## As Introduced

## 136th General Assembly Regular Session 2025-2026

H. B. No. 549

## **Representative Lorenz**

То	amend sections 3794.03, 5739.02, and 5739.03 and	1
	to enact sections 3794.21, 3794.22, 3794.23, and	2
	3794.24 of the Revised Code to regulate cigar	3
	bars and to exempt cigars smoked on the premises	4
	of a cigar bar from sales and use tax.	5

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

<b>Section 1.</b> That sections 3794.03, 5739.02, and 5739.03 be	6
amended and sections 3794.21, 3794.22, 3794.23, and 3794.24 of	7
the Revised Code be enacted to read as follows:	8
Sec. 3794.03. Areas where smoking is not regulated by this	9
chapter.	10
The following shall be exempt from the provisions of this	11
chapter:	12
(A) Private residences, except during the hours of	13
operation as a child care or adult care facility for	14
compensation, during the hours of operation as a business by a	15
person other than a person residing in the private residence, or	16
during the hours of operation as a business, when employees of	17
the business, who are not residents of the private residence or	18
are not related to the owner, are present.	19
(B) Rooms for sleeping in hotels, motels and other lodging	20

Page 2 H. B. No. 549 As Introduced

facilities designated as smoking rooms; provided, however, that	21
not more than twenty per cent of sleeping rooms may be so	22
designated.	23
(C) Family-owned and operated places of employment in	24
which all employees are related to the owner, but only if the	25
enclosed areas of the place of employment are not open to the	26
public, are in a freestanding structure occupied solely by the	27
place of employment, and smoke from the place of employment does	28
not migrate into an enclosed area where smoking is prohibited	29
under the provisions of this chapter.	30
(D) Any nursing home, as defined in division (A) of	31
section 3721.10 of the Revised Code, but only to the extent	32
necessary to comply with division (A)(18) of section 3721.13 of	33
the Revised Code. If indoor smoking area is provided by a	34
nursing home for residents of the nursing home, the designated	35
indoor smoking area shall be separately enclosed and separately	36
ventilated so that tobacco smoke does not enter, through	37
entrances, windows, ventilation systems, or other means, any	38
areas where smoking is otherwise prohibited under this chapter.	39
Only residents of the nursing home may utilize the designated	40
indoor smoking area for smoking. A nursing home may designate	41
specific times when the indoor smoking area may be used for such	42
purpose. No employee of a nursing home shall be required to	43
accompany a resident into a designated indoor smoking area or	44
perform services in such area when being used for smoking.	45
(E)(1) Retail tobacco stores in operation prior to	46
December 7, 2006. The retail tobacco store shall annually file	47
with the department of health by the thirty-first day of January	48
an affidavit stating the percentage of its gross income during	49

the prior calendar year that was derived from the sale of

cigars, cigarettes, pipes, or other smoking devices for smoking 51 tobacco and related smoking accessories. 52

(2) Any retail tobacco store that begins operation after December 7, 2006, or any existing retail tobacco store that relocates to another location after December 7, 2006, may only qualify for the exemption authorized by division (E) of this section if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter. 

- (3) A change of ownership of a retail tobacco store in operation prior to December 7, 2006, does not, in itself, constitute the beginning of a new operation or the relocation of an existing operation for the purposes of division (E)(2) of this section and does not, in itself, necessitate that the retail tobacco store relocate to a freestanding structure, as described in that division, in order to retain an exemption from the provisions of this chapter.
- (F) Outdoor patios. All outdoor patios shall be physically separated from an enclosed area. If windows or doors form any part of the partition between an enclosed area and the outdoor patio, the openings shall be closed to prevent the migration of smoke into the enclosed area. If windows or doors do not prevent the migration of smoke into the enclosed area, the outdoor patio shall be considered an extension of the enclosed area and subject to the prohibitions of this chapter.
- (G) Private clubs as defined in division (B) (13) of 77 section 4301.01 of the Revised Code, provided all of the 78 following apply: the club has no employees; the club is 79 organized as a not-for-profit entity; only members of the club 80

