

As Introduced

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H. B. No. 120

Representatives Brewer, Gross

**Cosponsors: Representatives Young, McNally, Click, Williams, Brennan,
Upchurch, Brownlee, Rogers, Sims, Russo**

A BILL

To amend sections 5739.01, 5739.02, 5739.03, and 1
5739.17 of the Revised Code to exempt from sales 2
and use tax sales of firearm safety devices. 3

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

Section 1. That sections 5739.01, 5739.02, 5739.03, and 4
5739.17 of the Revised Code be amended to read as follows: 5

Sec. 5739.01. As used in this chapter: 6

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

(B) "Sale" and "selling" include all of the following 12
transactions for a consideration in any manner, whether 13
absolutely or conditionally, whether for a price or rental, in 14
money or by exchange, and by any means whatsoever: 15

(1) All transactions by which title or possession, or 16

both, of tangible personal property, is or is to be transferred, 17
or a license to use or consume tangible personal property is or 18
is to be granted; 19

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

(3) All transactions by which: 22

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

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

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

(d) Laundry and dry cleaning services are or are to be 36
provided; 37

(e) Automatic data processing, computer services, or 38
electronic information services are or are to be provided for 39
use in business when the true object of the transaction is the 40
receipt by the consumer of automatic data processing, computer 41
services, or electronic information services rather than the 42
receipt of personal or professional services to which automatic 43
data processing, computer services, or electronic information 44
services are incidental or supplemental. Notwithstanding any 45

other provision of this chapter, such transactions that occur 46
between members of an affiliated group are not sales. An 47
"affiliated group" means two or more persons related in such a 48
way that one person owns or controls the business operation of 49
another member of the group. In the case of corporations with 50
stock, one corporation owns or controls another if it owns more 51
than fifty per cent of the other corporation's common stock with 52
voting rights. 53

(f) Telecommunications service, including prepaid calling 54
service, prepaid wireless calling service, or ancillary service, 55
is or is to be provided, but not including coin-operated 56
telephone service; 57

(g) Landscaping and lawn care service is or is to be 58
provided; 59

(h) Private investigation and security service is or is to 60
be provided; 61

(i) Information services or tangible personal property is 62
provided or ordered by means of a nine hundred telephone call; 63

(j) Building maintenance and janitorial service is or is 64
to be provided; 65

(k) Exterminating service is or is to be provided; 66

(l) Physical fitness facility service is or is to be 67
provided; 68

(m) Recreation and sports club service is or is to be 69
provided; 70

(n) Satellite broadcasting service is or is to be 71
provided; 72

(o) Personal care service is or is to be provided to an 73
individual. As used in this division, "personal care service" 74
includes skin care, the application of cosmetics, manicuring, 75
pedicuring, hair removal, tattooing, body piercing, tanning, 76
massage, and other similar services. "Personal care service" 77
does not include a service provided by or on the order of a 78
licensed physician, certified nurse-midwife, clinical nurse 79
specialist, certified nurse practitioner, or chiropractor, or 80
the cutting, coloring, or styling of an individual's hair. 81

(p) The transportation of persons by motor vehicle or 82
aircraft is or is to be provided, when the transportation is 83
entirely within this state, except for transportation provided 84
by an ambulance service, by a transit bus, as defined in section 85
5735.01 of the Revised Code, and transportation provided by a 86
citizen of the United States holding a certificate of public 87
convenience and necessity issued under 49 U.S.C. 41102; 88

(q) Motor vehicle towing service is or is to be provided. 89
As used in this division, "motor vehicle towing service" means 90
the towing or conveyance of a wrecked, disabled, or illegally 91
parked motor vehicle. 92

(r) Snow removal service is or is to be provided. As used 93
in this division, "snow removal service" means the removal of 94
snow by any mechanized means, but does not include the providing 95
of such service by a person that has less than five thousand 96
dollars in sales of such service during the calendar year. 97

(s) Electronic publishing service is or is to be provided 98
to a consumer for use in business, except that such transactions 99
occurring between members of an affiliated group, as defined in 100
division (B) (3) (e) of this section, are not sales. 101

(4) All transactions by which printed, imprinted, 102
overprinted, lithographic, multilithic, blueprinted, 103
photostatic, or other productions or reproductions of written or 104
graphic matter are or are to be furnished or transferred; 105

(5) The production or fabrication of tangible personal 106
property for a consideration for consumers who furnish either 107
directly or indirectly the materials used in the production of 108
fabrication work; and include the furnishing, preparing, or 109
serving for a consideration of any tangible personal property 110
consumed on the premises of the person furnishing, preparing, or 111
serving such tangible personal property. Except as provided in 112
section 5739.03 of the Revised Code, a construction contract 113
pursuant to which tangible personal property is or is to be 114
incorporated into a structure or improvement on and becoming a 115
part of real property is not a sale of such tangible personal 116
property. The construction contractor is the consumer of such 117
tangible personal property, provided that the sale and 118
installation of carpeting, the sale and installation of 119
agricultural land tile, the sale and erection or installation of 120
portable grain bins, or the provision of landscaping and lawn 121
care service and the transfer of property as part of such 122
service is never a construction contract. 123

As used in division (B) (5) of this section: 124

(a) "Agricultural land tile" means fired clay or concrete 125
tile, or flexible or rigid perforated plastic pipe or tubing, 126
incorporated or to be incorporated into a subsurface drainage 127
system appurtenant to land used or to be used primarily in 128
production by farming, agriculture, horticulture, or 129
floriculture. The term does not include such materials when they 130
are or are to be incorporated into a drainage system appurtenant 131

to a building or structure even if the building or structure is 132
used or to be used in such production. 133

(b) "Portable grain bin" means a structure that is used or 134
to be used by a person engaged in farming or agriculture to 135
shelter the person's grain and that is designed to be 136
disassembled without significant damage to its component parts. 137

(6) All transactions in which all of the shares of stock 138
of a closely held corporation are transferred, or an ownership 139
interest in a pass-through entity, as defined in section 5733.04 140
of the Revised Code, is transferred, if the corporation or pass- 141
through entity is not engaging in business and its entire assets 142
consist of boats, planes, motor vehicles, or other tangible 143
personal property operated primarily for the use and enjoyment 144
of the shareholders or owners; 145

(7) All transactions in which a warranty, maintenance or 146
service contract, or similar agreement by which the vendor of 147
the warranty, contract, or agreement agrees to repair or 148
maintain the tangible personal property of the consumer is or is 149
to be provided; 150

(8) The transfer of copyrighted motion picture films used 151
solely for advertising purposes, except that the transfer of 152
such films for exhibition purposes is not a sale; 153

(9) All transactions by which tangible personal property 154
is or is to be stored, except such property that the consumer of 155
the storage holds for sale in the regular course of business; 156

(10) All transactions in which "guaranteed auto 157
protection" is provided whereby a person promises to pay to the 158
consumer the difference between the amount the consumer receives 159
from motor vehicle insurance and the amount the consumer owes to 160

a person holding title to or a lien on the consumer's motor 161
vehicle in the event the consumer's motor vehicle suffers a 162
total loss under the terms of the motor vehicle insurance policy 163
or is stolen and not recovered, if the protection and its price 164
are included in the purchase or lease agreement; 165

(11) (a) Except as provided in division (B) (11) (b) of this 166
section, all transactions by which health care services are paid 167
for, reimbursed, provided, delivered, arranged for, or otherwise 168
made available by a medicaid health insuring corporation 169
pursuant to the corporation's contract with the state. 170

(b) If the centers for medicare and medicaid services of 171
the United States department of health and human services 172
determines that the taxation of transactions described in 173
division (B) (11) (a) of this section constitutes an impermissible 174
health care-related tax under the "Social Security Act," section 175
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 176
the medicaid director shall notify the tax commissioner of that 177
determination. Beginning with the first day of the month 178
following that notification, the transactions described in 179
division (B) (11) (a) of this section are not sales for the 180
purposes of this chapter or Chapter 5741. of the Revised Code. 181
The tax commissioner shall order that the collection of taxes 182
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 183
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 184
for transactions occurring on or after that date. 185

(12) All transactions by which a specified digital product 186
is provided for permanent use or less than permanent use, 187
regardless of whether continued payment is required. 188

(13) All transactions by a delivery network company for 189
the company's delivery network services, provided the company 190

has a waiver issued under section 5741.072 of the Revised Code. 191

Except as provided in this section, "sale" and "selling" 192
do not include transfers of interest in leased property where 193
the original lessee and the terms of the original lease 194
agreement remain unchanged, or professional, insurance, or 195
personal service transactions that involve the transfer of 196
tangible personal property as an inconsequential element, for 197
which no separate charges are made. 198

(C) "Vendor" means the person providing the service or by 199
whom the transfer effected or license given by a sale is or is 200
to be made or given and, for sales described in division (B)(3) 201
(i) of this section, the telecommunications service vendor that 202
provides the nine hundred telephone service; if two or more 203
persons are engaged in business at the same place of business 204
under a single trade name in which all collections on account of 205
sales by each are made, such persons shall constitute a single 206
vendor. 207

Physicians, certified nurse-midwives, clinical nurse 208
specialists, certified nurse practitioners, dentists, hospitals, 209
and veterinarians who are engaged in selling tangible personal 210
property as received from others, such as eyeglasses, 211
mouthwashes, dentifrices, or similar articles, are vendors. 212
Veterinarians who are engaged in transferring to others for a 213
consideration drugs, the dispensing of which does not require an 214
order of a licensed veterinarian, physician, certified nurse- 215
midwife, clinical nurse specialist, or certified nurse 216
practitioner 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, certified nurse-midwives, clinical nurse 225
specialists, certified nurse practitioners, dentists, hospitals, 226
and blood banks operated by nonprofit institutions and persons 227
licensed to practice veterinary medicine, surgery, and dentistry 228
are consumers of all tangible personal property and services 229
purchased by them in connection with the practice of medicine, 230
dentistry, the rendition of hospital or blood bank service, or 231
the practice of veterinary medicine, surgery, and dentistry. In 232
addition to being consumers of drugs administered by them or by 233
their assistants according to their direction, veterinarians 234
also are consumers of drugs that under federal law may be 235
dispensed only by or upon the order of a licensed veterinarian, 236
physician, certified nurse-midwife, clinical nurse specialist, 237
or certified nurse practitioner, when transferred by them to 238
others for a consideration to provide treatment to animals as 239
directed by the veterinarian. 240

(3) A person who performs a facility management, or 241
similar service contract for a contractee is a consumer of all 242
tangible personal property and services purchased for use in 243
connection with the performance of such contract, regardless of 244
whether title to any such property vests in the contractee. The 245
purchase of such property and services is not subject to the 246
exception for resale under division (E) of this section. 247

(4) (a) In the case of a person who purchases printed 248
matter for the purpose of distributing it or having it 249

distributed to the public or to a designated segment of the 250
public, free of charge, that person is the consumer of that 251
printed matter, and the purchase of that printed matter for that 252
purpose is a sale. 253

(b) In the case of a person who produces, rather than 254
purchases, printed matter for the purpose of distributing it or 255
having it distributed to the public or to a designated segment 256
of the public, free of charge, that person is the consumer of 257
all tangible personal property and services purchased for use or 258
consumption in the production of that printed matter. That 259
person is not entitled to claim exemption under division (B) (42) 260
(f) of section 5739.02 of the Revised Code for any material 261
incorporated into the printed matter or any equipment, supplies, 262
or services primarily used to produce the printed matter. 263

(c) The distribution of printed matter to the public or to 264
a designated segment of the public, free of charge, is not a 265
sale to the members of the public to whom the printed matter is 266
distributed or to any persons who purchase space in the printed 267
matter for advertising or other purposes. 268

(5) A person who makes sales of any of the services listed 269
in division (B) (3) of this section is the consumer of any 270
tangible personal property used in performing the service. The 271
purchase of that property is not subject to the resale exception 272
under division (E) of this section. 273

(6) A person who engages in highway transportation for 274
hire is the consumer of all packaging materials purchased by 275
that person and used in performing the service, except for 276
packaging materials sold by such person in a transaction 277
separate from the service. 278

(7) In the case of a transaction for health care services 279
under division (B) (11) of this section, a medicaid health 280
insuring corporation is the consumer of such services. The 281
purchase of such services by a medicaid health insuring 282
corporation is not subject to the exception for resale under 283
division (E) of this section or to the exemptions provided under 284
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 285
the Revised Code. 286

(E) "Retail sale" and "sales at retail" include all sales, 287
except those in which the purpose of the consumer is to resell 288
the thing transferred or benefit of the service provided, by a 289
person engaging in business, in the form in which the same is, 290
or is to be, received by the person. 291

(F) "Business" includes any activity engaged in by any 292
person with the object of gain, benefit, or advantage, either 293
direct or indirect. "Business" does not include the activity of 294
a person in managing and investing the person's own funds. 295

(G) "Engaging in business" means commencing, conducting, 296
or continuing in business, and liquidating a business when the 297
liquidator thereof holds itself out to the public as conducting 298
such business. Making a casual sale is not engaging in business. 299

(H) (1) (a) "Price," except as provided in divisions (H) (2), 300
(3), and (4) of this section, means the total amount of 301
consideration, including cash, credit, property, and services, 302
for which tangible personal property or services are sold, 303
leased, or rented, valued in money, whether received in money or 304
otherwise, without any deduction for any of the following: 305

(i) The vendor's cost of the property sold; 306

(ii) The cost of materials used, labor or service costs, 307

interest, losses, all costs of transportation to the vendor, all 308
taxes imposed on the vendor, including the tax imposed under 309
Chapter 5751. of the Revised Code, and any other expense of the 310
vendor; 311

(iii) Charges by the vendor for any services necessary to 312
complete the sale; 313

(iv) Delivery charges. As used in this division, "delivery 314
charges" means charges by the vendor for preparation and 315
delivery to a location designated by the consumer of tangible 316
personal property or a service, including transportation, 317
shipping, postage, handling, crating, and packing. 318

(v) Installation charges; 319

(vi) Credit for any trade-in. 320

(b) "Price" includes consideration received by the vendor 321
from a third party, if the vendor actually receives the 322
consideration from a party other than the consumer, and the 323
consideration is directly related to a price reduction or 324
discount on the sale; the vendor has an obligation to pass the 325
price reduction or discount through to the consumer; the amount 326
of the consideration attributable to the sale is fixed and 327
determinable by the vendor at the time of the sale of the item 328
to the consumer; and one of the following criteria is met: 329

(i) The consumer presents a coupon, certificate, or other 330
document to the vendor to claim a price reduction or discount 331
where the coupon, certificate, or document is authorized, 332
distributed, or granted by a third party with the understanding 333
that the third party will reimburse any vendor to whom the 334
coupon, certificate, or document is presented; 335

