

As Introduced

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

S. B. No. 98

Senator Antani

A BILL

To amend section 5739.02 of the Revised Code to 1
exempt from sales and use tax things used 2
primarily to move completed manufactured 3
products or general merchandise. 4

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

Section 1. That section 5739.02 of the Revised Code be 5
amended to read as follows: 6

Sec. 5739.02. For the purpose of providing revenue with 7
which to meet the needs of the state, for the use of the general 8
revenue fund of the state, for the purpose of securing a 9
thorough and efficient system of common schools throughout the 10
state, for the purpose of affording revenues, in addition to 11
those from general property taxes, permitted under 12
constitutional limitations, and from other sources, for the 13
support of local governmental functions, and for the purpose of 14
reimbursing the state for the expense of administering this 15
chapter, an excise tax is hereby levied on each retail sale made 16
in this state. 17

(A) (1) The tax shall be collected as provided in section 18
5739.025 of the Revised Code. The rate of the tax shall be five 19

and three-fourths per cent. The tax applies and is collectible 20
when the sale is made, regardless of the time when the price is 21
paid or delivered. 22

(2) In the case of the lease or rental, with a fixed term 23
of more than thirty days or an indefinite term with a minimum 24
period of more than thirty days, of any motor vehicles designed 25
by the manufacturer to carry a load of not more than one ton, 26
watercraft, outboard motor, or aircraft, or of any tangible 27
personal property, other than motor vehicles designed by the 28
manufacturer to carry a load of more than one ton, to be used by 29
the lessee or renter primarily for business purposes, the tax 30
shall be collected by the vendor at the time the lease or rental 31
is consummated and shall be calculated by the vendor on the 32
basis of the total amount to be paid by the lessee or renter 33
under the lease agreement. If the total amount of the 34
consideration for the lease or rental includes amounts that are 35
not calculated at the time the lease or rental is executed, the 36
tax shall be calculated and collected by the vendor at the time 37
such amounts are billed to the lessee or renter. In the case of 38
an open-end lease or rental, the tax shall be calculated by the 39
vendor on the basis of the total amount to be paid during the 40
initial fixed term of the lease or rental, and for each 41
subsequent renewal period as it comes due. As used in this 42
division, "motor vehicle" has the same meaning as in section 43
4501.01 of the Revised Code, and "watercraft" includes an 44
outdrive unit attached to the watercraft. 45

A lease with a renewal clause and a termination penalty or 46
similar provision that applies if the renewal clause is not 47
exercised is presumed to be a sham transaction. In such a case, 48
the tax shall be calculated and paid on the basis of the entire 49
length of the lease period, including any renewal periods, until 50

the termination penalty or similar provision no longer applies. 51
The taxpayer shall bear the burden, by a preponderance of the 52
evidence, that the transaction or series of transactions is not 53
a sham transaction. 54

(3) Except as provided in division (A) (2) of this section, 55
in the case of a sale, the price of which consists in whole or 56
in part of the lease or rental of tangible personal property, 57
the tax shall be measured by the installments of that lease or 58
rental. 59

(4) In the case of a sale of a physical fitness facility 60
service or recreation and sports club service, the price of 61
which consists in whole or in part of a membership for the 62
receipt of the benefit of the service, the tax applicable to the 63
sale shall be measured by the installments thereof. 64

(B) The tax does not apply to the following: 65

(1) Sales to the state or any of its political 66
subdivisions, or to any other state or its political 67
subdivisions if the laws of that state exempt from taxation 68
sales made to this state and its political subdivisions; 69

(2) Sales of food for human consumption off the premises 70
where sold; 71

(3) Sales of food sold to students only in a cafeteria, 72
dormitory, fraternity, or sorority maintained in a private, 73
public, or parochial school, college, or university; 74

(4) Sales of newspapers and sales or transfers of 75
magazines distributed as controlled circulation publications; 76

(5) The furnishing, preparing, or serving of meals without 77
charge by an employer to an employee provided the employer 78

records the meals as part compensation for services performed or 79
work done; 80

(6) (a) Sales of motor fuel upon receipt, use, 81
distribution, or sale of which in this state a tax is imposed by 82
the law of this state, but this exemption shall not apply to the 83
sale of motor fuel on which a refund of the tax is allowable 84
under division (A) of section 5735.14 of the Revised Code; and 85
the tax commissioner may deduct the amount of tax levied by this 86
section applicable to the price of motor fuel when granting a 87
refund of motor fuel tax pursuant to division (A) of section 88
5735.14 of the Revised Code and shall cause the amount deducted 89
to be paid into the general revenue fund of this state; 90