are present in the club's building; no persons under the age of	81
eighteen are present in the club's building; the club is located	82
in a freestanding structure occupied solely by the club; smoke	83
from the club does not migrate into an enclosed area where	84
smoking is prohibited under the provisions of this chapter; and,	85
if the club serves alcohol, it holds a valid D4 liquor permit.	86
(H) An enclosed space in a laboratory facility at an	87
accredited college or university, when used solely and	88
exclusively for clinical research activities by a person,	89
organization, or other entity conducting institutional review	90
board-approved scientific or medical research related to the	91
health effects of smoking or the use of tobacco products. The	92
enclosed space shall not be open to the public and shall be	93
designed to minimize exposure of nonsmokers to smoke. The	94
program administrator shall annually file a notice of new	95
research with the department of health on a form prescribed by	96
the department.	97
(I) A retail vapor store, insofar as the provisions of	98
this chapter apply to smoking via vapor products and electronic	99
smoking devices. The provisions of this chapter apply to retail	100
vapor stores with regard to all other forms of smoking. The	101
retail vapor store shall annually file with the department of	102
health by the thirty-first day of January an affidavit stating	103
the percentage of its gross income during the prior calendar	104
year that was derived from the sale of vapor products,	105
electronic smoking devices, or other electronic smoking product	106
accessories.	107
(J) A cigar bar licensed under sections 3794.21 to 3794.24	108
of the Revised Code.	109
Sec. 3794.21. As used in sections 3794.21 to 3794.24 of	110

H. B. No. 549	Page 5
As Introduced	

<pre>the Revised Code:</pre>	111
(A) "Child care center" has the same meaning as in section	112
5104.01 of the Revised Code.	113
(B) "Cigar bar" means an establishment that meets all of	114
<pre>the following:</pre>	115
(1) It sells cigars, and all such cigars are premium	116
cigars.	117
(2) It has a walk-in humidor.	118
(3) It does not sell any other smokeable consumer product.	119
(4) It prohibits the smoking of any consumer product other	120
than premium cigars sold on the premises.	121
(5) It prohibits entry to an individual under twenty-one	122
years of age.	123
(C) "Premium cigar" has the same meaning as in division	124
(Q) of section 5743.01 of the Revised Code.	125
(D) "School" means all of the following:	126
(1) A city, exempted village, local, or joint vocational	127
<pre>school district;</pre>	128
(2) A community school established under Chapter 3314. of	129
the Revised Code;	130
(3) A science, technology, engineering, and mathematics	131
school established under Chapter 3326. of the Revised Code;	132
(4) A chartered nonpublic school;	133
(5) An educational service center, on behalf of a school	134
or district.	135

Sec. 3794.22. (A) (1) No person shall operate a cigar bar	136
in this state without a license issued by the director of	137
commerce in conjunction with the director of health in	138
accordance with rules adopted under division (D) of this	139
section. The directors shall issue a license under this section	140
if the applicant submits to the directors an application in	141
compliance with those rules and pays to the directors a license	142
application fee of five hundred dollars.	143
(2) To be eligible to receive a license to operate a cigar	144
bar, an applicant shall hold a current, valid D class liquor	145
permit issued under Chapter 4303. of the Revised Code.	146
(B) A license issued under this section is valid for one	147
year after issuance and shall be renewed in the same manner as	148
an initial license, including payment of a five-hundred-dollar	149
license renewal application fee.	150
(C) Fees collected under this section shall be credited to	151
the cigar bar fund created in section 3794.24 of the Revised	152
Code.	153
(D) The director of commerce, in conjunction with the	154
director of health, shall adopt rules in accordance with Chapter	155
119. of the Revised Code that establish all of the following	156
regarding a license issued under division (A) of this section:	157
(1) Information that must be included with an application	158
<pre>for a license;</pre>	159
(2) Procedures for the approval of a license;	160
(3) Grounds and procedures for the denial, suspension, or	161
revocation of a license;	162
(4) Any other requirements and procedures determined	163