(ii) The consumer identifies the consumer's self to the 336

seller as a member of a group or organization entitled to a 337
price reduction or discount. A preferred customer card that is 338
available to any patron does not constitute membership in such a 339
group or organization. 340

(iii) The price reduction or discount is identified as a 341
third party price reduction or discount on the invoice received 342
by the consumer, or on a coupon, certificate, or other document 343
presented by the consumer. 344

(c) "Price" does not include any of the following: 345

(i) Discounts, including cash, term, or coupons that are 346
not reimbursed by a third party that are allowed by a vendor and 347
taken by a consumer on a sale; 348

(ii) Interest, financing, and carrying charges from credit 349
extended on the sale of tangible personal property or services, 350
if the amount is separately stated on the invoice, bill of sale, 351
or similar document given to the purchaser; 352

(iii) Any taxes legally imposed directly on the consumer 353
that are separately stated on the invoice, bill of sale, or 354
similar document given to the consumer. For the purpose of this 355
division, the tax imposed under Chapter 5751. of the Revised 356
Code is not a tax directly on the consumer, even if the tax or a 357
portion thereof is separately stated. 358

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 359
this section, any discount allowed by an automobile manufacturer 360
to its employee, or to the employee of a supplier, on the 361
purchase of a new motor vehicle from a new motor vehicle dealer 362
in this state. 363

(v) The dollar value of a gift card that is not sold by a 364
vendor or purchased by a consumer and that is redeemed by the 365

consumer in purchasing tangible personal property or services if 366
the vendor is not reimbursed and does not receive compensation 367
from a third party to cover all or part of the gift card value. 368
For the purposes of this division, a gift card is not sold by a 369
vendor or purchased by a consumer if it is distributed pursuant 370
to an awards, loyalty, or promotional program. Past and present 371
purchases of tangible personal property or services by the 372
consumer shall not be treated as consideration exchanged for a 373
gift card. 374

(2) In the case of a sale of any new motor vehicle by a 375
new motor vehicle dealer, as defined in section 4517.01 of the 376
Revised Code, in which another motor vehicle is accepted by the 377
dealer as part of the consideration received, "price" has the 378
same meaning as in division (H) (1) of this section, reduced by 379
the credit afforded the consumer by the dealer for the motor 380
vehicle received in trade. 381

(3) In the case of a sale of any watercraft or outboard 382
motor by a watercraft dealer licensed in accordance with section 383
1547.543 of the Revised Code, in which another watercraft, 384
watercraft and trailer, or outboard motor is accepted by the 385
dealer as part of the consideration received, "price" has the 386
same meaning as in division (H) (1) of this section, reduced by 387
the credit afforded the consumer by the dealer for the 388
watercraft, watercraft and trailer, or outboard motor received 389
in trade. As used in this division, "watercraft" includes an 390
outdrive unit attached to the watercraft. 391

(4) In the case of transactions for health care services 392
under division (B) (11) of this section, "price" means the amount 393
of managed care premiums received each month by a medicaid 394
health insuring corporation. 395

(I) "Receipts" means the total amount of the prices of the 396
sales of vendors, provided that the dollar value of gift cards 397
distributed pursuant to an awards, loyalty, or promotional 398
program, and cash discounts allowed and taken on sales at the 399
time they are consummated are not included, minus any amount 400
deducted as a bad debt pursuant to section 5739.121 of the 401
Revised Code. "Receipts" does not include the sale price of 402
property returned or services rejected by consumers when the 403
full sale price and tax are refunded either in cash or by 404
credit. 405

(J) "Place of business" means any location at which a 406
person engages in business. 407

(K) "Premises" includes any real property or portion 408
thereof upon which any person engages in selling tangible 409
personal property at retail or making retail sales and also 410
includes any real property or portion thereof designated for, or 411
devoted to, use in conjunction with the business engaged in by 412
such person. 413

(L) "Casual sale" means a sale of an item of tangible 414
personal property that was obtained by the person making the 415
sale, through purchase or otherwise, for the person's own use 416
and was previously subject to any state's taxing jurisdiction on 417
its sale or use, and includes such items acquired for the 418
seller's use that are sold by an auctioneer employed directly by 419
the person for such purpose, provided the location of such sales 420
is not the auctioneer's permanent place of business. As used in 421
this division, "permanent place of business" includes any 422
location where such auctioneer has conducted more than two 423
auctions during the year. 424

(M) "Hotel" means every establishment kept, used, 425

maintained, advertised, or held out to the public to be a place 426
where sleeping accommodations are offered to guests, in which 427
five or more rooms are used for the accommodation of such 428
guests, whether the rooms are in one or several structures, 429
except as otherwise provided in section 5739.091 of the Revised 430
Code. 431

(N) "Transient guests" means persons occupying a room or 432
rooms for sleeping accommodations for less than thirty 433
consecutive days. 434

(O) "Making retail sales" means the effecting of 435
transactions wherein one party is obligated to pay the price and 436
the other party is obligated to provide a service or to transfer 437
title to or possession of the item sold. "Making retail sales" 438
does not include the preliminary acts of promoting or soliciting 439
the retail sales, other than the distribution of printed matter 440
which displays or describes and prices the item offered for 441
sale, nor does it include delivery of a predetermined quantity 442
of tangible personal property or transportation of property or 443
personnel to or from a place where a service is performed. 444

(P) "Used directly in the rendition of a public utility 445
service" means that property that is to be incorporated into and 446
will become a part of the consumer's production, transmission, 447
transportation, or distribution system and that retains its 448
classification as tangible personal property after such 449
incorporation; fuel or power used in the production, 450
transmission, transportation, or distribution system; and 451
tangible personal property used in the repair and maintenance of 452
the production, transmission, transportation, or distribution 453
system, including only such motor vehicles as are specially 454
designed and equipped for such use. Tangible personal property 455

and services used primarily in providing highway transportation 456
for hire are not used directly in the rendition of a public 457
utility service. In this definition, "public utility" includes a 458
citizen of the United States holding, and required to hold, a 459
certificate of public convenience and necessity issued under 49 460
U.S.C. 41102. 461

(Q) "Refining" means removing or separating a desirable 462
product from raw or contaminated materials by distillation or 463
physical, mechanical, or chemical processes. 464

(R) "Assembly" and "assembling" mean attaching or fitting 465
together parts to form a product, but do not include packaging a 466
product. 467

(S) "Manufacturing operation" means a process in which 468
materials are changed, converted, or transformed into a 469
different state or form from which they previously existed and 470
includes refining materials, assembling parts, and preparing raw 471
materials and parts by mixing, measuring, blending, or otherwise 472
committing such materials or parts to the manufacturing process. 473
"Manufacturing operation" does not include packaging. 474

(T) "Fiscal officer" means, with respect to a regional 475
transit authority, the secretary-treasurer thereof, and with 476
respect to a county that is a transit authority, the fiscal 477
officer of the county transit board if one is appointed pursuant 478
to section 306.03 of the Revised Code or the county auditor if 479
the board of county commissioners operates the county transit 480
system. 481

(U) "Transit authority" means a regional transit authority 482
created pursuant to section 306.31 of the Revised Code or a 483
county in which a county transit system is created pursuant to 484

section 306.01 of the Revised Code. For the purposes of this 485
chapter, a transit authority must extend to at least the entire 486
area of a single county. A transit authority that includes 487
territory in more than one county must include all the area of 488
the most populous county that is a part of such transit 489
authority. County population shall be measured by the most 490
recent census taken by the United States census bureau. 491

(V) "Legislative authority" means, with respect to a 492
regional transit authority, the board of trustees thereof, and 493
with respect to a county that is a transit authority, the board 494
of county commissioners. 495

(W) "Territory of the transit authority" means all of the 496
area included within the territorial boundaries of a transit 497
authority as they from time to time exist. Such territorial 498
boundaries must at all times include all the area of a single 499
county or all the area of the most populous county that is a 500
part of such transit authority. County population shall be 501
measured by the most recent census taken by the United States 502
census bureau. 503

(X) "Providing a service" means providing or furnishing 504
anything described in division (B) (3) of this section for 505
consideration. 506

(Y) (1) (a) "Automatic data processing" means processing of 507
others' data, including keypunching or similar data entry 508
services together with verification thereof, or providing access 509
to computer equipment for the purpose of processing data. 510

(b) "Computer services" means providing services 511
consisting of specifying computer hardware configurations and 512
evaluating technical processing characteristics, computer 513

programming, and training of computer programmers and operators, 514
provided in conjunction with and to support the sale, lease, or 515
operation of taxable computer equipment or systems. 516

(c) "Electronic information services" means providing 517
access to computer equipment by means of telecommunications 518
equipment for the purpose of either of the following: 519

(i) Examining or acquiring data stored in or accessible to 520
the computer equipment; 521

(ii) Placing data into the computer equipment to be 522
retrieved by designated recipients with access to the computer 523
equipment. 524

"Electronic information services" does not include 525
electronic publishing. 526

(d) "Automatic data processing, computer services, or 527
electronic information services" shall not include personal or 528
professional services. 529

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 530
section, "personal and professional services" means all services 531
other than automatic data processing, computer services, or 532
electronic information services, including but not limited to: 533

(a) Accounting and legal services such as advice on tax 534
matters, asset management, budgetary matters, quality control, 535
information security, and auditing and any other situation where 536
the service provider receives data or information and studies, 537
alters, analyzes, interprets, or adjusts such material; 538

(b) Analyzing business policies and procedures; 539

(c) Identifying management information needs; 540

(d) Feasibility studies, including economic and technical 541
analysis of existing or potential computer hardware or software 542
needs and alternatives; 543

(e) Designing policies, procedures, and custom software 544
for collecting business information, and determining how data 545
should be summarized, sequenced, formatted, processed, 546
controlled, and reported so that it will be meaningful to 547
management; 548

(f) Developing policies and procedures that document how 549
business events and transactions are to be authorized, executed, 550
and controlled; 551

(g) Testing of business procedures; 552

(h) Training personnel in business procedure applications; 553

(i) Providing credit information to users of such 554
information by a consumer reporting agency, as defined in the 555
"Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 556
U.S.C. 1681a(f), or as hereafter amended, including but not 557
limited to gathering, organizing, analyzing, recording, and 558
furnishing such information by any oral, written, graphic, or 559
electronic medium; 560

(j) Providing debt collection services by any oral, 561
written, graphic, or electronic means; 562

(k) Providing digital advertising services; 563

(l) Providing services to electronically file any federal, 564
state, or local individual income tax return, report, or other 565
related document or schedule with a federal, state, or local 566
government entity or to electronically remit a payment of any 567
such individual income tax to such an entity. For the purpose of 568

this division, "individual income tax" does not include federal, 569
state, or local taxes withheld by an employer from an employee's 570
compensation. 571

The services listed in divisions (Y) (2) (a) to (l) of this 572
section are not automatic data processing or computer services. 573

(Z) "Highway transportation for hire" means the 574
transportation of personal property belonging to others for 575
consideration by any of the following: 576

(1) The holder of a permit or certificate issued by this 577
state or the United States authorizing the holder to engage in 578
transportation of personal property belonging to others for 579
consideration over or on highways, roadways, streets, or any 580
similar public thoroughfare; 581

(2) A person who engages in the transportation of personal 582
property belonging to others for consideration over or on 583
highways, roadways, streets, or any similar public thoroughfare 584
but who could not have engaged in such transportation on 585
December 11, 1985, unless the person was the holder of a permit 586
or certificate of the types described in division (Z) (1) of this 587
section; 588

(3) A person who leases a motor vehicle to and operates it 589
for a person described by division (Z) (1) or (2) of this 590
section. 591

"Highway transportation for hire" does not include 592
delivery network services. 593

(AA) (1) "Telecommunications service" means the electronic 594
transmission, conveyance, or routing of voice, data, audio, 595
video, or any other information or signals to a point, or 596
between or among points. "Telecommunications service" includes 597

such transmission, conveyance, or routing in which computer 598
processing applications are used to act on the form, code, or 599
protocol of the content for purposes of transmission, 600
conveyance, or routing without regard to whether the service is 601
referred to as voice-over internet protocol service or is 602
classified by the federal communications commission as enhanced 603
or value-added. "Telecommunications service" does not include 604
any of the following: 605

(a) Data processing and information services that allow 606
data to be generated, acquired, stored, processed, or retrieved 607
and delivered by an electronic transmission to a consumer where 608
the consumer's primary purpose for the underlying transaction is 609
the processed data or information; 610

(b) Installation or maintenance of wiring or equipment on 611
a customer's premises; 612

(c) Tangible personal property; 613

(d) Advertising, including directory advertising; 614

(e) Billing and collection services provided to third 615
parties; 616

(f) Internet access service; 617

(g) Radio and television audio and video programming 618
services, regardless of the medium, including the furnishing of 619
transmission, conveyance, and routing of such services by the 620
programming service provider. Radio and television audio and 621
video programming services include, but are not limited to, 622
cable service, as defined in 47 U.S.C. 522(6), and audio and 623
video programming services delivered by commercial mobile radio 624
service providers, as defined in 47 C.F.R. 20.3; 625

(h) Ancillary service; 626

(i) Digital products delivered electronically, including 627
software, music, video, reading materials, or ring tones. 628

(2) "Ancillary service" means a service that is associated 629
with or incidental to the provision of telecommunications 630
service, including conference bridging service, detailed 631
telecommunications billing service, directory assistance, 632
vertical service, and voice mail service. As used in this 633
division: 634

(a) "Conference bridging service" means an ancillary 635
service that links two or more participants of an audio or video 636
conference call, including providing a telephone number. 637
"Conference bridging service" does not include 638
telecommunications services used to reach the conference bridge. 639

(b) "Detailed telecommunications billing service" means an 640
ancillary service of separately stating information pertaining 641
to individual calls on a customer's billing statement. 642

(c) "Directory assistance" means an ancillary service of 643
providing telephone number or address information. 644

(d) "Vertical service" means an ancillary service that is 645
offered in connection with one or more telecommunications 646
services, which offers advanced calling features that allow 647
customers to identify callers and manage multiple calls and call 648
connections, including conference bridging service. 649

(e) "Voice mail service" means an ancillary service that 650
enables the customer to store, send, or receive recorded 651
messages. "Voice mail service" does not include any vertical 652
services that the customer may be required to have in order to 653
utilize the voice mail service. 654

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

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

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

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

(7) "Coin-operated telephone service" means a 685
telecommunications service paid for by inserting money into a 686
telephone accepting direct deposits of money to operate. 687

(8) "Customer" has the same meaning as in section 5739.034 688
of the Revised Code. 689