(b) Sales of motor fuel other than that described in 91
division (B) (6) (a) of this section and used for powering a 92
refrigeration unit on a vehicle other than one used primarily to 93
provide comfort to the operator or occupants of the vehicle. 94

(7) Sales of natural gas by a natural gas company or 95
municipal gas utility, of water by a water-works company, or of 96
steam by a heating company, if in each case the thing sold is 97
delivered to consumers through pipes or conduits, and all sales 98
of communications services by a telegraph company, all terms as 99
defined in section 5727.01 of the Revised Code, and sales of 100
electricity delivered through wires; 101

(8) Casual sales by a person, or auctioneer employed 102
directly by the person to conduct such sales, except as to such 103
sales of motor vehicles, watercraft or outboard motors required 104
to be titled under section 1548.06 of the Revised Code, 105
watercraft documented with the United States coast guard, 106
snowmobiles, and all-purpose vehicles as defined in section 107
4519.01 of the Revised Code; 108

(9) (a) Sales of services or tangible personal property, 109
other than motor vehicles, mobile homes, and manufactured homes, 110
by churches, organizations exempt from taxation under section 111
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 112
organizations operated exclusively for charitable purposes as 113
defined in division (B) (12) of this section, provided that the 114
number of days on which such tangible personal property or 115
services, other than items never subject to the tax, are sold 116
does not exceed six in any calendar year, except as otherwise 117
provided in division (B) (9) (b) of this section. If the number of 118
days on which such sales are made exceeds six in any calendar 119
year, the church or organization shall be considered to be 120
engaged in business and all subsequent sales by it shall be 121
subject to the tax. In counting the number of days, all sales by 122
groups within a church or within an organization shall be 123
considered to be sales of that church or organization. 124

(b) The limitation on the number of days on which tax- 125
exempt sales may be made by a church or organization under 126
division (B) (9) (a) of this section does not apply to sales made 127
by student clubs and other groups of students of a primary or 128
secondary school, or a parent-teacher association, booster 129
group, or similar organization that raises money to support or 130
fund curricular or extracurricular activities of a primary or 131
secondary school. 132

(c) Divisions (B) (9) (a) and (b) of this section do not 133
apply to sales by a noncommercial educational radio or 134
television broadcasting station. 135

(10) Sales not within the taxing power of this state under 136
the Constitution or laws of the United States or the 137
Constitution of this state; 138

(11) Except for transactions that are sales under division 139
(B) (3) (r) of section 5739.01 of the Revised Code, the 140
transportation of persons or property, unless the transportation 141
is by a private investigation and security service; 142

(12) Sales of tangible personal property or services to 143
churches, to organizations exempt from taxation under section 144
501(c) (3) of the Internal Revenue Code of 1986, and to any other 145
nonprofit organizations operated exclusively for charitable 146
purposes in this state, no part of the net income of which 147
inures to the benefit of any private shareholder or individual, 148
and no substantial part of the activities of which consists of 149
carrying on propaganda or otherwise attempting to influence 150
legislation; sales to offices administering one or more homes 151
for the aged or one or more hospital facilities exempt under 152
section 140.08 of the Revised Code; and sales to organizations 153
described in division (D) of section 5709.12 of the Revised 154
Code. 155

"Charitable purposes" means the relief of poverty; the 156
improvement of health through the alleviation of illness, 157
disease, or injury; the operation of an organization exclusively 158
for the provision of professional, laundry, printing, and 159
purchasing services to hospitals or charitable institutions; the 160
operation of a home for the aged, as defined in section 5701.13 161
of the Revised Code; the operation of a radio or television 162
broadcasting station that is licensed by the federal 163
communications commission as a noncommercial educational radio 164
or television station; the operation of a nonprofit animal 165
adoption service or a county humane society; the promotion of 166
education by an institution of learning that maintains a faculty 167
of qualified instructors, teaches regular continuous courses of 168
study, and confers a recognized diploma upon completion of a 169

specific curriculum; the operation of a parent-teacher 170
association, booster group, or similar organization primarily 171
engaged in the promotion and support of the curricular or 172
extracurricular activities of a primary or secondary school; the 173
operation of a community or area center in which presentations 174
in music, dramatics, the arts, and related fields are made in 175
order to foster public interest and education therein; the 176
production of performances in music, dramatics, and the arts; or 177
the promotion of education by an organization engaged in 178
carrying on research in, or the dissemination of, scientific and 179
technological knowledge and information primarily for the 180
public. 181

Nothing in this division shall be deemed to exempt sales 182
to any organization for use in the operation or carrying on of a 183
trade or business, or sales to a home for the aged for use in 184
the operation of independent living facilities as defined in 185
division (A) of section 5709.12 of the Revised Code. 186