necessary by the directors to implement sections 3794.21 to	164
3794.24 of the Revised Code.	165
Sec. 3794.23. (A) The owner of a licensed cigar bar shall	166
post written notice that informs patrons that they will be	167
exposed to cigar smoke in the establishment. The notice shall be	168
displayed in a conspicuous place at each entrance to the cigar	169
bar. The notice shall read "WARNING: Smoking is Allowed in This	170
<pre>Establishment."</pre>	171
(B) The owner of a cigar bar shall not fail to designate	172
an indoor smoking area. The smoking area shall be separately	173
enclosed and ventilated so that cigar smoke does not enter,	174
through ventilation and air purification systems, any areas	175
where smoking is otherwise prohibited.	176
(C) A cigar bar shall not be located within five hundred	177
feet of a school, church, or child care center, unless approved	178
by local authorities.	179
(D) A municipal corporation may establish requirements	180
that apply to cigar bars within its jurisdiction in addition to	181
those established in sections 3794.21 to 3794.23 of the Revised	182
Code and rules adopted under those sections. Notwithstanding	183
sections 3794.21 to 3794.23 of the Revised Code, a municipal	184
corporation may prohibit the operation of cigar bars through	185
local ordinance.	186
Sec. 3794.24. The cigar bar fund is created in the state	187
treasury. The fund shall consist of all fees collected under	188
section 3794.22 of the Revised Code. The director of commerce in	189
conjunction with the director of health shall use money in the	190
fund to administer and enforce sections 3794.21 to 3794.23 of	191
the Revised Code and rules adopted under those sections.	192

Sec. 5739.02. For the purpose of providing revenue with	193
which to meet the needs of the state, for the use of the general	194
revenue fund of the state, for the purpose of securing a	195
thorough and efficient system of common schools throughout the	196
state, for the purpose of affording revenues, in addition to	197
those from general property taxes, permitted under	198
constitutional limitations, and from other sources, for the	199
support of local governmental functions, and for the purpose of	200
reimbursing the state for the expense of administering this	201
chapter, an excise tax is hereby levied on each retail sale made	202
in this state.	203

- (A)(1) The tax shall be collected as provided in section 204 5739.025 of the Revised Code. The rate of the tax shall be five 205 and three-fourths per cent. The tax applies and is collectible 206 when the sale is made, regardless of the time when the price is 207 paid or delivered. 208
- (2) In the case of the lease or rental, with a fixed term 209 of more than thirty days or an indefinite term with a minimum 210 period of more than thirty days, of any motor vehicles designed 211 by the manufacturer to carry a load of not more than one ton, 212 watercraft, outboard motor, or aircraft, or of any tangible 213 personal property, other than motor vehicles designed by the 214 manufacturer to carry a load of more than one ton, to be used by 215 the lessee or renter primarily for business purposes, the tax 216 shall be collected by the vendor at the time the lease or rental 217 is consummated and shall be calculated by the vendor on the 218 basis of the total amount to be paid by the lessee or renter 219 under the lease agreement. If the total amount of the 220 consideration for the lease or rental includes amounts that are 221 not calculated at the time the lease or rental is executed, the 222 tax shall be calculated and collected by the vendor at the time 223