(BB) "Laundry and dry cleaning services" means removing 690
soil or dirt from towels, linens, articles of clothing, or other 691
fabric items that belong to others and supplying towels, linens, 692
articles of clothing, or other fabric items. "Laundry and dry 693
cleaning services" does not include the provision of self- 694
service facilities for use by consumers to remove soil or dirt 695
from towels, linens, articles of clothing, or other fabric 696
items. 697

(CC) "Magazines distributed as controlled circulation 698
publications" means magazines containing at least twenty-four 699
pages, at least twenty-five per cent editorial content, issued 700
at regular intervals four or more times a year, and circulated 701
without charge to the recipient, provided that such magazines 702
are not owned or controlled by individuals or business concerns 703
which conduct such publications as an auxiliary to, and 704
essentially for the advancement of the main business or calling 705
of, those who own or control them. 706

(DD) "Landscaping and lawn care service" means the 707
services of planting, seeding, sodding, removing, cutting, 708
trimming, pruning, mulching, aerating, applying chemicals, 709
watering, fertilizing, and providing similar services to 710
establish, promote, or control the growth of trees, shrubs, 711
flowers, grass, ground cover, and other flora, or otherwise 712
maintaining a lawn or landscape grown or maintained by the owner 713
for ornamentation or other nonagricultural purpose. However, 714

"landscaping and lawn care service" does not include the 715
providing of such services by a person who has less than five 716
thousand dollars in sales of such services during the calendar 717
year. 718

(EE) "Private investigation and security service" means 719
the performance of any activity for which the provider of such 720
service is required to be licensed pursuant to Chapter 4749. of 721
the Revised Code, or would be required to be so licensed in 722
performing such services in this state, and also includes the 723
services of conducting polygraph examinations and of monitoring 724
or overseeing the activities on or in, or the condition of, the 725
consumer's home, business, or other facility by means of 726
electronic or similar monitoring devices. "Private investigation 727
and security service" does not include special duty services 728
provided by off-duty police officers, deputy sheriffs, and other 729
peace officers regularly employed by the state or a political 730
subdivision. 731

(FF) "Information services" means providing conversation, 732
giving consultation or advice, playing or making a voice or 733
other recording, making or keeping a record of the number of 734
callers, and any other service provided to a consumer by means 735
of a nine hundred telephone call, except when the nine hundred 736
telephone call is the means by which the consumer makes a 737
contribution to a recognized charity. 738

(GG) "Research and development" means designing, creating, 739
or formulating new or enhanced products, equipment, or 740
manufacturing processes, and also means conducting scientific or 741
technological inquiry and experimentation in the physical 742
sciences with the goal of increasing scientific knowledge which 743
may reveal the bases for new or enhanced products, equipment, or 744

manufacturing processes. 745

(HH) "Qualified research and development equipment" means 746
either of the following: 747

(1) Capitalized tangible personal property, and leased 748
personal property that would be capitalized if purchased, used 749
by a person primarily to perform research and development; 750

(2) Any tangible personal property used by a megaproject 751
operator primarily to perform research and development at the 752
site of a megaproject that satisfies the criteria described in 753
division (A) (11) (a) (ii) of section 122.17 of the Revised Code 754
during the period that the megaproject operator has an agreement 755
for such megaproject with the tax credit authority under 756
division (D) of that section that remains in effect and has not 757
expired or been terminated. 758

"Qualified research and development equipment" does not 759
include tangible personal property primarily used in testing, as 760
defined in division (A) (4) of section 5739.011 of the Revised 761
Code, or used for recording or storing test results, unless such 762
property is primarily used by the consumer in testing the 763
product, equipment, or manufacturing process being created, 764
designed, or formulated by the consumer in the research and 765
development activity or in recording or storing such test 766
results. 767

(II) "Building maintenance and janitorial service" means 768
cleaning the interior or exterior of a building and any tangible 769
personal property located therein or thereon, including any 770
services incidental to such cleaning for which no separate 771
charge is made. However, "building maintenance and janitorial 772
service" does not include the providing of such service by a 773

person who has less than five thousand dollars in sales of such 774
service during the calendar year. As used in this division, 775
"cleaning" does not include sanitation services necessary for an 776
establishment described in 21 U.S.C. 608 to comply with rules 777
and regulations adopted pursuant to that section. 778

(JJ) "Exterminating service" means eradicating or 779
attempting to eradicate vermin infestations from a building or 780
structure, or the area surrounding a building or structure, and 781
includes activities to inspect, detect, or prevent vermin 782
infestation of a building or structure. 783

(KK) "Physical fitness facility service" means all 784
transactions by which a membership is granted, maintained, or 785
renewed, including initiation fees, membership dues, renewal 786
fees, monthly minimum fees, and other similar fees and dues, by 787
a physical fitness facility such as an athletic club, health 788
spa, or gymnasium, which entitles the member to use the facility 789
for physical exercise. 790

(LL) "Recreation and sports club service" means all 791
transactions by which a membership is granted, maintained, or 792
renewed, including initiation fees, membership dues, renewal 793
fees, monthly minimum fees, and other similar fees and dues, by 794
a recreation and sports club, which entitles the member to use 795
the facilities of the organization. "Recreation and sports club" 796
means an organization that has ownership of, or controls or 797
leases on a continuing, long-term basis, the facilities used by 798
its members and includes an aviation club, gun or shooting club, 799
yacht club, card club, swimming club, tennis club, golf club, 800
country club, riding club, amateur sports club, or similar 801
organization. 802

(MM) "Livestock" means farm animals commonly raised for 803

food, food production, or other agricultural purposes, 804
including, but not limited to, cattle, sheep, goats, swine, 805
poultry, and captive deer. "Livestock" does not include 806
invertebrates, amphibians, reptiles, domestic pets, animals for 807
use in laboratories or for exhibition, or other animals not 808
commonly raised for food or food production. 809

(NN) "Livestock structure" means a building or structure 810
used exclusively for the housing, raising, feeding, or 811
sheltering of livestock, and includes feed storage or handling 812
structures and structures for livestock waste handling. 813

(OO) "Horticulture" means the growing, cultivation, and 814
production of flowers, fruits, herbs, vegetables, sod, 815
mushrooms, and nursery stock. As used in this division, "nursery 816
stock" has the same meaning as in section 927.51 of the Revised 817
Code. 818

(PP) "Horticulture structure" means a building or 819
structure used exclusively for the commercial growing, raising, 820
or overwintering of horticultural products, and includes the 821
area used for stocking, storing, and packing horticultural 822
products when done in conjunction with the production of those 823
products. 824

(QQ) "Newspaper" means an unbound publication bearing a 825
title or name that is regularly published, at least as 826
frequently as biweekly, and distributed from a fixed place of 827
business to the public in a specific geographic area, and that 828
contains a substantial amount of news matter of international, 829
national, or local events of interest to the general public. 830

(RR) (1) "Feminine hygiene products" means tampons, panty 831
liners, menstrual cups, sanitary napkins, and other similar 832

tangible personal property designed for feminine hygiene in 833
connection with the human menstrual cycle, but does not include 834
grooming and hygiene products. 835

(2) "Grooming and hygiene products" means soaps and 836
cleaning solutions, shampoo, toothpaste, mouthwash, 837
antiperspirants, and sun tan lotions and screens, regardless of 838
whether any of these products are over-the-counter drugs. 839

(3) "Over-the-counter drugs" means a drug that contains a 840
label that identifies the product as a drug as required by 21 841
C.F.R. 201.66, which label includes a drug facts panel or a 842
statement of the active ingredients with a list of those 843
ingredients contained in the compound, substance, or 844
preparation. 845

(SS) (1) "Lease" or "rental" means any transfer of the 846
possession or control of tangible personal property for a fixed 847
or indefinite term, for consideration. "Lease" or "rental" 848
includes future options to purchase or extend, and agreements 849
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 850
trailers where the amount of consideration may be increased or 851
decreased by reference to the amount realized upon the sale or 852
disposition of the property. "Lease" or "rental" does not 853
include: 854

(a) A transfer of possession or control of tangible 855
personal property under a security agreement or a deferred 856
payment plan that requires the transfer of title upon completion 857
of the required payments; 858

(b) A transfer of possession or control of tangible 859
personal property under an agreement that requires the transfer 860
of title upon completion of required payments and payment of an 861

option price that does not exceed the greater of one hundred 862
dollars or one per cent of the total required payments; 863

(c) Providing tangible personal property along with an 864
operator for a fixed or indefinite period of time, if the 865
operator is necessary for the property to perform as designed. 866
For purposes of this division, the operator must do more than 867
maintain, inspect, or set up the tangible personal property. 868

(2) "Lease" and "rental," as defined in division (SS) of 869
this section, shall not apply to leases or rentals that exist 870
before June 26, 2003. 871

(3) "Lease" and "rental" have the same meaning as in 872
division (SS) (1) of this section regardless of whether a 873
transaction is characterized as a lease or rental under 874
generally accepted accounting principles, the Internal Revenue 875
Code, Title XIII of the Revised Code, or other federal, state, 876
or local laws. 877

(TT) "Mobile telecommunications service" has the same 878
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 879
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 880
amended, and, on and after August 1, 2003, includes related fees 881
and ancillary services, including universal service fees, 882
detailed billing service, directory assistance, service 883
initiation, voice mail service, and vertical services, such as 884
caller ID and three-way calling. 885

(UU) "Certified service provider" has the same meaning as 886
in section 5740.01 of the Revised Code. 887

(VV) "Satellite broadcasting service" means the 888
distribution or broadcasting of programming or services by 889
satellite directly to the subscriber's receiving equipment 890

without the use of ground receiving or distribution equipment, 891
except the subscriber's receiving equipment or equipment used in 892
the uplink process to the satellite, and includes all service 893
and rental charges, premium channels or other special services, 894
installation and repair service charges, and any other charges 895
having any connection with the provision of the satellite 896
broadcasting service. 897

(WW) "Tangible personal property" means personal property 898
that can be seen, weighed, measured, felt, or touched, or that 899
is in any other manner perceptible to the senses. For purposes 900
of this chapter and Chapter 5741. of the Revised Code, "tangible 901
personal property" includes motor vehicles, electricity, water, 902
gas, steam, and prewritten computer software. 903

(XX) "Municipal gas utility" means a municipal corporation 904
that owns or operates a system for the distribution of natural 905
gas. 906

(YY) "Computer" means an electronic device that accepts 907
information in digital or similar form and manipulates it for a 908
result based on a sequence of instructions. 909

(ZZ) "Computer software" means a set of coded instructions 910
designed to cause a computer or automatic data processing 911
equipment to perform a task. 912

(AAA) "Delivered electronically" means delivery of 913
computer software from the seller to the purchaser by means 914
other than tangible storage media. 915

(BBB) "Prewritten computer software" means computer 916
software, including prewritten upgrades, that is not designed 917
and developed by the author or other creator to the 918
specifications of a specific purchaser. The combining of two or 919

more prewritten computer software programs or prewritten 920
portions thereof does not cause the combination to be other than 921
prewritten computer software. "Prewritten computer software" 922
includes software designed and developed by the author or other 923
creator to the specifications of a specific purchaser when it is 924
sold to a person other than the purchaser. If a person modifies 925
or enhances computer software of which the person is not the 926
author or creator, the person shall be deemed to be the author 927
or creator only of such person's modifications or enhancements. 928
Prewritten computer software or a prewritten portion thereof 929
that is modified or enhanced to any degree, where such 930
modification or enhancement is designed and developed to the 931
specifications of a specific purchaser, remains prewritten 932
computer software; provided, however, that where there is a 933
reasonable, separately stated charge or an invoice or other 934
statement of the price given to the purchaser for the 935
modification or enhancement, the modification or enhancement 936
shall not constitute prewritten computer software. 937

(CCC) (1) "Food" means substances, whether in liquid, 938
concentrated, solid, frozen, dried, or dehydrated form, that are 939
sold for ingestion or chewing by humans and are consumed for 940
their taste or nutritional value. "Food" does not include 941
alcoholic beverages, dietary supplements, soft drinks, or 942
tobacco. 943

(2) As used in division (CCC) (1) of this section: 944

(a) "Dietary supplements" means any product, other than 945
tobacco, that is intended to supplement the diet and that is 946
intended for ingestion in tablet, capsule, powder, softgel, 947
gelcap, or liquid form, or, if not intended for ingestion in 948
such a form, is not represented as conventional food for use as 949

a sole item of a meal or of the diet; that is required to be 950
labeled as a dietary supplement, identifiable by the "supplement 951
facts" box found on the label, as required by 21 C.F.R. 101.36; 952
and that contains one or more of the following dietary 953
ingredients: 954

(i) A vitamin; 955

(ii) A mineral; 956

(iii) An herb or other botanical; 957

(iv) An amino acid; 958

(v) A dietary substance for use by humans to supplement 959
the diet by increasing the total dietary intake; 960

(vi) A concentrate, metabolite, constituent, extract, or 961
combination of any ingredient described in divisions (CCC) (2) (a) 962
(i) to (v) of this section. 963

(b) "Soft drinks" means nonalcoholic beverages that 964
contain natural or artificial sweeteners. "Soft drinks" does not 965
include beverages that contain milk or milk products, soy, rice, 966
or similar milk substitutes, or that contains greater than fifty 967
per cent vegetable or fruit juice by volume. 968

(DDD) "Drug" means a compound, substance, or preparation, 969
and any component of a compound, substance, or preparation, 970
other than food, dietary supplements, or alcoholic beverages 971
that is recognized in the official United States pharmacopoeia, 972
official homeopathic pharmacopoeia of the United States, or 973
official national formulary, and supplements to them; is 974
intended for use in the diagnosis, cure, mitigation, treatment, 975
or prevention of disease; or is intended to affect the structure 976
or any function of the body. 977

(EEE) "Prescription" means an order, formula, or recipe 978
issued in any form of oral, written, electronic, or other means 979
of transmission by a duly licensed practitioner authorized by 980
the laws of this state to issue a prescription. 981

(FFF) "Durable medical equipment" means equipment, 982
including repair and replacement parts for such equipment, that 983
can withstand repeated use, is primarily and customarily used to 984
serve a medical purpose, generally is not useful to a person in 985
the absence of illness or injury, and is not worn in or on the 986
body. "Durable medical equipment" does not include mobility 987
enhancing equipment. 988

(GGG) "Mobility enhancing equipment" means equipment, 989
including repair and replacement parts for such equipment, that 990
is primarily and customarily used to provide or increase the 991
ability to move from one place to another and is appropriate for 992
use either in a home or a motor vehicle, that is not generally 993
used by persons with normal mobility, and that does not include 994
any motor vehicle or equipment on a motor vehicle normally 995
provided by a motor vehicle manufacturer. "Mobility enhancing 996
equipment" does not include durable medical equipment. 997