(13) Building and construction materials and services sold 187
to construction contractors for incorporation into a structure 188
or improvement to real property under a construction contract 189
with this state or a political subdivision of this state, or 190
with the United States government or any of its agencies; 191
building and construction materials and services sold to 192
construction contractors for incorporation into a structure or 193
improvement to real property that are accepted for ownership by 194
this state or any of its political subdivisions, or by the 195
United States government or any of its agencies at the time of 196
completion of the structures or improvements; building and 197
construction materials sold to construction contractors for 198
incorporation into a horticulture structure or livestock 199
structure for a person engaged in the business of horticulture 200

or producing livestock; building materials and services sold to 201
a construction contractor for incorporation into a house of 202
public worship or religious education, or a building used 203
exclusively for charitable purposes under a construction 204
contract with an organization whose purpose is as described in 205
division (B) (12) of this section; building materials and 206
services sold to a construction contractor for incorporation 207
into a building under a construction contract with an 208
organization exempt from taxation under section 501(c) (3) of the 209
Internal Revenue Code of 1986 when the building is to be used 210
exclusively for the organization's exempt purposes; building and 211
construction materials sold for incorporation into the original 212
construction of a sports facility under section 307.696 of the 213
Revised Code; building and construction materials and services 214
sold to a construction contractor for incorporation into real 215
property outside this state if such materials and services, when 216
sold to a construction contractor in the state in which the real 217
property is located for incorporation into real property in that 218
state, would be exempt from a tax on sales levied by that state; 219
building and construction materials for incorporation into a 220
transportation facility pursuant to a public-private agreement 221
entered into under sections 5501.70 to 5501.83 of the Revised 222
Code; and, until one calendar year after the construction of a 223
convention center that qualifies for property tax exemption 224
under section 5709.084 of the Revised Code is completed, 225
building and construction materials and services sold to a 226
construction contractor for incorporation into the real property 227
comprising that convention center; 228

(14) Sales of ships or vessels or rail rolling stock used 229
or to be used principally in interstate or foreign commerce, and 230
repairs, alterations, fuel, and lubricants for such ships or 231

vessels or rail rolling stock;	232
(15) Sales to persons primarily engaged in any of the	233
activities mentioned in division (B) (42) (a), (g), or (h) of this	234
section, to persons engaged in making retail sales, or to	235
persons who purchase for sale from a manufacturer tangible	236
personal property that was produced by the manufacturer in	237
accordance with specific designs provided by the purchaser, of	238
packages, including material, labels, and parts for packages,	239
and of machinery, equipment, and material for use primarily in	240
packaging tangible personal property produced for sale,	241
including any machinery, equipment, and supplies used to make	242
labels or packages, to prepare packages or products for	243
labeling, or to label packages or products, by or on the order	244
of the person doing the packaging, or sold at retail. "Packages"	245
includes bags, baskets, cartons, crates, boxes, cans, bottles,	246
bindings, wrappings, and other similar devices and containers,	247
but does not include motor vehicles or bulk tanks, trailers, or	248
similar devices attached to motor vehicles. "Packaging" means	249
placing in a package. Division (B) (15) of this section does not	250
apply to persons engaged in highway transportation for hire.	251
(16) Sales of food to persons using supplemental nutrition	252
assistance program benefits to purchase the food. As used in	253
this division, "food" has the same meaning as in 7 U.S.C. 2012	254
and federal regulations adopted pursuant to the Food and	255
Nutrition Act of 2008.	256
(17) Sales to persons engaged in farming, agriculture,	257
horticulture, or floriculture, of tangible personal property for	258
use or consumption primarily in the production by farming,	259
agriculture, horticulture, or floriculture of other tangible	260
personal property for use or consumption primarily in the	261

production of tangible personal property for sale by farming, 262
agriculture, horticulture, or floriculture; or material and 263
parts for incorporation into any such tangible personal property 264
for use or consumption in production; and of tangible personal 265
property for such use or consumption in the conditioning or 266
holding of products produced by and for such use, consumption, 267
or sale by persons engaged in farming, agriculture, 268
horticulture, or floriculture, except where such property is 269
incorporated into real property; 270

(18) Sales of drugs for a human being that may be 271
dispensed only pursuant to a prescription; insulin as recognized 272
in the official United States pharmacopoeia; urine and blood 273
testing materials when used by diabetics or persons with 274
hypoglycemia to test for glucose or acetone; hypodermic syringes 275
and needles when used by diabetics for insulin injections; 276
epoetin alfa when purchased for use in the treatment of persons 277
with medical disease; hospital beds when purchased by hospitals, 278
nursing homes, or other medical facilities; and medical oxygen 279
and medical oxygen-dispensing equipment when purchased by 280
hospitals, nursing homes, or other medical facilities; 281