such amounts are billed to the lessee or renter. In the case of	224
an open-end lease or rental, the tax shall be calculated by the	225
vendor on the basis of the total amount to be paid during the	226
initial fixed term of the lease or rental, and for each	227
subsequent renewal period as it comes due. As used in this	228
division, "motor vehicle" has the same meaning as in section	229
4501.01 of the Revised Code, and "watercraft" includes an	230
outdrive unit attached to the watercraft.	231
A lease with a renewal clause and a termination penalty or	232
similar provision that applies if the renewal clause is not	233
exercised is presumed to be a sham transaction. In such a case,	234
the tax shall be calculated and paid on the basis of the entire	235
length of the lease period, including any renewal periods, until	236
the termination penalty or similar provision no longer applies.	237
The taxpayer shall bear the burden, by a preponderance of the	238
evidence, that the transaction or series of transactions is not	239
a sham transaction.	240
(3) Except as provided in division (A)(2) of this section,	241
in the case of a sale, the price of which consists in whole or	242
in part of the lease or rental of tangible personal property,	243
the tax shall be measured by the installments of that lease or	244
rental.	245
(4) In the case of a sale of a physical fitness facility	246
service or recreation and sports club service, the price of	247
which consists in whole or in part of a membership for the	248
receipt of the benefit of the service, the tax applicable to the	249
sale shall be measured by the installments thereof.	250
(B) The tax does not apply to the following:	251

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(1) Sales to the state or any of its political

subdivisions, or to any other state or its political	253
subdivisions if the laws of that state exempt from taxation	254
sales made to this state and its political subdivisions	255
including either of the following:	256
(a) Sales or rentals of tangible personal property by	257
construction contractors or subcontractors to provide temporary	258
traffic control or temporary structures, including material and	259
equipment used to comply with the Ohio manual of uniform traffic	260
control devices adopted pursuant to section 4511.09 of the	261
Revised Code, whereby the state or any of its political	262
subdivisions take title to, or permanent or temporary possession	263
of, such tangible personal property for use by the state or any	264
of its political subdivisions, including for use by the general	265
<pre>public thereof;</pre>	266
(b) Sales of services by construction contractors or	267
subcontractors to provide temporary traffic control or	268
structures, including labor used to comply with the Ohio manual	269
of uniform traffic control devices adopted pursuant to section	270
4511.09 of the Revised Code, whereby the state or any of its	271
political subdivisions, including the general public thereof,	272
receive the benefit of such services.	273
As used in divisions (B)(1)(a) and (b) of this section,	274
"temporary structures" include temporary roads, bridges, drains,	275
and pavement.	276
(2) Sales of food for human consumption off the premises	277
where sold;	278
(3) Sales of food sold to students only in a cafeteria,	279
dormitory, fraternity, or sorority maintained in a private,	280
public, or parochial school, college, or university;	281

(4) Sales of newspapers and sales or transfers of	282
magazines distributed as controlled circulation publications;	283
(5) The furnishing, preparing, or serving of meals without	284
charge by an employer to an employee provided the employer	285
records the meals as part compensation for services performed or	286
work done;	287
(6)(a) Sales of motor fuel upon receipt, use,	288
distribution, or sale of which in this state a tax is imposed by	289
the law of this state, but this exemption shall not apply to the	290
sale of motor fuel on which a refund of the tax is allowable	291
under division (A) of section 5735.14 of the Revised Code; and	292
the tax commissioner may deduct the amount of tax levied by this	293
section applicable to the price of motor fuel when granting a	294
refund of motor fuel tax pursuant to division (A) of section	295
5735.14 of the Revised Code and shall cause the amount deducted	296
to be paid into the general revenue fund of this state;	297
(b) Sales of motor fuel other than that described in	298
division (B)(6)(a) of this section and used for powering a	299
refrigeration unit on a vehicle other than one used primarily to	300
provide comfort to the operator or occupants of the vehicle.	301
(7) Sales of natural gas by a natural gas company or	302
municipal gas utility, of water by a water-works company, or of	303
steam by a heating company, if in each case the thing sold is	304
delivered to consumers through pipes or conduits, and all sales	305
of communications services by a telegraph company, all terms as	306
defined in section 5727.01 of the Revised Code, and sales of	307
electricity delivered through wires;	308
(8) Casual sales by a person, or auctioneer employed	309
directly by the person to conduct such sales, except as to such	310