(HHH) "Prosthetic device" means a replacement, corrective, 998
or supportive device, including repair and replacement parts for 999
the device, worn on or in the human body to artificially replace 1000
a missing portion of the body, prevent or correct physical 1001
deformity or malfunction, or support a weak or deformed portion 1002
of the body. As used in this division, before July 1, 2019, 1003
"prosthetic device" does not include corrective eyeglasses, 1004
contact lenses, or dental prosthesis. On or after July 1, 2019, 1005
"prosthetic device" does not include dental prosthesis but does 1006
include corrective eyeglasses or contact lenses. 1007

(III) (1) "Fractional aircraft ownership program" means a 1008
program in which persons within an affiliated group sell and 1009
manage fractional ownership program aircraft, provided that at 1010
least one hundred airworthy aircraft are operated in the program 1011
and the program meets all of the following criteria: 1012

(a) Management services are provided by at least one 1013
program manager within an affiliated group on behalf of the 1014
fractional owners. 1015

(b) Each program aircraft is owned or possessed by at 1016
least one fractional owner. 1017

(c) Each fractional owner owns or possesses at least a 1018
one-sixteenth interest in at least one fixed-wing program 1019
aircraft. 1020

(d) A dry-lease aircraft interchange arrangement is in 1021
effect among all of the fractional owners. 1022

(e) Multi-year program agreements are in effect regarding 1023
the fractional ownership, management services, and dry-lease 1024
aircraft interchange arrangement aspects of the program. 1025

(2) As used in division (III) (1) of this section: 1026

(a) "Affiliated group" has the same meaning as in division 1027
(B) (3) (e) of this section. 1028

(b) "Fractional owner" means a person that owns or 1029
possesses at least a one-sixteenth interest in a program 1030
aircraft and has entered into the agreements described in 1031
division (III) (1) (e) of this section. 1032

(c) "Fractional ownership program aircraft" or "program 1033
aircraft" means a turbojet aircraft that is owned or possessed 1034
by a fractional owner and that has been included in a dry-lease 1035

aircraft interchange arrangement and agreement under divisions 1036
(III) (1) (d) and (e) of this section, or an aircraft a program 1037
manager owns or possesses primarily for use in a fractional 1038
aircraft ownership program. 1039

(d) "Management services" means administrative and 1040
aviation support services furnished under a fractional aircraft 1041
ownership program in accordance with a management services 1042
agreement under division (III) (1) (e) of this section, and 1043
offered by the program manager to the fractional owners, 1044
including, at a minimum, the establishment and implementation of 1045
safety guidelines; the coordination of the scheduling of the 1046
program aircraft and crews; program aircraft maintenance; 1047
program aircraft insurance; crew training for crews employed, 1048
furnished, or contracted by the program manager or the 1049
fractional owner; the satisfaction of record-keeping 1050
requirements; and the development and use of an operations 1051
manual and a maintenance manual for the fractional aircraft 1052
ownership program. 1053

(e) "Program manager" means the person that offers 1054
management services to fractional owners pursuant to a 1055
management services agreement under division (III) (1) (e) of this 1056
section. 1057

(JJJ) "Electronic publishing" means providing access to 1058
one or more of the following primarily for business customers, 1059
including the federal government or a state government or a 1060
political subdivision thereof, to conduct research: news; 1061
business, financial, legal, consumer, or credit materials; 1062
editorials, columns, reader commentary, or features; photos or 1063
images; archival or research material; legal notices, identity 1064
verification, or public records; scientific, educational, 1065

instructional, technical, professional, trade, or other literary 1066
materials; or other similar information which has been gathered 1067
and made available by the provider to the consumer in an 1068
electronic format. Providing electronic publishing includes the 1069
functions necessary for the acquisition, formatting, editing, 1070
storage, and dissemination of data or information that is the 1071
subject of a sale. 1072

(KKK) "Medicaid health insuring corporation" means a 1073
health insuring corporation that holds a certificate of 1074
authority under Chapter 1751. of the Revised Code and is under 1075
contract with the department of medicaid pursuant to section 1076
5167.10 of the Revised Code. 1077

(LLL) "Managed care premium" means any premium, 1078
capitation, or other payment a medicaid health insuring 1079
corporation receives for providing or arranging for the 1080
provision of health care services to its members or enrollees 1081
residing in this state. 1082

(MMM) "Captive deer" means deer and other cervidae that 1083
have been legally acquired, or their offspring, that are 1084
privately owned for agricultural or farming purposes. 1085

(NNN) "Gift card" means a document, card, certificate, or 1086
other record, whether tangible or intangible, that may be 1087
redeemed by a consumer for a dollar value when making a purchase 1088
of tangible personal property or services. 1089

(OOO) "Specified digital product" means an electronically 1090
transferred digital audiovisual work, digital audio work, or 1091
digital book. 1092

As used in division (OOO) of this section: 1093

(1) "Digital audiovisual work" means a series of related 1094

images that, when shown in succession, impart an impression of 1095
motion, together with accompanying sounds, if any. 1096

(2) "Digital audio work" means a work that results from 1097
the fixation of a series of musical, spoken, or other sounds, 1098
including digitized sound files that are downloaded onto a 1099
device and that may be used to alert the customer with respect 1100
to a communication. 1101

(3) "Digital book" means a work that is generally 1102
recognized in the ordinary and usual sense as a book. 1103

(4) "Electronically transferred" means obtained by the 1104
purchaser by means other than tangible storage media. 1105

(PPP) "Digital advertising services" means providing 1106
access, by means of telecommunications equipment, to computer 1107
equipment that is used to enter, upload, download, review, 1108
manipulate, store, add, or delete data for the purpose of 1109
electronically displaying, delivering, placing, or transferring 1110
promotional advertisements to potential customers about products 1111
or services or about industry or business brands. 1112

(QQQ) "Peer-to-peer car sharing program" has the same 1113
meaning as in section 4516.01 of the Revised Code. 1114

(RRR) "Megaproject" and "megaproject operator" have the 1115
same meanings as in section 122.17 of the Revised Code. 1116

(SSS) (1) "Diaper" means an absorbent garment worn by 1117
humans who are incapable of, or have difficulty, controlling 1118
their bladder or bowel movements. 1119

(2) "Children's diaper" means a diaper marketed to be worn 1120
by children. 1121

(3) "Adult diaper" means a diaper other than a children's 1122

diaper. 1123

(TTT) "Sales tax holiday" means three or more dates on 1124
which sales of all eligible tangible personal property are 1125
exempt from the taxes levied under sections 5739.02, 5739.021, 1126
5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of 1127
the Revised Code. 1128

(UUU) "Eligible tangible personal property" means any item 1129
of tangible personal property that meets both of the following 1130
requirements: 1131

(1) The price of the item does not exceed five hundred 1132
dollars; 1133

(2) The item is not a watercraft or outboard motor 1134
required to be titled pursuant to Chapter 1548. of the Revised 1135
Code, a motor vehicle, an alcoholic beverage, tobacco, a vapor 1136
product as defined in section 5743.01 of the Revised Code, or an 1137
item that contains marijuana as defined in section 3796.01 of 1138
the Revised Code. 1139

(VVV) "Alcoholic beverages" means beverages that are 1140
suitable for human consumption and contain one-half of one per 1141
cent or more of alcohol by volume. 1142

(WWW) "Tobacco" means cigarettes, cigars, chewing or pipe 1143
tobacco, or any other item that contains tobacco. 1144

(XXX) (1) "Delivery network company" means a person that 1145
operates a business platform, including a web site or mobile 1146
application, to facilitate delivery network services. 1147

(2) "Delivery network courier" means an individual 1148
connected to a consumer through a delivery network company and 1149
who provides delivery network services to that consumer. 1150

(3) "Delivery network services" means both of the 1151
following when performed as part of a single transaction: 1152

(a) Pickup of a local product by a delivery network 1153
courier from a local merchant that is not under common ownership 1154
or control of the delivery network company through which the 1155
transaction was initiated, and which may include selection, 1156
collection, and purchase of the local product; 1157

(b) Delivery by the delivery network courier of that local 1158
product to a location designated by the consumer that is not 1159
more than seventy-five miles from the local merchant's place of 1160
business where the pickup described in division (XXX) (3) (a) of 1161
this section occurs. 1162

(4) "Local merchant" means a person engaged in selling 1163
local products from a temporary or fixed place of business in 1164
this state, including a kitchen, restaurant, grocery store, 1165
retail store, or convenience store. 1166

(5) "Local product" means any tangible personal property, 1167
including food, but excluding freight, mail, or a package to 1168
which postage is affixed. 1169

(YYY) "Firearm safety device" means equipment that is 1170
designed to prevent unauthorized access to, or the operation or 1171
discharge of, a firearm and that is either of the following: 1172

(1) A device that, when installed on a firearm, is 1173
designed to prevent the firearm from being operated without 1174
first deactivating the device. 1175

(2) A gun safe, gun case, lockbox, or other device that is 1176
designed to prevent access to a firearm unless an individual 1177
uses a key, a combination, biometric data, or other similar 1178
means. 1179

A "firearm safety device" does not include a glass-faced 1180
cabinet or other form of storage that is primarily designed to 1181
allow for the display of firearms. 1182

Sec. 5739.02. For the purpose of providing revenue with 1183
which to meet the needs of the state, for the use of the general 1184
revenue fund of the state, for the purpose of securing a 1185
thorough and efficient system of common schools throughout the 1186
state, for the purpose of affording revenues, in addition to 1187
those from general property taxes, permitted under 1188
constitutional limitations, and from other sources, for the 1189
support of local governmental functions, and for the purpose of 1190
reimbursing the state for the expense of administering this 1191
chapter, an excise tax is hereby levied on each retail sale made 1192
in this state. 1193

(A) (1) The tax shall be collected as provided in section 1194
5739.025 of the Revised Code. The rate of the tax shall be five 1195
and three-fourths per cent. The tax applies and is collectible 1196
when the sale is made, regardless of the time when the price is 1197
paid or delivered. 1198

(2) In the case of the lease or rental, with a fixed term 1199
of more than thirty days or an indefinite term with a minimum 1200
period of more than thirty days, of any motor vehicles designed 1201
by the manufacturer to carry a load of not more than one ton, 1202
watercraft, outboard motor, or aircraft, or of any tangible 1203
personal property, other than motor vehicles designed by the 1204
manufacturer to carry a load of more than one ton, to be used by 1205
the lessee or renter primarily for business purposes, the tax 1206
shall be collected by the vendor at the time the lease or rental 1207
is consummated and shall be calculated by the vendor on the 1208
basis of the total amount to be paid by the lessee or renter 1209

under the lease agreement. If the total amount of the 1210
consideration for the lease or rental includes amounts that are 1211
not calculated at the time the lease or rental is executed, the 1212
tax shall be calculated and collected by the vendor at the time 1213
such amounts are billed to the lessee or renter. In the case of 1214
an open-end lease or rental, the tax shall be calculated by the 1215
vendor on the basis of the total amount to be paid during the 1216
initial fixed term of the lease or rental, and for each 1217
subsequent renewal period as it comes due. As used in this 1218
division, "motor vehicle" has the same meaning as in section 1219
4501.01 of the Revised Code, and "watercraft" includes an 1220
outdrive unit attached to the watercraft. 1221

A lease with a renewal clause and a termination penalty or 1222
similar provision that applies if the renewal clause is not 1223
exercised is presumed to be a sham transaction. In such a case, 1224
the tax shall be calculated and paid on the basis of the entire 1225
length of the lease period, including any renewal periods, until 1226
the termination penalty or similar provision no longer applies. 1227
The taxpayer shall bear the burden, by a preponderance of the 1228
evidence, that the transaction or series of transactions is not 1229
a sham transaction. 1230

(3) Except as provided in division (A) (2) of this section, 1231
in the case of a sale, the price of which consists in whole or 1232
in part of the lease or rental of tangible personal property, 1233
the tax shall be measured by the installments of that lease or 1234
rental. 1235

(4) In the case of a sale of a physical fitness facility 1236
service or recreation and sports club service, the price of 1237
which consists in whole or in part of a membership for the 1238
receipt of the benefit of the service, the tax applicable to the 1239

sale shall be measured by the installments thereof. 1240

(B) The tax does not apply to the following: 1241

(1) Sales to the state or any of its political 1242
subdivisions, or to any other state or its political 1243
subdivisions if the laws of that state exempt from taxation 1244
sales made to this state and its political subdivisions 1245
including either of the following: 1246

(a) Sales or rentals of tangible personal property by 1247
construction contractors or subcontractors to provide temporary 1248
traffic control or temporary structures, including material and 1249
equipment used to comply with the Ohio manual of uniform traffic 1250
control devices adopted pursuant to section 4511.09 of the 1251
Revised Code, whereby the state or any of its political 1252
subdivisions take title to, or permanent or temporary possession 1253
of, such tangible personal property for use by the state or any 1254
of its political subdivisions, including for use by the general 1255
public thereof; 1256

(b) Sales of services by construction contractors or 1257
subcontractors to provide temporary traffic control or 1258
structures, including labor used to comply with the Ohio manual 1259
of uniform traffic control devices adopted pursuant to section 1260
4511.09 of the Revised Code, whereby the state or any of its 1261
political subdivisions, including the general public thereof, 1262
receive the benefit of such services. 1263

As used in divisions (B) (1) (a) and (b) of this section, 1264
"temporary structures" include temporary roads, bridges, drains, 1265
and pavement. 1266

(2) Sales of food for human consumption off the premises 1267
where sold; 1268

(3) Sales of food sold to students only in a cafeteria, 1269
dormitory, fraternity, or sorority maintained in a private, 1270
public, or parochial school, college, or university; 1271

(4) Sales of newspapers and sales or transfers of 1272
magazines distributed as controlled circulation publications; 1273

(5) The furnishing, preparing, or serving of meals without 1274
charge by an employer to an employee provided the employer 1275
records the meals as part compensation for services performed or 1276
work done; 1277

(6) (a) Sales of motor fuel upon receipt, use, 1278
distribution, or sale of which in this state a tax is imposed by 1279
the law of this state, but this exemption shall not apply to the 1280
sale of motor fuel on which a refund of the tax is allowable 1281
under division (A) of section 5735.14 of the Revised Code; and 1282
the tax commissioner may deduct the amount of tax levied by this 1283
section applicable to the price of motor fuel when granting a 1284
refund of motor fuel tax pursuant to division (A) of section 1285
5735.14 of the Revised Code and shall cause the amount deducted 1286
to be paid into the general revenue fund of this state; 1287

(b) Sales of motor fuel other than that described in 1288
division (B) (6) (a) of this section and used for powering a 1289
refrigeration unit on a vehicle other than one used primarily to 1290
provide comfort to the operator or occupants of the vehicle. 1291