(19) Sales of prosthetic devices, durable medical 282
equipment for home use, or mobility enhancing equipment, when 283
made pursuant to a prescription and when such devices or 284
equipment are for use by a human being. 285

(20) Sales of emergency and fire protection vehicles and 286
equipment to nonprofit organizations for use solely in providing 287
fire protection and emergency services, including trauma care 288
and emergency medical services, for political subdivisions of 289
the state; 290

(21) Sales of tangible personal property manufactured in 291

this state, if sold by the manufacturer in this state to a 292
retailer for use in the retail business of the retailer outside 293
of this state and if possession is taken from the manufacturer 294
by the purchaser within this state for the sole purpose of 295
immediately removing the same from this state in a vehicle owned 296
by the purchaser; 297

(22) Sales of services provided by the state or any of its 298
political subdivisions, agencies, instrumentalities, 299
institutions, or authorities, or by governmental entities of the 300
state or any of its political subdivisions, agencies, 301
instrumentalities, institutions, or authorities; 302

(23) Sales of motor vehicles to nonresidents of this state 303
under the circumstances described in division (B) of section 304
5739.029 of the Revised Code; 305

(24) Sales to persons engaged in the preparation of eggs 306
for sale of tangible personal property used or consumed directly 307
in such preparation, including such tangible personal property 308
used for cleaning, sanitizing, preserving, grading, sorting, and 309
classifying by size; packages, including material and parts for 310
packages, and machinery, equipment, and material for use in 311
packaging eggs for sale; and handling and transportation 312
equipment and parts therefor, except motor vehicles licensed to 313
operate on public highways, used in intraplant or interplant 314
transfers or shipment of eggs in the process of preparation for 315
sale, when the plant or plants within or between which such 316
transfers or shipments occur are operated by the same person. 317
"Packages" includes containers, cases, baskets, flats, fillers, 318
filler flats, cartons, closure materials, labels, and labeling 319
materials, and "packaging" means placing therein. 320

(25) (a) Sales of water to a consumer for residential use; 321

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	322 323 324 325
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	326 327
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	328 329 330 331
(a) To prepare food for human consumption for sale;	332
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	333 334 335 336
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	337 338
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	339 340
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	341 342 343 344
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	345 346 347
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the	348 349

Revised Code;	350
(32) The sale, lease, repair, and maintenance of, parts	351
for, or items attached to or incorporated in, motor vehicles	352
that are primarily used for transporting tangible personal	353
property belonging to others by a person engaged in highway	354
transportation for hire, except for packages and packaging used	355
for the transportation of tangible personal property;	356
(33) Sales to the state headquarters of any veterans'	357
organization in this state that is either incorporated and	358
issued a charter by the congress of the United States or is	359
recognized by the United States veterans administration, for use	360
by the headquarters;	361
(34) Sales to a telecommunications service vendor, mobile	362
telecommunications service vendor, or satellite broadcasting	363
service vendor of tangible personal property and services used	364
directly and primarily in transmitting, receiving, switching, or	365
recording any interactive, one- or two-way electromagnetic	366
communications, including voice, image, data, and information,	367
through the use of any medium, including, but not limited to,	368
poles, wires, cables, switching equipment, computers, and record	369
storage devices and media, and component parts for the tangible	370
personal property. The exemption provided in this division shall	371
be in lieu of all other exemptions under division (B) (42) (a) or	372
(n) of this section to which the vendor may otherwise be	373
entitled, based upon the use of the thing purchased in providing	374
the telecommunications, mobile telecommunications, or satellite	375
broadcasting service.	376
(35) (a) Sales where the purpose of the consumer is to use	377
or consume the things transferred in making retail sales and	378
consisting of newspaper inserts, catalogues, coupons, flyers,	379

gift certificates, or other advertising material that prices and	380
describes tangible personal property offered for retail sale.	381
(b) Sales to direct marketing vendors of preliminary	382
materials such as photographs, artwork, and typesetting that	383
will be used in printing advertising material; and of printed	384
matter that offers free merchandise or chances to win sweepstake	385
prizes and that is mailed to potential customers with	386
advertising material described in division (B) (35) (a) of this	387
section;	388
(c) Sales of equipment such as telephones, computers,	389
facsimile machines, and similar tangible personal property	390
primarily used to accept orders for direct marketing retail	391
sales.	392
(d) Sales of automatic food vending machines that preserve	393
food with a shelf life of forty-five days or less by	394
refrigeration and dispense it to the consumer.	395
For purposes of division (B) (35) of this section, "direct	396
marketing" means the method of selling where consumers order	397
tangible personal property by United States mail, delivery	398
service, or telecommunication and the vendor delivers or ships	399
the tangible personal property sold to the consumer from a	400
warehouse, catalogue distribution center, or similar fulfillment	401
facility by means of the United States mail, delivery service,	402
or common carrier.	403
(36) Sales to a person engaged in the business of	404
horticulture or producing livestock of materials to be	405
incorporated into a horticulture structure or livestock	406
structure;	407
(37) Sales of personal computers, computer monitors,	408

computer keyboards, modems, and other peripheral computer 409
equipment to an individual who is licensed or certified to teach 410
in an elementary or a secondary school in this state for use by 411
that individual in preparation for teaching elementary or 412
secondary school students; 413