sales of motor vehicles, watercraft or outboard motors required	311
to be titled under section 1548.06 of the Revised Code,	312
watercraft documented with the United States coast guard,	313
snowmobiles, and all-purpose vehicles as defined in section	314
4519.01 of the Revised Code;	315
(9)(a) Sales of services or tangible personal property,	316
other than motor vehicles, mobile homes, and manufactured homes,	317
by churches, organizations exempt from taxation under section	318
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit	319
organizations operated exclusively for charitable purposes as	320
defined in division (B)(12) of this section, provided that the	321
number of days on which such tangible personal property or	322
services, other than items never subject to the tax, are sold	323
does not exceed six in any calendar year, except as otherwise	324
provided in division (B)(9)(b) of this section. If the number of	325
days on which such sales are made exceeds six in any calendar	326
year, the church or organization shall be considered to be	327
engaged in business and all subsequent sales by it shall be	328
subject to the tax. In counting the number of days, all sales by	329
groups within a church or within an organization shall be	330
considered to be sales of that church or organization.	331
(b) The limitation on the number of days on which tax-	332
exempt sales may be made by a church or organization under	333
division (B)(9)(a) of this section does not apply to sales made	334
by student clubs and other groups of students of a primary or	335
secondary school, or a parent-teacher association, booster	336
group, or similar organization that raises money to support or	337
fund curricular or extracurricular activities of a primary or	338
secondary school.	339

(c) Divisions (B)(9)(a) and (b) of this section do not

apply to sales by a noncommercial educational radio or	341
television broadcasting station.	342
(10) Sales not within the taxing power of this state under	343
the Constitution or laws of the United States or the	344
Constitution of this state including either of the following:	345
(a) Sales or rentals of tangible personal property by	346
construction contractors or subcontractors to provide temporary	347
traffic control or temporary structures, including material and	348
equipment used to comply with the Ohio manual of uniform traffic	349
control devices adopted pursuant to section 4511.09 of the	350
Revised Code, whereby the United States takes title to, or	351
permanent or temporary possession of, such tangible personal	352
property for use by the United States including for use by the	353
<pre>general public thereof;</pre>	354
(b) Sales of services by construction contractors or	355
subcontractors to provide temporary traffic control or	356
structures, including labor used to comply with the Ohio manual	357
of uniform traffic control devices adopted pursuant to section	358
4511.09 of the Revised Code, whereby the United States,	359
including the general public thereof, receives the benefit of	360
such services.	361
As used in divisions (B)(10)(a) and (b) of this section,	362
"temporary structures" include temporary roads, bridges, drains,	363
and pavement.	364
(11) Except for transactions that are sales under division	365
(B)(3)(p) of section 5739.01 of the Revised Code, the	366
transportation of persons or property, unless the transportation	367
is by a private investigation and security service;	368
(12) Sales of tangible personal property or services to	360

churches, to organizations exempt from taxation under section	370
501(c)(3) of the Internal Revenue Code of 1986, and to any other	371
nonprofit organizations operated exclusively for charitable	372
purposes in this state, no part of the net income of which	373
inures to the benefit of any private shareholder or individual,	374
and no substantial part of the activities of which consists of	375
carrying on propaganda or otherwise attempting to influence	376
legislation; sales to offices administering one or more homes	377
for the aged or one or more hospital facilities exempt under	378
section 140.08 of the Revised Code; and sales to organizations	379
described in division (D) of section 5709.12 of the Revised	380
Code.	381

