the fixation of a series of musical, spoken, or other sounds, 1081  
including digitized sound files that are downloaded onto a 1082  
device and that may be used to alert the customer with respect 1083  
to a communication. 1084

(3) "Digital book" means a work that is generally 1085  
recognized in the ordinary and usual sense as a book. 1086

(4) "Electronically transferred" means obtained by the 1087  
purchaser by means other than tangible storage media. 1088

(PPP) "Digital advertising services" means providing 1089  
access, by means of telecommunications equipment, to computer 1090  
equipment that is used to enter, upload, download, review, 1091  
manipulate, store, add, or delete data for the purpose of 1092  
electronically displaying, delivering, placing, or transferring 1093  
promotional advertisements to potential customers about products 1094  
or services or about industry or business brands. 1095

(QQQ) "Peer-to-peer car sharing program" has the same 1096  
meaning as in section 4516.01 of the Revised Code. 1097

**Section 2.** That existing section 5739.01 of the Revised 1098  
Code is hereby repealed. 1099

<b>Section 3.</b> The amendment by this act of section 5739.01 of	1100
the Revised Code applies on and after July 1, 2023.	1101