(38) Sales of tangible personal property that is not 414
required to be registered or licensed under the laws of this 415
state to a citizen of a foreign nation that is not a citizen of 416
the United States, provided the property is delivered to a 417
person in this state that is not a related member of the 418
purchaser, is physically present in this state for the sole 419
purpose of temporary storage and package consolidation, and is 420
subsequently delivered to the purchaser at a delivery address in 421
a foreign nation. As used in division (B) (38) of this section, 422
"related member" has the same meaning as in section 5733.042 of 423
the Revised Code, and "temporary storage" means the storage of 424
tangible personal property for a period of not more than sixty 425
days. 426

(39) Sales of used manufactured homes and used mobile 427
homes, as defined in section 5739.0210 of the Revised Code, made 428
on or after January 1, 2000; 429

(40) Sales of tangible personal property and services to a 430
provider of electricity used or consumed directly and primarily 431
in generating, transmitting, or distributing electricity for use 432
by others, including property that is or is to be incorporated 433
into and will become a part of the consumer's production, 434
transmission, or distribution system and that retains its 435
classification as tangible personal property after 436
incorporation; fuel or power used in the production, 437
transmission, or distribution of electricity; energy conversion 438

equipment as defined in section 5727.01 of the Revised Code; and 439
tangible personal property and services used in the repair and 440
maintenance of the production, transmission, or distribution 441
system, including only those motor vehicles as are specially 442
designed and equipped for such use. The exemption provided in 443
this division shall be in lieu of all other exemptions in 444
division (B) (42) (a) or (n) of this section to which a provider 445
of electricity may otherwise be entitled based on the use of the 446
tangible personal property or service purchased in generating, 447
transmitting, or distributing electricity. 448

(41) Sales to a person providing services under division 449
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 450
personal property and services used directly and primarily in 451
providing taxable services under that section. 452

(42) Sales where the purpose of the purchaser is to do any 453
of the following: 454

(a) To incorporate the thing transferred as a material or 455
a part into tangible personal property to be produced for sale 456
by manufacturing, assembling, processing, or refining; or to use 457
or consume the thing transferred directly in producing tangible 458
personal property for sale by mining, including, without 459
limitation, the extraction from the earth of all substances that 460
are classed geologically as minerals, or directly in the 461
rendition of a public utility service, except that the sales tax 462
levied by this section shall be collected upon all meals, 463
drinks, and food for human consumption sold when transporting 464
persons. This paragraph does not exempt from "retail sale" or 465
"sales at retail" the sale of tangible personal property that is 466
to be incorporated into a structure or improvement to real 467
property. 468

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;	469 470
(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;	471 472
(d) To use or consume the thing directly in commercial fishing;	473 474
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	475 476 477 478
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	479 480 481 482 483
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	484 485 486
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B) (7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	487 488 489 490 491 492
(i) To use the thing transferred as qualified research and development equipment;	493 494
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased	495 496

sales inventory in a warehouse, distribution center, or similar 497
facility when the inventory is primarily distributed outside 498
this state to retail stores of the person who owns or controls 499
the warehouse, distribution center, or similar facility, to 500
retail stores of an affiliated group of which that person is a 501
member, or by means of direct marketing. This division does not 502
apply to motor vehicles registered for operation on the public 503
highways. As used in this division, "affiliated group" has the 504
same meaning as in division (B) (3) (e) of section 5739.01 of the 505
Revised Code and "direct marketing" has the same meaning as in 506
division (B) (35) of this section. 507

(k) To use or consume the thing transferred to fulfill a 508
contractual obligation incurred by a warrantor pursuant to a 509
warranty provided as a part of the price of the tangible 510
personal property sold or by a vendor of a warranty, maintenance 511
or service contract, or similar agreement the provision of which 512
is defined as a sale under division (B) (7) of section 5739.01 of 513
the Revised Code; 514

(l) To use or consume the thing transferred in the 515
production of a newspaper for distribution to the public; 516

(m) To use tangible personal property to perform a service 517
listed in division (B) (3) of section 5739.01 of the Revised 518
Code, if the property is or is to be permanently transferred to 519
the consumer of the service as an integral part of the 520
performance of the service; 521