"Charitable purposes" means the relief of poverty; the 382 improvement of health through the alleviation of illness, 383 disease, or injury; the operation of an organization exclusively 384 for the provision of professional, laundry, printing, and 385 purchasing services to hospitals or charitable institutions; the 386 operation of a home for the aged, as defined in section 5701.13 387 of the Revised Code; the operation of a radio or television 388 broadcasting station that is licensed by the federal 389 communications commission as a noncommercial educational radio 390 or television station; the operation of a nonprofit animal 391 adoption service or a county humane society; the promotion of 392 education by an institution of learning that maintains a faculty 393 of qualified instructors, teaches regular continuous courses of 394 study, and confers a recognized diploma upon completion of a 395 specific curriculum; the operation of a parent-teacher 396 association, booster group, or similar organization primarily 397 engaged in the promotion and support of the curricular or 398 extracurricular activities of a primary or secondary school; the 399 operation of a community or area center in which presentations 400

in music, dramatics, the arts, and related fields are made in	401
order to foster public interest and education therein; the	402
production of performances in music, dramatics, and the arts; or	403
the promotion of education by an organization engaged in	404
carrying on research in, or the dissemination of, scientific and	405
technological knowledge and information primarily for the	406
public.	407

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

(13) Building and construction materials and services sold 413 to construction contractors for incorporation into a structure 414 or improvement to real property under a construction contract 415 with this state or a political subdivision of this state, or 416 with the United States government or any of its agencies; 417 building and construction materials and services sold to 418 construction contractors for incorporation into a structure or 419 improvement to real property that are accepted for ownership by 420 this state or any of its political subdivisions, or by the 421 422 United States government or any of its agencies at the time of completion of the structures or improvements; building and 423 construction materials sold to construction contractors for 424 incorporation into a horticulture structure or livestock 425 structure for a person engaged in the business of horticulture 426 or producing livestock; building materials and services sold to 427 a construction contractor for incorporation into a house of 428 public worship or religious education, or a building used 429 exclusively for charitable purposes under a construction 430 contract with an organization whose purpose is as described in 431

division (B)(12) of this section; building materials and	432
services sold to a construction contractor for incorporation	433
into a building under a construction contract with an	434
organization exempt from taxation under section 501(c)(3) of the	435
Internal Revenue Code of 1986 when the building is to be used	436
exclusively for the organization's exempt purposes; tangible	437
personal property sold for incorporation into the construction	438
of a sports facility under section 307.696 of the Revised Code;	439
building and construction materials and services sold to a	440
construction contractor for incorporation into real property	441
outside this state if such materials and services, when sold to	442
a construction contractor in the state in which the real	443
property is located for incorporation into real property in that	444
state, would be exempt from a tax on sales levied by that state;	445
building and construction materials for incorporation into a	446
transportation facility pursuant to a public-private agreement	447
entered into under sections 5501.70 to 5501.83 of the Revised	448
Code; until one calendar year after the construction of a	449
convention center that qualifies for property tax exemption	450
under section 5709.084 of the Revised Code is completed,	451
building and construction materials and services sold to a	452
construction contractor for incorporation into the real property	453
comprising that convention center; and building and construction	454
materials sold for incorporation into a structure or improvement	455
to real property that is used primarily as, or primarily in	456
support of, a manufacturing facility or research and development	457
facility and that is to be owned by a megaproject operator upon	458
completion and located at the site of a megaproject that	459
satisfies the criteria described in division (A)(11)(a)(ii) of	460
section 122.17 of the Revised Code, provided that the sale	461
occurs during the period that the megaproject operator has an	462
agreement for such megaproject with the tax credit authority	463

under d	divis	ion (I	)) of	section	122.17	of the	e Revised	Code	that	464
remain	s in	effect	and	has not	expired	or be	en termin	nated		465

This division does not apply to building and construction 466 materials and services sold to construction contractors for 467 incorporation into a structure or improvement to real property 468 under a construction contract with a port authority if the 469 contract is subject to section 4582.72 of the Revised Code but 470 approval from the appropriate board of county commissioners, as 471 required by that section, has not been obtained. 472