(7) Sales of natural gas by a natural gas company or 1292
municipal gas utility, of water by a water-works company, or of 1293
steam by a heating company, if in each case the thing sold is 1294
delivered to consumers through pipes or conduits, and all sales 1295
of communications services by a telegraph company, all terms as 1296
defined in section 5727.01 of the Revised Code, and sales of 1297

electricity delivered through wires; 1298

(8) Casual sales by a person, or auctioneer employed 1299
directly by the person to conduct such sales, except as to such 1300
sales of motor vehicles, watercraft or outboard motors required 1301
to be titled under section 1548.06 of the Revised Code, 1302
watercraft documented with the United States coast guard, 1303
snowmobiles, and all-purpose vehicles as defined in section 1304
4519.01 of the Revised Code; 1305

(9) (a) Sales of services or tangible personal property, 1306
other than motor vehicles, mobile homes, and manufactured homes, 1307
by churches, organizations exempt from taxation under section 1308
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 1309
organizations operated exclusively for charitable purposes as 1310
defined in division (B) (12) of this section, provided that the 1311
number of days on which such tangible personal property or 1312
services, other than items never subject to the tax, are sold 1313
does not exceed six in any calendar year, except as otherwise 1314
provided in division (B) (9) (b) of this section. If the number of 1315
days on which such sales are made exceeds six in any calendar 1316
year, the church or organization shall be considered to be 1317
engaged in business and all subsequent sales by it shall be 1318
subject to the tax. In counting the number of days, all sales by 1319
groups within a church or within an organization shall be 1320
considered to be sales of that church or organization. 1321

(b) The limitation on the number of days on which tax- 1322
exempt sales may be made by a church or organization under 1323
division (B) (9) (a) of this section does not apply to sales made 1324
by student clubs and other groups of students of a primary or 1325
secondary school, or a parent-teacher association, booster 1326
group, or similar organization that raises money to support or 1327

fund curricular or extracurricular activities of a primary or 1328
secondary school. 1329

(c) Divisions (B) (9) (a) and (b) of this section do not 1330
apply to sales by a noncommercial educational radio or 1331
television broadcasting station. 1332

(10) Sales not within the taxing power of this state under 1333
the Constitution or laws of the United States or the 1334
Constitution of this state including either of the following: 1335

(a) Sales or rentals of tangible personal property by 1336
construction contractors or subcontractors to provide temporary 1337
traffic control or temporary structures, including material and 1338
equipment used to comply with the Ohio manual of uniform traffic 1339
control devices adopted pursuant to section 4511.09 of the 1340
Revised Code, whereby the United States takes title to, or 1341
permanent or temporary possession of, such tangible personal 1342
property for use by the United States including for use by the 1343
general public thereof; 1344

(b) Sales of services by construction contractors or 1345
subcontractors to provide temporary traffic control or 1346
structures, including labor used to comply with the Ohio manual 1347
of uniform traffic control devices adopted pursuant to section 1348
4511.09 of the Revised Code, whereby the United States, 1349
including the general public thereof, receives the benefit of 1350
such services. 1351

As used in divisions (B) (10) (a) and (b) of this section, 1352
"temporary structures" include temporary roads, bridges, drains, 1353
and pavement. 1354

(11) Except for transactions that are sales under division 1355
(B) (3) (p) of section 5739.01 of the Revised Code, the 1356

transportation of persons or property, unless the transportation 1357
is by a private investigation and security service; 1358

(12) Sales of tangible personal property or services to 1359
churches, to organizations exempt from taxation under section 1360
501(c)(3) of the Internal Revenue Code of 1986, and to any other 1361
nonprofit organizations operated exclusively for charitable 1362
purposes in this state, no part of the net income of which 1363
inures to the benefit of any private shareholder or individual, 1364
and no substantial part of the activities of which consists of 1365
carrying on propaganda or otherwise attempting to influence 1366
legislation; sales to offices administering one or more homes 1367
for the aged or one or more hospital facilities exempt under 1368
section 140.08 of the Revised Code; and sales to organizations 1369
described in division (D) of section 5709.12 of the Revised 1370
Code. 1371

"Charitable purposes" means the relief of poverty; the 1372
improvement of health through the alleviation of illness, 1373
disease, or injury; the operation of an organization exclusively 1374
for the provision of professional, laundry, printing, and 1375
purchasing services to hospitals or charitable institutions; the 1376
operation of a home for the aged, as defined in section 5701.13 1377
of the Revised Code; the operation of a radio or television 1378
broadcasting station that is licensed by the federal 1379
communications commission as a noncommercial educational radio 1380
or television station; the operation of a nonprofit animal 1381
adoption service or a county humane society; the promotion of 1382
education by an institution of learning that maintains a faculty 1383
of qualified instructors, teaches regular continuous courses of 1384
study, and confers a recognized diploma upon completion of a 1385
specific curriculum; the operation of a parent-teacher 1386
association, booster group, or similar organization primarily 1387

engaged in the promotion and support of the curricular or 1388
extracurricular activities of a primary or secondary school; the 1389
operation of a community or area center in which presentations 1390
in music, dramatics, the arts, and related fields are made in 1391
order to foster public interest and education therein; the 1392
production of performances in music, dramatics, and the arts; or 1393
the promotion of education by an organization engaged in 1394
carrying on research in, or the dissemination of, scientific and 1395
technological knowledge and information primarily for the 1396
public. 1397

Nothing in this division shall be deemed to exempt sales 1398
to any organization for use in the operation or carrying on of a 1399
trade or business, or sales to a home for the aged for use in 1400
the operation of independent living facilities as defined in 1401
division (A) of section 5709.12 of the Revised Code. 1402

(13) Building and construction materials and services sold 1403
to construction contractors for incorporation into a structure 1404
or improvement to real property under a construction contract 1405
with this state or a political subdivision of this state, or 1406
with the United States government or any of its agencies; 1407
building and construction materials and services sold to 1408
construction contractors for incorporation into a structure or 1409
improvement to real property that are accepted for ownership by 1410
this state or any of its political subdivisions, or by the 1411
United States government or any of its agencies at the time of 1412
completion of the structures or improvements; building and 1413
construction materials sold to construction contractors for 1414
incorporation into a horticulture structure or livestock 1415
structure for a person engaged in the business of horticulture 1416
or producing livestock; building materials and services sold to 1417
a construction contractor for incorporation into a house of 1418

public worship or religious education, or a building used 1419
exclusively for charitable purposes under a construction 1420
contract with an organization whose purpose is as described in 1421
division (B) (12) of this section; building materials and 1422
services sold to a construction contractor for incorporation 1423
into a building under a construction contract with an 1424
organization exempt from taxation under section 501(c) (3) of the 1425
Internal Revenue Code of 1986 when the building is to be used 1426
exclusively for the organization's exempt purposes; tangible 1427
personal property sold for incorporation into the construction 1428
of a sports facility under section 307.696 of the Revised Code; 1429
building and construction materials and services sold to a 1430
construction contractor for incorporation into real property 1431
outside this state if such materials and services, when sold to 1432
a construction contractor in the state in which the real 1433
property is located for incorporation into real property in that 1434
state, would be exempt from a tax on sales levied by that state; 1435
building and construction materials for incorporation into a 1436
transportation facility pursuant to a public-private agreement 1437
entered into under sections 5501.70 to 5501.83 of the Revised 1438
Code; until one calendar year after the construction of a 1439
convention center that qualifies for property tax exemption 1440
under section 5709.084 of the Revised Code is completed, 1441
building and construction materials and services sold to a 1442
construction contractor for incorporation into the real property 1443
comprising that convention center; and building and construction 1444
materials sold for incorporation into a structure or improvement 1445
to real property that is used primarily as, or primarily in 1446
support of, a manufacturing facility or research and development 1447
facility and that is to be owned by a megaproject operator upon 1448
completion and located at the site of a megaproject that 1449
satisfies the criteria described in division (A) (11) (a) (ii) of 1450

section 122.17 of the Revised Code, provided that the sale 1451
occurs during the period that the megaproject operator has an 1452
agreement for such megaproject with the tax credit authority 1453
under division (D) of section 122.17 of the Revised Code that 1454
remains in effect and has not expired or been terminated. 1455

(14) Sales of ships or vessels or rail rolling stock used 1456
or to be used principally in interstate or foreign commerce, and 1457
repairs, alterations, fuel, and lubricants for such ships or 1458
vessels or rail rolling stock; 1459

(15) Sales to persons primarily engaged in any of the 1460
activities mentioned in division (B)(42)(a), (g), or (h) of this 1461
section, to persons engaged in making retail sales, or to 1462
persons who purchase for sale from a manufacturer tangible 1463
personal property that was produced by the manufacturer in 1464
accordance with specific designs provided by the purchaser, of 1465
packages, including material, labels, and parts for packages, 1466
and of machinery, equipment, and material for use primarily in 1467
packaging tangible personal property produced for sale, 1468
including any machinery, equipment, and supplies used to make 1469
labels or packages, to prepare packages or products for 1470
labeling, or to label packages or products, by or on the order 1471
of the person doing the packaging, or sold at retail. "Packages" 1472
includes bags, baskets, cartons, crates, boxes, cans, bottles, 1473
bindings, wrappings, and other similar devices and containers, 1474
but does not include motor vehicles or bulk tanks, trailers, or 1475
similar devices attached to motor vehicles. "Packaging" means 1476
placing in a package. Division (B)(15) of this section does not 1477
apply to persons engaged in highway transportation for hire. 1478

(16) Sales of food to persons using supplemental nutrition 1479
assistance program benefits to purchase the food. As used in 1480

this division, "food" has the same meaning as in 7 U.S.C. 2012 1481
and federal regulations adopted pursuant to the Food and 1482
Nutrition Act of 2008. 1483

(17) Sales to persons engaged in farming, agriculture, 1484
horticulture, or floriculture, of tangible personal property for 1485
use or consumption primarily in the production by farming, 1486
agriculture, horticulture, or floriculture of other tangible 1487
personal property for use or consumption primarily in the 1488
production of tangible personal property for sale by farming, 1489
agriculture, horticulture, or floriculture; or material and 1490
parts for incorporation into any such tangible personal property 1491
for use or consumption in production; and of tangible personal 1492
property for such use or consumption in the conditioning or 1493
holding of products produced by and for such use, consumption, 1494
or sale by persons engaged in farming, agriculture, 1495
horticulture, or floriculture, except where such property is 1496
incorporated into real property; 1497

(18) Sales of drugs for a human being that may be 1498
dispensed only pursuant to a prescription; insulin as recognized 1499
in the official United States pharmacopoeia; urine and blood 1500
testing materials when used by diabetics or persons with 1501
hypoglycemia to test for glucose or acetone; hypodermic syringes 1502
and needles when used by diabetics for insulin injections; 1503
epoetin alfa when purchased for use in the treatment of persons 1504
with medical disease; hospital beds when purchased by hospitals, 1505
nursing homes, or other medical facilities; and medical oxygen 1506
and medical oxygen-dispensing equipment when purchased by 1507
hospitals, nursing homes, or other medical facilities; 1508

(19) Sales of prosthetic devices, durable medical 1509
equipment for home use, or mobility enhancing equipment, when 1510

made pursuant to a prescription and when such devices or 1511
equipment are for use by a human being. 1512

(20) Sales of emergency and fire protection vehicles and 1513
equipment to nonprofit organizations for use solely in providing 1514
fire protection and emergency services, including trauma care 1515
and emergency medical services, for political subdivisions of 1516
the state; 1517

(21) Sales of tangible personal property manufactured in 1518
this state, if sold by the manufacturer in this state to a 1519
retailer for use in the retail business of the retailer outside 1520
of this state and if possession is taken from the manufacturer 1521
by the purchaser within this state for the sole purpose of 1522
immediately removing the same from this state in a vehicle owned 1523
by the purchaser; 1524

(22) Sales of services provided by the state or any of its 1525
political subdivisions, agencies, instrumentalities, 1526
institutions, or authorities, or by governmental entities of the 1527
state or any of its political subdivisions, agencies, 1528
instrumentalities, institutions, or authorities; 1529

(23) Sales of motor vehicles to nonresidents of this state 1530
under the circumstances described in division (B) of section 1531
5739.029 of the Revised Code; 1532

(24) Sales to persons engaged in the preparation of eggs 1533
for sale of tangible personal property used or consumed directly 1534
in such preparation, including such tangible personal property 1535
used for cleaning, sanitizing, preserving, grading, sorting, and 1536
classifying by size; packages, including material and parts for 1537
packages, and machinery, equipment, and material for use in 1538
packaging eggs for sale; and handling and transportation 1539

equipment and parts therefor, except motor vehicles licensed to 1540
operate on public highways, used in intraplant or interplant 1541
transfers or shipment of eggs in the process of preparation for 1542
sale, when the plant or plants within or between which such 1543
transfers or shipments occur are operated by the same person. 1544
"Packages" includes containers, cases, baskets, flats, fillers, 1545
filler flats, cartons, closure materials, labels, and labeling 1546
materials, and "packaging" means placing therein. 1547

(25) (a) Sales of water to a consumer for residential use; 1548

(b) Sales of water by a nonprofit corporation engaged 1549
exclusively in the treatment, distribution, and sale of water to 1550
consumers, if such water is delivered to consumers through pipes 1551
or tubing. 1552

(26) Fees charged for inspection or reinspection of motor 1553
vehicles under section 3704.14 of the Revised Code; 1554

(27) Sales to persons licensed to conduct a food service 1555
operation pursuant to section 3717.43 of the Revised Code, of 1556
tangible personal property primarily used directly for the 1557
following: 1558

(a) To prepare food for human consumption for sale; 1559

(b) To preserve food that has been or will be prepared for 1560
human consumption for sale by the food service operator, not 1561
including tangible personal property used to display food for 1562
selection by the consumer; 1563

(c) To clean tangible personal property used to prepare or 1564
serve food for human consumption for sale. 1565

(28) Sales of animals by nonprofit animal adoption 1566
services or county humane societies; 1567

(29) Sales of services to a corporation described in 1568
division (A) of section 5709.72 of the Revised Code, and sales 1569
of tangible personal property that qualifies for exemption from 1570
taxation under section 5709.72 of the Revised Code; 1571

(30) Sales and installation of agricultural land tile, as 1572
defined in division (B) (5) (a) of section 5739.01 of the Revised 1573
Code; 1574

(31) Sales and erection or installation of portable grain 1575
bins, as defined in division (B) (5) (b) of section 5739.01 of the 1576
Revised Code; 1577