(n) To use or consume the thing transferred primarily in 522
producing tangible personal property for sale by farming, 523
agriculture, horticulture, or floriculture. Persons engaged in 524
rendering farming, agriculture, horticulture, or floriculture 525
services for others are deemed engaged primarily in farming, 526

agriculture, horticulture, or floriculture. This paragraph does 527
not exempt from "retail sale" or "sales at retail" the sale of 528
tangible personal property that is to be incorporated into a 529
structure or improvement to real property. 530

(o) To use or consume the thing transferred in acquiring, 531
formatting, editing, storing, and disseminating data or 532
information by electronic publishing; 533

(p) To provide the thing transferred to the owner or 534
lessee of a motor vehicle that is being repaired or serviced, if 535
the thing transferred is a rented motor vehicle and the 536
purchaser is reimbursed for the cost of the rented motor vehicle 537
by a manufacturer, warrantor, or provider of a maintenance, 538
service, or other similar contract or agreement, with respect to 539
the motor vehicle that is being repaired or serviced; 540

(q) To use or consume the thing transferred directly in 541
production of crude oil and natural gas for sale. Persons 542
engaged in rendering production services for others are deemed 543
engaged in production. 544

As used in division (B) (42) (q) of this section, 545
"production" means operations and tangible personal property 546
directly used to expose and evaluate an underground reservoir 547
that may contain hydrocarbon resources, prepare the wellbore for 548
production, and lift and control all substances yielded by the 549
reservoir to the surface of the earth. 550

(i) For the purposes of division (B) (42) (q) of this 551
section, the "thing transferred" includes, but is not limited 552
to, any of the following: 553

(I) Services provided in the construction of permanent 554
access roads, services provided in the construction of the well 555

site, and services provided in the construction of temporary impoundments;	556 557
(II) Equipment and rigging used for the specific purpose of creating with integrity a wellbore pathway to underground reservoirs;	558 559 560
(III) Drilling and workover services used to work within a subsurface wellbore, and tangible personal property directly used in providing such services;	561 562 563
(IV) Casing, tubulars, and float and centralizing equipment;	564 565
(V) Trailers to which production equipment is attached;	566
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	567 568 569
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	570 571 572
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	573 574 575 576
(IX) Pressure pumping equipment;	577
(X) Artificial lift systems equipment;	578
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	579 580 581
(XII) Tangible personal property directly used to control	582

production equipment.	583
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	584 585 586
(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	587 588 589
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well stimulation as defined in section 1509.01 of the Revised Code;	590 591 592
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	593 594 595
(IV) Tangible personal property used primarily in transporting, delivering, or removing equipment to or from the well site or storing such equipment before its use at the well site;	596 597 598 599
(V) Tangible personal property used primarily in gathering operations occurring off the well site, including gathering pipelines transporting hydrocarbon gas or liquids away from a crude oil or natural gas production facility;	600 601 602 603
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	604 605
(VII) Well site fencing, lighting, or security systems;	606
(VIII) Communication devices or services;	607
(IX) Office supplies;	608
(X) Trailers used as offices or lodging;	609

(XI) Motor vehicles of any kind;	610
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	611 612
(XIII) Tangible personal property used primarily as a safety device;	613 614
(XIV) Data collection or monitoring devices;	615
(XV) Access ladders, stairs, or platforms attached to storage tanks.	616 617
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	618 619 620 621 622
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) of this section.	623 624 625 626
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.	627 628 629
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.	630 631 632 633 634 635 636
(44) Sales of replacement and modification parts for	637

engines, airframes, instruments, and interiors in, and paint 638
for, aircraft used primarily in a fractional aircraft ownership 639
program, and sales of services for the repair, modification, and 640
maintenance of such aircraft, and machinery, equipment, and 641
supplies primarily used to provide those services. 642

(45) Sales of telecommunications service that is used 643
directly and primarily to perform the functions of a call 644
center. As used in this division, "call center" means any 645
physical location where telephone calls are placed or received 646
in high volume for the purpose of making sales, marketing, 647
customer service, technical support, or other specialized 648
business activity, and that employs at least fifty individuals 649
that engage in call center activities on a full-time basis, or 650
sufficient individuals to fill fifty full-time equivalent 651
positions. 652

(46) Sales by a telecommunications service vendor of 900 653
service to a subscriber. This division does not apply to 654
information services. 655

(47) Sales of value-added non-voice data service. This 656
division does not apply to any similar service that is not 657
otherwise a telecommunications service. 658