- (14) Sales of ships or vessels or rail rolling stock used

  or to be used principally in interstate or foreign commerce, and

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  repairs, alterations, fuel, and lubricants for such ships or

  vessels or rail rolling stock;

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- (15) Sales to persons primarily engaged in any of the 477 activities mentioned in division (B)(42)(a), (g), or (h) of this 478 section, to persons engaged in making retail sales, or to 479 persons who purchase for sale from a manufacturer tangible 480 personal property that was produced by the manufacturer in 481 accordance with specific designs provided by the purchaser, of 482 packages, including material, labels, and parts for packages, 483 and of machinery, equipment, and material for use primarily in 484 packaging tangible personal property produced for sale, 485 including any machinery, equipment, and supplies used to make 486 labels or packages, to prepare packages or products for 487 labeling, or to label packages or products, by or on the order 488 of the person doing the packaging, or sold at retail. "Packages" 489 includes bags, baskets, cartons, crates, boxes, cans, bottles, 490 bindings, wrappings, and other similar devices and containers, 491 but does not include motor vehicles or bulk tanks, trailers, or 492 similar devices attached to motor vehicles. "Packaging" means 493

placing in a package. Division (B)(15) of this section does not	494
apply to persons engaged in highway transportation for hire.	495
(16) Sales of food to persons using supplemental nutrition	496
assistance program benefits to purchase the food. As used in	497
this division, "food" has the same meaning as in 7 U.S.C. 2012	498
and federal regulations adopted pursuant to the Food and	499
Nutrition Act of 2008.	500
Nutrition Act of 2000.	300
(17) Sales to persons engaged in farming, agriculture,	501
horticulture, or floriculture, of tangible personal property for	502
use or consumption primarily in the production by farming,	503
agriculture, horticulture, or floriculture of other tangible	504
personal property for use or consumption primarily in the	505
production of tangible personal property for sale by farming,	506
agriculture, horticulture, or floriculture; or material and	507
parts for incorporation into any such tangible personal property	508
for use or consumption in production; and of tangible personal	509
property for such use or consumption in the conditioning or	510
holding of products produced by and for such use, consumption,	511
or sale by persons engaged in farming, agriculture,	512
horticulture, or floriculture, except where such property is	513
incorporated into real property;	514
(18) Sales of drugs for a human being that may be	515
dispensed only pursuant to a prescription; insulin as recognized	516
in the official United States pharmacopoeia; urine and blood	517
testing materials when used by diabetics or persons with	518
hypoglycemia to test for glucose or acetone; hypodermic syringes	519
and needles when used by diabetics for insulin injections;	520
epoetin alfa when purchased for use in the treatment of persons	521
with medical disease; hospital beds when purchased by hospitals,	522
with medical disease, mospital beds when purchased by mospitals,	J _ Z

nursing homes, or other medical facilities; and medical oxygen

and medical oxygen-dispensing equipment when purchased by	524
hospitals, nursing homes, or other medical facilities;	525
(19) Sales of prosthetic devices, durable medical	526
equipment for home use, or mobility enhancing equipment, when	527
made pursuant to a prescription and when such devices or	528
equipment are for use by a human being.	529
(20) Sales of emergency and fire protection vehicles and	530
equipment to nonprofit organizations for use solely in providing	531
fire protection and emergency services, including trauma care	532
and emergency medical services, for political subdivisions of	533
the state;	534
(21) Sales of tangible personal property manufactured in	535
this state, if sold by the manufacturer in this state to a	536
retailer for use in the retail business of the retailer outside	537
of this state and if possession is taken from the manufacturer	538
by the purchaser within this state for the sole purpose of	539
immediately removing the same from this state in a vehicle owned	540
by the purchaser;	541
(22) Sales of services provided by the state or any of its	542
political subdivisions, agencies, instrumentalities,	543
institutions, or authorities, or by governmental entities of the	544
state or any of its political subdivisions, agencies,	545
instrumentalities, institutions, or authorities;	546
(23) Sales of motor vehicles to nonresidents of this state	547
under the circumstances described in division (B) of section	548
5739.029 of the Revised Code;	549
(24) Sales to persons engaged in the preparation of eggs	550
for sale of tangible personal property used or consumed directly	551
in such preparation, including such tangible personal property	552