(32) The sale, lease, repair, and maintenance of, parts 1578
for, or items attached to or incorporated in, motor vehicles 1579
that are primarily used for transporting tangible personal 1580
property belonging to others by a person engaged in highway 1581
transportation for hire, except for packages and packaging used 1582
for the transportation of tangible personal property; 1583

(33) Sales to the state headquarters of any veterans' 1584
organization in this state that is either incorporated and 1585
issued a charter by the congress of the United States or is 1586
recognized by the United States veterans administration, for use 1587
by the headquarters; 1588

(34) Sales to a telecommunications service vendor, mobile 1589
telecommunications service vendor, or satellite broadcasting 1590
service vendor of tangible personal property and services used 1591
directly and primarily in transmitting, receiving, switching, or 1592
recording any interactive, one- or two-way electromagnetic 1593
communications, including voice, image, data, and information, 1594
through the use of any medium, including, but not limited to, 1595
poles, wires, cables, switching equipment, computers, and record 1596

storage devices and media, and component parts for the tangible 1597
personal property. The exemption provided in this division shall 1598
be in lieu of all other exemptions under division (B) (42) (a) or 1599
(n) of this section to which the vendor may otherwise be 1600
entitled, based upon the use of the thing purchased in providing 1601
the telecommunications, mobile telecommunications, or satellite 1602
broadcasting service. 1603

(35) (a) Sales where the purpose of the consumer is to use 1604
or consume the things transferred in making retail sales and 1605
consisting of newspaper inserts, catalogues, coupons, flyers, 1606
gift certificates, or other advertising material that prices and 1607
describes tangible personal property offered for retail sale. 1608

(b) Sales to direct marketing vendors of preliminary 1609
materials such as photographs, artwork, and typesetting that 1610
will be used in printing advertising material; and of printed 1611
matter that offers free merchandise or chances to win sweepstake 1612
prizes and that is mailed to potential customers with 1613
advertising material described in division (B) (35) (a) of this 1614
section; 1615

(c) Sales of equipment such as telephones, computers, 1616
facsimile machines, and similar tangible personal property 1617
primarily used to accept orders for direct marketing retail 1618
sales. 1619

(d) Sales of automatic food vending machines that preserve 1620
food with a shelf life of forty-five days or less by 1621
refrigeration and dispense it to the consumer. 1622

For purposes of division (B) (35) of this section, "direct 1623
marketing" means the method of selling where consumers order 1624
tangible personal property by United States mail, delivery 1625

service, or telecommunication and the vendor delivers or ships 1626
the tangible personal property sold to the consumer from a 1627
warehouse, catalogue distribution center, or similar fulfillment 1628
facility by means of the United States mail, delivery service, 1629
or common carrier. 1630

(36) Sales to a person engaged in the business of 1631
horticulture or producing livestock of materials to be 1632
incorporated into a horticulture structure or livestock 1633
structure; 1634

(37) Sales of personal computers, computer monitors, 1635
computer keyboards, modems, and other peripheral computer 1636
equipment to an individual who is licensed or certified to teach 1637
in an elementary or a secondary school in this state for use by 1638
that individual in preparation for teaching elementary or 1639
secondary school students; 1640

(38) Sales of tangible personal property that is not 1641
required to be registered or licensed under the laws of this 1642
state to a citizen of a foreign nation that is not a citizen of 1643
the United States, provided the property is delivered to a 1644
person in this state that is not a related member of the 1645
purchaser, is physically present in this state for the sole 1646
purpose of temporary storage and package consolidation, and is 1647
subsequently delivered to the purchaser at a delivery address in 1648
a foreign nation. As used in division (B)(38) of this section, 1649
"related member" has the same meaning as in section 5733.042 of 1650
the Revised Code, and "temporary storage" means the storage of 1651
tangible personal property for a period of not more than sixty 1652
days. 1653

(39) Sales of used manufactured homes and used mobile 1654
homes, as defined in section 5739.0210 of the Revised Code, made 1655

on or after January 1, 2000; 1656

(40) Sales of tangible personal property and services to a 1657
provider of electricity used or consumed directly and primarily 1658
in generating, transmitting, or distributing electricity for use 1659
by others, including property that is or is to be incorporated 1660
into and will become a part of the consumer's production, 1661
transmission, or distribution system and that retains its 1662
classification as tangible personal property after 1663
incorporation; fuel or power used in the production, 1664
transmission, or distribution of electricity; energy conversion 1665
equipment as defined in section 5727.01 of the Revised Code; and 1666
tangible personal property and services used in the repair and 1667
maintenance of the production, transmission, or distribution 1668
system, including only those motor vehicles as are specially 1669
designed and equipped for such use. The exemption provided in 1670
this division shall be in lieu of all other exemptions in 1671
division (B) (42) (a) or (n) of this section to which a provider 1672
of electricity may otherwise be entitled based on the use of the 1673
tangible personal property or service purchased in generating, 1674
transmitting, or distributing electricity. 1675

(41) Sales to a person providing services under division 1676
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 1677
personal property and services used directly and primarily in 1678
providing taxable services under that section. 1679

(42) Sales where the purpose of the purchaser is to do any 1680
of the following: 1681

(a) To incorporate the thing transferred as a material or 1682
a part into tangible personal property to be produced for sale 1683
by manufacturing, assembling, processing, or refining; or to use 1684
or consume the thing transferred directly in producing tangible 1685

personal property for sale by mining, including, without 1686
limitation, the extraction from the earth of all substances that 1687
are classed geologically as minerals, or directly in the 1688
rendition of a public utility service, except that the sales tax 1689
levied by this section shall be collected upon all meals, 1690
drinks, and food for human consumption sold when transporting 1691
persons. This paragraph does not exempt from "retail sale" or 1692
"sales at retail" the sale of tangible personal property that is 1693
to be incorporated into a structure or improvement to real 1694
property. 1695

(b) To hold the thing transferred as security for the 1696
performance of an obligation of the vendor; 1697

(c) To resell, hold, use, or consume the thing transferred 1698
as evidence of a contract of insurance; 1699

(d) To use or consume the thing directly in commercial 1700
fishing; 1701

(e) To incorporate the thing transferred as a material or 1702
a part into, or to use or consume the thing transferred directly 1703
in the production of, magazines distributed as controlled 1704
circulation publications; 1705

(f) To use or consume the thing transferred in the 1706
production and preparation in suitable condition for market and 1707
sale of printed, imprinted, overprinted, lithographic, 1708
multilithic, blueprinted, photostatic, or other productions or 1709
reproductions of written or graphic matter; 1710

(g) To use the thing transferred, as described in section 1711
5739.011 of the Revised Code, primarily in a manufacturing 1712
operation to produce tangible personal property for sale; 1713

(h) To use the benefit of a warranty, maintenance or 1714

service contract, or similar agreement, as described in division 1715
(B) (7) of section 5739.01 of the Revised Code, to repair or 1716
maintain tangible personal property, if all of the property that 1717
is the subject of the warranty, contract, or agreement would not 1718
be subject to the tax imposed by this section; 1719

(i) To use the thing transferred as qualified research and 1720
development equipment; 1721

(j) To use or consume the thing transferred primarily in 1722
storing, transporting, mailing, or otherwise handling purchased 1723
sales inventory in a warehouse, distribution center, or similar 1724
facility when the inventory is primarily distributed outside 1725
this state to retail stores of the person who owns or controls 1726
the warehouse, distribution center, or similar facility, to 1727
retail stores of an affiliated group of which that person is a 1728
member, or by means of direct marketing. This division does not 1729
apply to motor vehicles registered for operation on the public 1730
highways. As used in this division, "affiliated group" has the 1731
same meaning as in division (B) (3) (e) of section 5739.01 of the 1732
Revised Code and "direct marketing" has the same meaning as in 1733
division (B) (35) of this section. 1734

(k) To use or consume the thing transferred to fulfill a 1735
contractual obligation incurred by a warrantor pursuant to a 1736
warranty provided as a part of the price of the tangible 1737
personal property sold or by a vendor of a warranty, maintenance 1738
or service contract, or similar agreement the provision of which 1739
is defined as a sale under division (B) (7) of section 5739.01 of 1740
the Revised Code; 1741

(l) To use or consume the thing transferred in the 1742
production of a newspaper for distribution to the public; 1743

(m) To use tangible personal property to perform a service 1744
listed in division (B) (3) of section 5739.01 of the Revised 1745
Code, if the property is or is to be permanently transferred to 1746
the consumer of the service as an integral part of the 1747
performance of the service; 1748

(n) To use or consume the thing transferred primarily in 1749
producing tangible personal property for sale by farming, 1750
agriculture, horticulture, or floriculture. Persons engaged in 1751
rendering farming, agriculture, horticulture, or floriculture 1752
services for others are deemed engaged primarily in farming, 1753
agriculture, horticulture, or floriculture. This paragraph does 1754
not exempt from "retail sale" or "sales at retail" the sale of 1755
tangible personal property that is to be incorporated into a 1756
structure or improvement to real property. 1757

(o) To use or consume the thing transferred in acquiring, 1758
formatting, editing, storing, and disseminating data or 1759
information by electronic publishing; 1760

(p) To provide the thing transferred to the owner or 1761
lessee of a motor vehicle that is being repaired or serviced, if 1762
the thing transferred is a rented motor vehicle and the 1763
purchaser is reimbursed for the cost of the rented motor vehicle 1764
by a manufacturer, warrantor, or provider of a maintenance, 1765
service, or other similar contract or agreement, with respect to 1766
the motor vehicle that is being repaired or serviced; 1767

(q) To use or consume the thing transferred directly in 1768
production of crude oil and natural gas for sale. Persons 1769
engaged in rendering production services for others are deemed 1770
engaged in production. 1771

As used in division (B) (42) (q) of this section, 1772

"production" means operations and tangible personal property 1773
directly used to expose and evaluate an underground reservoir 1774
that may contain hydrocarbon resources, prepare the wellbore for 1775
production, and lift and control all substances yielded by the 1776
reservoir to the surface of the earth. 1777

(i) For the purposes of division (B) (42) (q) of this 1778
section, the "thing transferred" includes, but is not limited 1779
to, any of the following: 1780

(I) Services provided in the construction of permanent 1781
access roads, services provided in the construction of the well 1782
site, and services provided in the construction of temporary 1783
impoundments; 1784

(II) Equipment and rigging used for the specific purpose 1785
of creating with integrity a wellbore pathway to underground 1786
reservoirs; 1787

(III) Drilling and workover services used to work within a 1788
subsurface wellbore, and tangible personal property directly 1789
used in providing such services; 1790

(IV) Casing, tubulars, and float and centralizing 1791
equipment; 1792

(V) Trailers to which production equipment is attached; 1793

(VI) Well completion services, including cementing of 1794
casing, and tangible personal property directly used in 1795
providing such services; 1796

(VII) Wireline evaluation, mud logging, and perforation 1797
services, and tangible personal property directly used in 1798
providing such services; 1799

(VIII) Reservoir stimulation, hydraulic fracturing, and 1800

acidizing services, and tangible personal property directly used	1801
in providing such services, including all material pumped	1802
downhole;	1803
(IX) Pressure pumping equipment;	1804
(X) Artificial lift systems equipment;	1805
(XI) Wellhead equipment and well site equipment used to	1806
separate, stabilize, and control hydrocarbon phases and produced	1807
water;	1808
(XII) Tangible personal property directly used to control	1809
production equipment.	1810
(ii) For the purposes of division (B) (42) (q) of this	1811
section, the "thing transferred" does not include any of the	1812
following:	1813
(I) Tangible personal property used primarily in the	1814
exploration and production of any mineral resource regulated	1815
under Chapter 1509. of the Revised Code other than oil or gas;	1816
(II) Tangible personal property used primarily in storing,	1817
holding, or delivering solutions or chemicals used in well	1818
stimulation as defined in section 1509.01 of the Revised Code;	1819
(III) Tangible personal property used primarily in	1820
preparing, installing, or reclaiming foundations for drilling or	1821
pumping equipment or well stimulation material tanks;	1822
(IV) Tangible personal property used primarily in	1823
transporting, delivering, or removing equipment to or from the	1824
well site or storing such equipment before its use at the well	1825
site;	1826
(V) Tangible personal property used primarily in gathering	1827

operations occurring off the well site, including gathering 1828
pipelines transporting hydrocarbon gas or liquids away from a 1829
crude oil or natural gas production facility; 1830

(VI) Tangible personal property that is to be incorporated 1831
into a structure or improvement to real property; 1832

(VII) Well site fencing, lighting, or security systems; 1833

(VIII) Communication devices or services; 1834

(IX) Office supplies; 1835

(X) Trailers used as offices or lodging; 1836

(XI) Motor vehicles of any kind; 1837

(XII) Tangible personal property used primarily for the 1838
storage of drilling byproducts and fuel not used for production; 1839

(XIII) Tangible personal property used primarily as a 1840
safety device; 1841

(XIV) Data collection or monitoring devices; 1842

(XV) Access ladders, stairs, or platforms attached to 1843
storage tanks. 1844

The enumeration of tangible personal property in division 1845
(B) (42) (q) (ii) of this section is not intended to be exhaustive, 1846
and any tangible personal property not so enumerated shall not 1847
necessarily be construed to be a "thing transferred" for the 1848
purposes of division (B) (42) (q) of this section. 1849

The commissioner shall adopt and promulgate rules under 1850
sections 119.01 to 119.13 of the Revised Code that the 1851
commissioner deems necessary to administer division (B) (42) (q) 1852
of this section. 1853

As used in division (B) (42) of this section, "thing" 1854
includes all transactions included in divisions (B) (3) (a), (b), 1855
and (e) of section 5739.01 of the Revised Code. 1856

(43) Sales conducted through a coin operated device that 1857
activates vacuum equipment or equipment that dispenses water, 1858
whether or not in combination with soap or other cleaning agents 1859
or wax, to the consumer for the consumer's use on the premises 1860
in washing, cleaning, or waxing a motor vehicle, provided no 1861
other personal property or personal service is provided as part 1862
of the transaction. 1863

(44) Sales of replacement and modification parts for 1864
engines, airframes, instruments, and interiors in, and paint 1865
for, aircraft used primarily in a fractional aircraft ownership 1866
program, and sales of services for the repair, modification, and 1867
maintenance of such aircraft, and machinery, equipment, and 1868
supplies primarily used to provide those services. 1869

(45) Sales of telecommunications service that is used 1870
directly and primarily to perform the functions of a call 1871
center. As used in this division, "call center" means any 1872
physical location where telephone calls are placed or received 1873
in high volume for the purpose of making sales, marketing, 1874
customer service, technical support, or other specialized 1875
business activity, and that employs at least fifty individuals 1876
that engage in call center activities on a full-time basis, or 1877
sufficient individuals to fill fifty full-time equivalent 1878
positions. 1879