(48) Sales of feminine hygiene products. 659

(49) Sales of materials, parts, equipment, or engines used 660
in the repair or maintenance of aircraft or avionics systems of 661
such aircraft, and sales of repair, remodeling, replacement, or 662
maintenance services in this state performed on aircraft or on 663
an aircraft's avionics, engine, or component materials or parts. 664
As used in division (B) (49) of this section, "aircraft" means 665
aircraft of more than six thousand pounds maximum certified 666

takeoff weight or used exclusively in general aviation. 667

(50) Sales of full flight simulators that are used for 668
pilot or flight-crew training, sales of repair or replacement 669
parts or components, and sales of repair or maintenance services 670
for such full flight simulators. "Full flight simulator" means a 671
replica of a specific type, or make, model, and series of 672
aircraft cockpit. It includes the assemblage of equipment and 673
computer programs necessary to represent aircraft operations in 674
ground and flight conditions, a visual system providing an out- 675
of-the-cockpit view, and a system that provides cues at least 676
equivalent to those of a three-degree-of-freedom motion system, 677
and has the full range of capabilities of the systems installed 678
in the device as described in appendices A and B of part 60 of 679
chapter 1 of title 14 of the Code of Federal Regulations. 680

(51) Any transfer or lease of tangible personal property 681
between the state and JobsOhio in accordance with section 682
4313.02 of the Revised Code. 683

(52) (a) Sales to a qualifying corporation. 684

(b) As used in division (B) (52) of this section: 685

(i) "Qualifying corporation" means a nonprofit corporation 686
organized in this state that leases from an eligible county 687
land, buildings, structures, fixtures, and improvements to the 688
land that are part of or used in a public recreational facility 689
used by a major league professional athletic team or a class A 690
to class AAA minor league affiliate of a major league 691
professional athletic team for a significant portion of the 692
team's home schedule, provided the following apply: 693

(I) The facility is leased from the eligible county 694
pursuant to a lease that requires substantially all of the 695

revenue from the operation of the business or activity conducted 696
by the nonprofit corporation at the facility in excess of 697
operating costs, capital expenditures, and reserves to be paid 698
to the eligible county at least once per calendar year. 699

(II) Upon dissolution and liquidation of the nonprofit 700
corporation, all of its net assets are distributable to the 701
board of commissioners of the eligible county from which the 702
corporation leases the facility. 703

(ii) "Eligible county" has the same meaning as in section 704
307.695 of the Revised Code. 705

(53) Sales to or by a cable service provider, video 706
service provider, or radio or television broadcast station 707
regulated by the federal government of cable service or 708
programming, video service or programming, audio service or 709
programming, or electronically transferred digital audiovisual 710
or audio work. As used in division (B) (53) of this section, 711
"cable service" and "cable service provider" have the same 712
meanings as in section 1332.01 of the Revised Code, and "video 713
service," "video service provider," and "video programming" have 714
the same meanings as in section 1332.21 of the Revised Code. 715

(54) Sales of a digital audio work electronically 716
transferred for delivery through use of a machine, such as a 717
juke box, that does all of the following: 718

(a) Accepts direct payments to operate; 719

(b) Automatically plays a selected digital audio work for 720
a single play upon receipt of a payment described in division 721
(B) (54) (a) of this section; 722

(c) Operates exclusively for the purpose of playing 723
digital audio works in a commercial establishment. 724

(55) (a) Sales of the following occurring on the first	725
Friday of August and the following Saturday and Sunday of each	726
year, beginning in 2018:	727
(i) An item of clothing, the price of which is seventy-	728
five dollars or less;	729
(ii) An item of school supplies, the price of which is	730
twenty dollars or less;	731
(iii) An item of school instructional material, the price	732
of which is twenty dollars or less.	733
(b) As used in division (B) (55) of this section:	734
(i) "Clothing" means all human wearing apparel suitable	735
for general use. "Clothing" includes, but is not limited to,	736
aprons, household and shop; athletic supporters; baby receiving	737
blankets; bathing suits and caps; beach capes and coats; belts	738
and suspenders; boots; coats and jackets; costumes; diapers,	739
children and adult, including disposable diapers; earmuffs;	740
footlets; formal wear; garters and garter belts; girdles; gloves	741
and mittens for general use; hats and caps; hosiery; insoles for	742
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	743
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	744
sneakers; socks and stockings; steel-toed shoes; underwear;	745
uniforms, athletic and nonathletic; and wedding apparel.	746
"Clothing" does not include items purchased for use in a trade	747
or business; clothing accessories or equipment; protective	748
equipment; sports or recreational equipment; belt buckles sold	749
separately; costume masks sold separately; patches and emblems	750
sold separately; sewing equipment and supplies including, but	751
not limited to, knitting needles, patterns, pins, scissors,	752
sewing machines, sewing needles, tape measures, and thimbles;	753

and sewing materials that become part of "clothing" including, 754
but not limited to, buttons, fabric, lace, thread, yarn, and 755
zippers. 756