(46) Sales by a telecommunications service vendor of 900 1880
service to a subscriber. This division does not apply to 1881
information services. 1882

(47) Sales of value-added non-voice data service. This 1883
division does not apply to any similar service that is not 1884
otherwise a telecommunications service. 1885

(48) Sales of feminine hygiene products. 1886

(49) Sales of materials, parts, equipment, or engines used 1887
in the repair or maintenance of aircraft or avionics systems of 1888
such aircraft, and sales of repair, remodeling, replacement, or 1889
maintenance services in this state performed on aircraft or on 1890
an aircraft's avionics, engine, or component materials or parts. 1891
As used in division (B) (49) of this section, "aircraft" means 1892
aircraft of more than six thousand pounds maximum certified 1893
takeoff weight or used exclusively in general aviation. 1894

(50) Sales of full flight simulators that are used for 1895
pilot or flight-crew training, sales of repair or replacement 1896
parts or components, and sales of repair or maintenance services 1897
for such full flight simulators. "Full flight simulator" means a 1898
replica of a specific type, or make, model, and series of 1899
aircraft cockpit. It includes the assemblage of equipment and 1900
computer programs necessary to represent aircraft operations in 1901
ground and flight conditions, a visual system providing an out- 1902
of-the-cockpit view, and a system that provides cues at least 1903
equivalent to those of a three-degree-of-freedom motion system, 1904
and has the full range of capabilities of the systems installed 1905
in the device as described in appendices A and B of part 60 of 1906
chapter 1 of title 14 of the Code of Federal Regulations. 1907

(51) Any transfer or lease of tangible personal property 1908
between the state and JobsOhio in accordance with section 1909
4313.02 of the Revised Code. 1910

(52) (a) Sales to a qualifying corporation. 1911

(b) As used in division (B) (52) of this section:	1912
(i) "Qualifying corporation" means a nonprofit corporation	1913
organized in this state that leases from an eligible county	1914
land, buildings, structures, fixtures, and improvements to the	1915
land that are part of or used in a public recreational facility	1916
used by a major league professional athletic team or a class A	1917
to class AAA minor league affiliate of a major league	1918
professional athletic team for a significant portion of the	1919
team's home schedule, provided the following apply:	1920
(I) The facility is leased from the eligible county	1921
pursuant to a lease that requires substantially all of the	1922
revenue from the operation of the business or activity conducted	1923
by the nonprofit corporation at the facility in excess of	1924
operating costs, capital expenditures, and reserves to be paid	1925
to the eligible county at least once per calendar year.	1926
(II) Upon dissolution and liquidation of the nonprofit	1927
corporation, all of its net assets are distributable to the	1928
board of commissioners of the eligible county from which the	1929
corporation leases the facility.	1930
(ii) "Eligible county" has the same meaning as in section	1931
307.695 of the Revised Code.	1932
(53) Sales to or by a cable service provider, video	1933
service provider, or radio or television broadcast station	1934
regulated by the federal government of cable service or	1935
programming, video service or programming, audio service or	1936
programming, or electronically transferred digital audiovisual	1937
or audio work. As used in division (B) (53) of this section,	1938
"cable service" and "cable service provider" have the same	1939
meanings as in section 1332.01 of the Revised Code, and "video	1940

service," "video service provider," and "video programming" have 1941
the same meanings as in section 1332.21 of the Revised Code. 1942

(54) Sales of a digital audio work electronically 1943
transferred for delivery through use of a machine, such as a 1944
juke box, that does all of the following: 1945

(a) Accepts direct payments to operate; 1946

(b) Automatically plays a selected digital audio work for 1947
a single play upon receipt of a payment described in division 1948
(B) (54) (a) of this section; 1949

(c) Operates exclusively for the purpose of playing 1950
digital audio works in a commercial establishment. 1951

(55) (a) Sales of the following occurring on the first 1952
Friday of August and the following Saturday and Sunday of any 1953
year, except in 2024 or any subsequent year in which a sales tax 1954
holiday is held pursuant to section 5739.41 of the Revised Code: 1955

(i) An item of clothing, the price of which is seventy- 1956
five dollars or less; 1957

(ii) An item of school supplies, the price of which is 1958
twenty dollars or less; 1959

(iii) An item of school instructional material, the price 1960
of which is twenty dollars or less. 1961

(b) As used in division (B) (55) of this section: 1962

(i) "Clothing" means all human wearing apparel suitable 1963
for general use. "Clothing" includes, but is not limited to, 1964
aprons, household and shop; athletic supporters; baby receiving 1965
blankets; bathing suits and caps; beach capes and coats; belts 1966
and suspenders; boots; coats and jackets; costumes; diapers, 1967

children and adult, including disposable diapers; earmuffs; 1968
footlets; formal wear; garters and garter belts; girdles; gloves 1969
and mittens for general use; hats and caps; hosiery; insoles for 1970
shoes; lab coats; neckties; overshoes; pantyhose; rainwear; 1971
rubber pants; sandals; scarves; shoes and shoe laces; slippers; 1972
sneakers; socks and stockings; steel-toed shoes; underwear; 1973
uniforms, athletic and nonathletic; and wedding apparel. 1974
"Clothing" does not include items purchased for use in a trade 1975
or business; clothing accessories or equipment; protective 1976
equipment; sports or recreational equipment; belt buckles sold 1977
separately; costume masks sold separately; patches and emblems 1978
sold separately; sewing equipment and supplies including, but 1979
not limited to, knitting needles, patterns, pins, scissors, 1980
sewing machines, sewing needles, tape measures, and thimbles; 1981
and sewing materials that become part of "clothing" including, 1982
but not limited to, buttons, fabric, lace, thread, yarn, and 1983
zippers. 1984

(ii) "School supplies" means items commonly used by a 1985
student in a course of study. "School supplies" includes only 1986
the following items: binders; book bags; calculators; cellophane 1987
tape; blackboard chalk; compasses; composition books; crayons; 1988
erasers; folders, expandable, pocket, plastic, and manila; glue, 1989
paste, and paste sticks; highlighters; index cards; index card 1990
boxes; legal pads; lunch boxes; markers; notebooks; paper, 1991
loose-leaf ruled notebook paper, copy paper, graph paper, 1992
tracing paper, manila paper, colored paper, poster board, and 1993
construction paper; pencil boxes and other school supply boxes; 1994
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 1995
and writing tablets. "School supplies" does not include any item 1996
purchased for use in a trade or business. 1997

(iii) "School instructional material" means written 1998

material commonly used by a student in a course of study as a 1999
reference and to learn the subject being taught. "School 2000
instructional material" includes only the following items: 2001
reference books, reference maps and globes, textbooks, and 2002
workbooks. "School instructional material" does not include any 2003
material purchased for use in a trade or business. 2004

(56) (a) Sales of adult diapers or incontinence underpads 2005
sold pursuant to a prescription, for the benefit of a medicaid 2006
recipient with a diagnosis of incontinence, and by a medicaid 2007
provider that maintains a valid provider agreement under section 2008
5164.30 of the Revised Code with the department of medicaid, 2009
provided that the medicaid program covers diapers or 2010
incontinence underpads as an incontinence garment. 2011

(b) As used in division (B) (56) (a) of this section, 2012
"incontinence underpad" means an absorbent product, not worn on 2013
the body, designed to protect furniture or other tangible 2014
personal property from soiling or damage due to human 2015
incontinence. 2016

(57) Sales of investment metal bullion and investment 2017
coins. "Investment metal bullion" means any bullion described in 2018
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 2019
whether that bullion is in the physical possession of a trustee. 2020
"Investment coin" means any coin composed primarily of gold, 2021
silver, platinum, or palladium. 2022

(58) Sales of tangible personal property used primarily 2023
for any of the following purposes by a megaproject operator at 2024
the site of a megaproject that satisfies the criteria described 2025
in division (A) (11) (a) (ii) of section 122.17 of the Revised 2026
Code, provided that the sale occurs during the period that the 2027
megaproject operator has an agreement for such megaproject with 2028

the tax credit authority under division (D) of section 122.17 of 2029
the Revised Code that remains in effect and has not expired or 2030
been terminated: 2031

(a) To store, transmit, convey, distribute, recycle, 2032
circulate, or clean water, steam, or other gases used in or 2033
produced as a result of manufacturing activity, including items 2034
that support or aid in the operation of such property; 2035

(b) To clean or prepare inventory, at any stage of storage 2036
or production, or equipment used in a manufacturing activity, 2037
including chemicals, solvents, catalysts, soaps, and other items 2038
that support or aid in the operation of property; 2039

(c) To regulate, treat, filter, condition, improve, clean, 2040
maintain, or monitor environmental conditions within areas where 2041
manufacturing activities take place; 2042

(d) To handle, transport, or convey inventory during 2043
production or manufacturing. 2044

(59) Documentary services charges imposed pursuant to 2045
section 4517.261 or 4781.24 of the Revised Code. 2046

(60) Sales of children's diapers. 2047

(61) Sales of therapeutic or preventative creams and wipes 2048
marketed primarily for use on the skin of children. 2049

(62) Sales of a child restraint device or booster seat 2050
that meets the national highway traffic safety administration 2051
standard for child restraint systems under 49 C.F.R. 571.213. 2052

(63) Sales of cribs intended to provide sleeping 2053
accommodations for children that comply with the United States 2054
consumer product safety commission's safety standard for full- 2055
size baby cribs under 16 C.F.R. 1219 or the commission's safety 2056

standard for non-full-size baby cribs under 16 C.F.R. 1220. 2057

(64) Sales of strollers meant for transporting children 2058
from infancy to about thirty-six months of age that meet the 2059
United States consumer product safety commission safety standard 2060
for carriages and strollers under 16 C.F.R. 1227.2. 2061

(65) The fee imposed by section 3743.22 of the Revised 2062
Code, if it is separately stated on the invoice, bill of sale, 2063
or similar document given by the vendor to the consumer for a 2064
retail sale made in this state. 2065

(66) Sales of eligible tangible personal property 2066
occurring during the period of a sales tax holiday held pursuant 2067
to section 5739.41 of the Revised Code. 2068

(67) Sales of firearm safety devices. 2069

(C) For the purpose of the proper administration of this 2070
chapter, and to prevent the evasion of the tax, it is presumed 2071
that all sales made in this state are subject to the tax until 2072
the contrary is established. 2073

(D) The tax collected by the vendor from the consumer 2074
under this chapter is not part of the price, but is a tax 2075
collection for the benefit of the state, and of counties levying 2076
an additional sales tax pursuant to section 5739.021 or 5739.026 2077
of the Revised Code and of transit authorities levying an 2078
additional sales tax pursuant to section 5739.023 of the Revised 2079
Code. Except for the discount authorized under section 5739.12 2080
of the Revised Code and the effects of any rounding pursuant to 2081
section 5703.055 of the Revised Code, no person other than the 2082
state or such a county or transit authority shall derive any 2083
benefit from the collection or payment of the tax levied by this 2084
section or section 5739.021, 5739.023, or 5739.026 of the 2085

Revised Code. 2086

Sec. 5739.03. (A) Except as provided in section 5739.05 or 2087
section 5739.051 of the Revised Code, the tax imposed by or 2088
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 2089
the Revised Code shall be paid by the consumer to the vendor, 2090
and each vendor shall collect from the consumer, as a trustee 2091
for the state of Ohio, the full and exact amount of the tax 2092
payable on each taxable sale, in the manner and at the times 2093
provided as follows: 2094

(1) If the price is, at or prior to the provision of the 2095
service or the delivery of possession of the thing sold to the 2096
consumer, paid in currency passed from hand to hand by the 2097
consumer or the consumer's agent to the vendor or the vendor's 2098
agent, the vendor or the vendor's agent shall collect the tax 2099
with and at the same time as the price; 2100

(2) If the price is otherwise paid or to be paid, the 2101
vendor or the vendor's agent shall, at or prior to the provision 2102
of the service or the delivery of possession of the thing sold 2103
to the consumer, charge the tax imposed by or pursuant to 2104
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 2105
Code to the account of the consumer, which amount shall be 2106
collected by the vendor from the consumer in addition to the 2107
price. Such sale shall be reported on and the amount of the tax 2108
applicable thereto shall be remitted with the return for the 2109
period in which the sale is made, and the amount of the tax 2110
shall become a legal charge in favor of the vendor and against 2111
the consumer. 2112

(B) (1) (a) If any sale is claimed to be exempt under 2113
division (E) of section 5739.01 of the Revised Code or under 2114
section 5739.02 of the Revised Code, with the exception of 2115

divisions (B) (1) to (11), (28), (48), (55), (59), ~~or~~ (66), or 2116
(67) of section 5739.02 of the Revised Code, the consumer must 2117
provide to the vendor, and the vendor must obtain from the 2118
consumer, a certificate specifying the reason that the sale is 2119
not legally subject to the tax. The certificate shall be in such 2120
form, and shall be provided either in a hard copy form or 2121
electronic form, as the tax commissioner prescribes. 2122

(b) A vendor that obtains a fully completed exemption 2123
certificate from a consumer is relieved of liability for 2124
collecting and remitting tax on any sale covered by that 2125
certificate. If it is determined the exemption was improperly 2126
claimed, the consumer shall be liable for any tax due on that 2127
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 2128
Chapter 5741. of the Revised Code. Relief under this division 2129
from liability does not apply to any of the following: 2130

(i) A vendor that fraudulently fails to collect tax; 2131

(ii) A vendor that solicits consumers to participate in 2132
the unlawful claim of an exemption; 2133

(iii) A vendor that accepts an exemption certificate from 2134
a consumer that claims an exemption based on who purchases or 2135
who sells property or a service, when the subject of the 2136
transaction sought to be covered by the exemption certificate is 2137
actually received by the consumer at a location operated by the 2138
vendor in this state, and this state has posted to its web site 2139
an exemption certificate form that clearly and affirmatively 2140
indicates that the claimed exemption is not available in this 2141
state; 2142

(iv) A vendor that accepts an exemption certificate from a 2143
consumer who claims a multiple points of use exemption under 2144

division (D) of section 5739.033 of the Revised Code, if the 2145
item purchased is tangible personal property, other than 2146
prewritten computer software. 2147

(2) The vendor shall maintain records, including exemption 2148
certificates, of all sales on which a consumer has claimed an 2149
exemption, and provide them to the tax commissioner on request. 2150

(3) The tax commissioner may establish an identification 2151
system whereby the commissioner issues an identification number 2152
to a consumer that is exempt from payment of the tax. The 2153
consumer must present the number to the vendor, if any sale is 2154
claimed to be exempt as provided in this section. 2155