(ii) "School supplies" means items commonly used by a 757
student in a course of study. "School supplies" includes only 758
the following items: binders; book bags; calculators; cellophane 759
tape; blackboard chalk; compasses; composition books; crayons; 760
erasers; folders, expandable, pocket, plastic, and manila; glue, 761
paste, and paste sticks; highlighters; index cards; index card 762
boxes; legal pads; lunch boxes; markers; notebooks; paper, 763
loose-leaf ruled notebook paper, copy paper, graph paper, 764
tracing paper, manila paper, colored paper, poster board, and 765
construction paper; pencil boxes and other school supply boxes; 766
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 767
and writing tablets. "School supplies" does not include any item 768
purchased for use in a trade or business. 769

(iii) "School instructional material" means written 770
material commonly used by a student in a course of study as a 771
reference and to learn the subject being taught. "School 772
instructional material" includes only the following items: 773
reference books, reference maps and globes, textbooks, and 774
workbooks. "School instructional material" does not include any 775
material purchased for use in a trade or business. 776

(56) (a) Sales of diapers or incontinence underpads sold 777
pursuant to a prescription, for the benefit of a medicaid 778
recipient with a diagnosis of incontinence, and by a medicaid 779
provider that maintains a valid provider agreement under section 780
5164.30 of the Revised Code with the department of medicaid, 781
provided that the medicaid program covers diapers or 782
incontinence underpads as an incontinence garment. 783

(b) As used in division (B) (56) (a) of this section:	784
(i) "Diaper" means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements.	785 786 787
(ii) "Incontinence underpad" means an absorbent product, not worn on the body, designed to protect furniture or other tangible personal property from soiling or damage due to human incontinence.	788 789 790 791
<u>(57) (a) Sales of tangible personal property to a qualifying business used primarily by that business for any of the following:</u>	792 793 794
<u>(i) Transporting completed products from the manufacturing facility in which those products were manufactured to a destination from which the product will be sold at retail or a destination designated by the consumer to which those products were sold at retail;</u>	795 796 797 798 799
<u>(ii) Transporting general merchandise or grocery products from one location within a distribution facility to another location from which the merchandise or products will be transported from that facility.</u>	800 801 802 803
<u>(iii) Powering or charging tangible personal property used as described in division (B) (57) (a) (i) or (ii) of this section.</u>	804 805
<u>(b) As used in division (B) (57) of this section:</u>	806
<u>(i) "Qualifying business" means a person that is classified as being in the transportation and warehousing sector or the warehouse club and supercenter sector by the north American industrial classification system, or a person in that person's affiliated group, and that person or affiliate is</u>	807 808 809 810 811

engaged in transporting tangible personal property in trucks 812
operated and either owned or leased by the person or affiliate 813
to destinations outside this state. 814

(ii) "Truck" means any motor vehicle that has motor power 815
and is designed and used for carrying merchandise or freight, or 816
that is used as a commercial tractor. "Truck" includes a motor 817
vehicle powered by one or more alternative fuels provided it is 818
designed and used as described in this division. 819

(iii) "Completed product" and "manufacturing facility" 820
have the same meanings as in section 5739.011 of the Revised 821
Code. 822

(iv) "Alternative fuel" has the same meaning as in section 823
125.831 of the Revised Code. 824

(v) "Motor vehicle" and "commercial tractor" have the same 825
meanings as in section 4501.01 of the Revised Code. 826

(vi) "Affiliated group" has the same meaning as in 827
division (B) (3) (e) of section 5739.01 of the Revised Code. 828

(C) For the purpose of the proper administration of this 829
chapter, and to prevent the evasion of the tax, it is presumed 830
that all sales made in this state are subject to the tax until 831
the contrary is established. 832

(D) The tax collected by the vendor from the consumer 833
under this chapter is not part of the price, but is a tax 834
collection for the benefit of the state, and of counties levying 835
an additional sales tax pursuant to section 5739.021 or 5739.026 836
of the Revised Code and of transit authorities levying an 837
additional sales tax pursuant to section 5739.023 of the Revised 838
Code. Except for the discount authorized under section 5739.12 839
of the Revised Code and the effects of any rounding pursuant to 840

section 5703.055 of the Revised Code, no person other than the 841
state or such a county or transit authority shall derive any 842
benefit from the collection or payment of the tax levied by this 843
section or section 5739.021, 5739.023, or 5739.026 of the 844
Revised Code. 845

Section 2. That existing section 5739.02 of the Revised 846
Code is hereby repealed. 847

Section 3. The amendment by this act of section 5739.02 of 848
the Revised Code applies on and after the first day of the first 849
month that begins at least thirty days after the effective date 850
of this section. 851