(4) If no certificate is provided or obtained within 2156
ninety days after the date on which such sale is consummated, it 2157
shall be presumed that the tax applies. Failure to have so 2158
provided or obtained a certificate shall not preclude a vendor, 2159
within one hundred twenty days after the tax commissioner gives 2160
written notice of intent to levy an assessment, from either 2161
establishing that the sale is not subject to the tax, or 2162
obtaining, in good faith, a fully completed exemption 2163
certificate. 2164

(5) Certificates need not be obtained nor provided where 2165
the identity of the consumer is such that the transaction is 2166
never subject to the tax imposed or where the item of tangible 2167
personal property sold or the service provided is never subject 2168
to the tax imposed, regardless of use, or when the sale is in 2169
interstate commerce. 2170

(6) If a transaction is claimed to be exempt under 2171
division (B)(13) of section 5739.02 of the Revised Code, the 2172
contractor shall obtain certification of the claimed exemption 2173

from the contractee. This certification shall be in addition to 2174
an exemption certificate provided by the contractor to the 2175
vendor. A contractee that provides a certification under this 2176
division shall be deemed to be the consumer of all items 2177
purchased by the contractor under the claim of exemption, if it 2178
is subsequently determined that the exemption is not properly 2179
claimed. The certification shall be in such form as the tax 2180
commissioner prescribes. 2181

(7) If a transaction is claimed to be exempt under 2182
division (B) (13) of section 5739.02 of the Revised Code, the 2183
person that leases a sports facility, as defined in section 2184
307.696 of the Revised Code, wholly owned by a county may 2185
provide and sign, on behalf of the county, an exemption 2186
certificate required under this section for that exemption. 2187

(C) As used in this division, "contractee" means a person 2188
who seeks to enter or enters into a contract or agreement with a 2189
contractor or vendor for the construction of real property or 2190
for the sale and installation onto real property of tangible 2191
personal property. 2192

Any contractor or vendor may request from any contractee a 2193
certification of what portion of the property to be transferred 2194
under such contract or agreement is to be incorporated into the 2195
realty and what portion will retain its status as tangible 2196
personal property after installation is completed. The 2197
contractor or vendor shall request the certification by 2198
certified mail delivered to the contractee, return receipt 2199
requested. Upon receipt of such request and prior to entering 2200
into the contract or agreement, the contractee shall provide to 2201
the contractor or vendor a certification sufficiently detailed 2202
to enable the contractor or vendor to ascertain the resulting 2203

classification of all materials purchased or fabricated by the 2204
contractor or vendor and transferred to the contractee. This 2205
requirement applies to a contractee regardless of whether the 2206
contractee holds a direct payment permit under section 5739.031 2207
of the Revised Code or provides to the contractor or vendor an 2208
exemption certificate as provided under this section. 2209

For the purposes of the taxes levied by this chapter and 2210
Chapter 5741. of the Revised Code, the contractor or vendor may 2211
in good faith rely on the contractee's certification. 2212
Notwithstanding division (B) of section 5739.01 of the Revised 2213
Code, if the tax commissioner determines that certain property 2214
certified by the contractee as tangible personal property 2215
pursuant to this division is, in fact, real property, the 2216
contractee shall be considered to be the consumer of all 2217
materials so incorporated into that real property and shall be 2218
liable for the applicable tax, and the contractor or vendor 2219
shall be excused from any liability on those materials. 2220

If a contractee fails to provide such certification upon 2221
the request of the contractor or vendor, the contractor or 2222
vendor shall comply with the provisions of this chapter and 2223
Chapter 5741. of the Revised Code without the certification. If 2224
the tax commissioner determines that such compliance has been 2225
performed in good faith and that certain property treated as 2226
tangible personal property by the contractor or vendor is, in 2227
fact, real property, the contractee shall be considered to be 2228
the consumer of all materials so incorporated into that real 2229
property and shall be liable for the applicable tax, and the 2230
construction contractor or vendor shall be excused from any 2231
liability on those materials. 2232

This division does not apply to any contract or agreement 2233

where the tax commissioner determines as a fact that a 2234
certification under this division was made solely on the 2235
decision or advice of the contractor or vendor. 2236

(D) Notwithstanding division (B) of section 5739.01 of the 2237
Revised Code, whenever the total rate of tax imposed under this 2238
chapter is increased after the date after a construction 2239
contract is entered into, the contractee shall reimburse the 2240
construction contractor for any additional tax paid on tangible 2241
property consumed or services received pursuant to the contract. 2242

(E) A vendor who files a petition for reassessment 2243
contesting the assessment of tax on sales for which the vendor 2244
obtained no valid exemption certificates and for which the 2245
vendor failed to establish that the sales were properly not 2246
subject to the tax during the one-hundred-twenty-day period 2247
allowed under division (B) of this section, may present to the 2248
tax commissioner additional evidence to prove that the sales 2249
were properly subject to a claim of exception or exemption. The 2250
vendor shall file such evidence within ninety days of the 2251
receipt by the vendor of the notice of assessment, except that, 2252
upon application and for reasonable cause, the period for 2253
submitting such evidence shall be extended thirty days. 2254

The commissioner shall consider such additional evidence 2255
in reaching the final determination on the assessment and 2256
petition for reassessment. 2257

(F) Whenever a vendor refunds the price, minus any 2258
separately stated delivery charge, of an item of tangible 2259
personal property on which the tax imposed under this chapter 2260
has been paid, the vendor shall also refund the amount of tax 2261
paid, minus the amount of tax attributable to the delivery 2262
charge. 2263

Sec. 5739.17. (A) No person shall engage in making retail 2264
sales subject to a tax imposed by or pursuant to section 2265
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as 2266
a business without having a license therefor, except as 2267
otherwise provided in divisions (A) (1), (2), and (3) of this 2268
section. 2269

(1) In the dissolution of a partnership by death, the 2270
surviving partner may operate under the license of the 2271
partnership for a period of sixty days. 2272

(2) The heirs or legal representatives of deceased 2273
persons, and receivers and trustees in bankruptcy, appointed by 2274
any competent authority, may operate under the license of the 2275
person so succeeded in possession. 2276

(3) Two or more persons who are not partners may operate a 2277
single place of business under one license. In such case neither 2278
the retirement of any such person from business at that place of 2279
business, nor the entrance of any person, under an existing 2280
arrangement, shall affect the license or require the issuance of 2281
a new license, unless the person retiring from the business is 2282
the individual named on the vendor's license. 2283

Except as otherwise provided in this section, each 2284
applicant for a license shall make out and deliver to the county 2285
auditor of each county in which the applicant desires to engage 2286
in business, upon a blank to be furnished by such auditor for 2287
that purpose, a statement showing the name of the applicant, 2288
each place of business in the county where the applicant will 2289
make retail sales, the nature of the business, and any other 2290
information the tax commissioner reasonably prescribes in the 2291
form of a statement prescribed by the commissioner. 2292

At the time of making the application, the applicant shall 2293
pay into the county treasury a license fee in the sum of fifty 2294
dollars for each fixed place of business in the county that will 2295
be the situs of retail sales. Upon receipt of the application 2296
and exhibition of the county treasurer's receipt, showing the 2297
payment of the license fee, the county auditor shall issue to 2298
the applicant a license for each fixed place of business 2299
designated in the application, authorizing the applicant to 2300
engage in business at that location. The county auditor shall 2301
transmit twenty-five dollars of each license fee to the 2302
treasurer of state for deposit into the state treasury to the 2303
credit of the organized crime commission fund for the purposes 2304
specified in section 177.011 of the Revised Code. The remaining 2305
twenty-five dollars of each license fee shall be credited to the 2306
general fund of the county. 2307

(B) If a vendor's identity changes, the vendor shall apply 2308
for a new license. If a vendor wishes to move an existing fixed 2309
place of business to a new location within the same county, the 2310
vendor shall obtain a new vendor's license or submit a request 2311
to the commissioner to transfer the existing vendor's license to 2312
the new location. When the new location has been verified as 2313
being within the same county, the commissioner shall authorize 2314
the transfer and notify the county auditor of the change of 2315
location. If a vendor wishes to move an existing fixed place of 2316
business to another county, the vendor's license shall not 2317
transfer and the vendor shall obtain a new vendor's license from 2318
the county in which the business is to be located. The form of 2319
the license shall be prescribed by the commissioner. The fees 2320
collected shall be credited as specified in division (A) (3) of 2321
this section. If a vendor fails to notify the commissioner of a 2322
change of location of its fixed place of business or that its 2323

business has closed, the commissioner may cancel the vendor's 2324
license if ordinary mail sent to the location shown on the 2325
license is returned because of an undeliverable address. 2326

(C) The commissioner may establish or participate in a 2327
registration system whereby any vendor may obtain a vendor's 2328
license by submitting to the commissioner a vendor's license 2329
application and a license fee of fifty dollars for each fixed 2330
place of business at which the vendor intends to make retail 2331
sales. Under this registration system, the commissioner shall 2332
issue a vendor's license to the applicant on behalf of the 2333
county auditor of the county in which the applicant desires to 2334
engage in business, and shall forward a copy of the application 2335
and license fee to that county. Twenty-five dollars of each 2336
license fee received by the commissioner for the issuance of 2337
vendor's licenses shall be deposited into the vendor's license 2338
application fund, which is hereby created in the state treasury. 2339
The remaining twenty-five dollars of each license fee shall be 2340
deposited into the organized crime commission fund for the 2341
purposes specified in section 177.011 of the Revised Code. The 2342
commissioner shall certify to the director of budget and 2343
management within ten business days after the close of a month 2344
the license fees to be transmitted to each county from the 2345
vendor's license application fund for vendor's license 2346
applications received by the commissioner during that month. 2347
License fees transmitted to a county for which payment was not 2348
received by the commissioner may be netted against a future 2349
distribution to that county, including distributions made 2350
pursuant to section 5739.21 of the Revised Code. 2351

A vendor that makes retail sales subject to tax under 2352
Chapter 5739. of the Revised Code pursuant to a permit issued by 2353
the division of liquor control shall obtain a vendor's license 2354

in the identical name and for the identical address as shown on 2355
the permit. 2356

Except as otherwise provided in this section, if a vendor 2357
has no fixed place of business and sells from a vehicle, each 2358
vehicle intended to be used within a county constitutes a place 2359
of business for the purpose of this section. 2360

(D) As used in this section, "transient vendor" means any 2361
person who makes sales of tangible personal property from 2362
vending machines located on land owned by others, who leases 2363
titled motor vehicles, titled watercraft, or titled outboard 2364
motors, who effectuates leases that are taxed according to 2365
division (A) (2) of section 5739.02 of the Revised Code, or who, 2366
in the usual course of the person's business, transports 2367
inventory, stock of goods, or similar tangible personal property 2368
to a temporary place of business or temporary exhibition, show, 2369
fair, flea market, or similar event in a county in which the 2370
person has no fixed place of business, for the purpose of making 2371
retail sales of such property. A "temporary place of business" 2372
means any public or quasi-public place including, but not 2373
limited to, a hotel, rooming house, storeroom, building, part of 2374
a building, tent, vacant lot, railroad car, or motor vehicle 2375
that is temporarily occupied for the purpose of making retail 2376
sales of goods to the public. A place of business is not 2377
temporary if the same person conducted business at the place 2378
continuously for more than six months or occupied the premises 2379
as the person's permanent residence for more than six months, or 2380
if the person intends it to be a fixed place of business. 2381

Any transient vendor, in lieu of obtaining a vendor's 2382
license under division (A) of this section for counties in which 2383
the transient vendor has no fixed place of business, may apply 2384

to the tax commissioner, on a form prescribed by the 2385
commissioner, for a transient vendor's license. The transient 2386
vendor's license authorizes the transient vendor to make retail 2387
sales in any county in which the transient vendor does not 2388
maintain a fixed place of business. Any holder of a transient 2389
vendor's license shall not be required to obtain a separate 2390
vendor's license from the county auditor in that county. Upon 2391
the commissioner's determination that an applicant is a 2392
transient vendor, the applicant shall pay a license fee in the 2393
amount of fifty dollars, at which time the tax commissioner 2394
shall issue the license. Twenty-five dollars of that license fee 2395
shall be deposited into the organized crime commission fund for 2396
the purposes specified in section 177.011 of the Revised Code. 2397
The tax commissioner may require a vendor to be licensed as a 2398
transient vendor if, in the opinion of the commissioner, such 2399
licensing is necessary for the efficient administration of the 2400
tax. 2401

Any holder of a valid transient vendor's license may make 2402
retail sales at a temporary place of business or temporary 2403
exhibition, show, fair, flea market, or similar event, held 2404
anywhere in the state without complying with any provision of 2405
section 311.37 of the Revised Code. Any holder of a valid 2406
vendor's license may make retail sales as a transient vendor at 2407
a temporary place of business or temporary exhibition, show, 2408
fair, flea market, or similar event held in any county in which 2409
the vendor maintains a fixed place of business for which the 2410
vendor holds a vendor's license without obtaining a transient 2411
vendor's license. 2412

(E) Any vendor who is issued a license pursuant to this 2413
section shall display the license or a copy of it prominently, 2414
in plain view, at every place of business of the vendor. 2415

(F) No owner, organizer, or promoter who operates a fair, 2416
flea market, show, exhibition, convention, or similar event at 2417
which transient vendors are present shall fail to keep a 2418
comprehensive record of all such vendors, listing the vendor's 2419
name, permanent address, vendor's license number, and the type 2420
of goods sold. Such records shall be kept for four years and 2421
shall be open to inspection by the commissioner. 2422

(G) The commissioner may issue additional types of 2423
licenses if required to efficiently administer the tax imposed 2424
by this chapter. 2425

(H) A vendor shall post in a conspicuous manner at all 2426
points of sale on the vendor's premises where firearms are sold 2427
a notice that says the following: "The State of Ohio has 2428
exempted the sale of firearm safety devices from the sales and 2429
use tax imposed by this state and local governments." The 2430
vendor, upon the retail sale or transfer of a firearm, shall 2431
furnish such a written notice to the consumer. 2432

Section 2. That existing sections 5739.01, 5739.02, 2433
5739.03, and 5739.17 of the Revised Code are hereby repealed. 2434

Section 3. The amendment by this act of sections 5739.01, 2435
5739.02, 5739.03, and 5739.17 of the Revised Code applies on and 2436
after the first day of the first month beginning after the 2437
effective date of this section. 2438

Section 4. Section 5739.01 of the Revised Code is 2439
presented in this act as a composite of the section as amended 2440
by both H.B. 315 and S.B. 196 of the 135th General Assembly. The 2441
General Assembly, applying the principle stated in division (B) 2442
of section 1.52 of the Revised Code that amendments are to be 2443
harmonized if reasonably capable of simultaneous operation, 2444

finds that the composite is the resulting version of the section	2445
in effect prior to the effective date of the section as	2446
presented in this act.	2447