used for cleaning, sanitizing, preserving, grading, sorting, and	553
classifying by size; packages, including material and parts for	554
packages, and machinery, equipment, and material for use in	555
packaging eggs for sale; and handling and transportation	556
equipment and parts therefor, except motor vehicles licensed to	557
operate on public highways, used in intraplant or interplant	558
transfers or shipment of eggs in the process of preparation for	559
sale, when the plant or plants within or between which such	560
transfers or shipments occur are operated by the same person.	561
"Packages" includes containers, cases, baskets, flats, fillers,	562
filler flats, cartons, closure materials, labels, and labeling	563
materials, and "packaging" means placing therein.	564
(25)(a) Sales of water to a consumer for residential use;	565
(b) Sales of water by a nonprofit corporation engaged	566
exclusively in the treatment, distribution, and sale of water to	567
consumers, if such water is delivered to consumers through pipes	568
or tubing.	569
(26) Fees charged for inspection or reinspection of motor	570
vehicles under section 3704.14 of the Revised Code;	571
(27) Sales to persons licensed to conduct a food service	572
operation pursuant to section 3717.43 of the Revised Code, of	573
tangible personal property primarily used directly for the	574
following:	575
(a) To prepare food for human consumption for sale;	576
(b) To preserve food that has been or will be prepared for	577
human consumption for sale by the food service operator, not	578
including tangible personal property used to display food for	579
selection by the consumer;	580

(c) To clean tangible personal property used to prepare or

serve food for human consumption for sale.	582
(28) Sales of animals by nonprofit animal adoption	583
services or county humane societies;	584
(29) Sales of services to a corporation described in	585
division (A) of section 5709.72 of the Revised Code, and sales	586
of tangible personal property that qualifies for exemption from	587
taxation under section 5709.72 of the Revised Code;	588
(30) Sales and installation of agricultural land tile, as	589
defined in division (B)(5)(a) of section 5739.01 of the Revised	590
Code;	591
(31) Sales and erection or installation of portable grain	592
bins, as defined in division (B)(5)(b) of section $5739.01$ of the	593
Revised Code;	594
(32) The sale, lease, repair, and maintenance of, parts	595
for, or items attached to or incorporated in, motor vehicles	596
that are primarily used for transporting tangible personal	597
property belonging to others by a person engaged in highway	598
transportation for hire, except for packages and packaging used	599
for the transportation of tangible personal property;	600
(33) Sales to the state headquarters of any veterans'	601
organization in this state that is either incorporated and	602
issued a charter by the congress of the United States or is	603
recognized by the United States veterans administration, for use	604
by the headquarters;	605
(34) Sales to a telecommunications service vendor, mobile	606
telecommunications service vendor, or satellite broadcasting	607
service vendor of tangible personal property and services used	608
directly and primarily in transmitting, receiving, switching, or	609
recording any interactive, one- or two-way electromagnetic	610

communications, including voice, image, data, and information,	611
through the use of any medium, including, but not limited to,	612
poles, wires, cables, switching equipment, computers, and record	613
storage devices and media, and component parts for the tangible	614
personal property. The exemption provided in this division shall	615
be in lieu of all other exemptions under division (B)(42)(a) or	616
(n) of this section to which the vendor may otherwise be	617
entitled, based upon the use of the thing purchased in providing	618
the telecommunications, mobile telecommunications, or satellite	619
broadcasting service.	620
(35) Sales of strollers meant for transporting children	621
from infancy to about thirty-six months of age that meet the	622
United States consumer product safety commission safety standard	623
for carriages and strollers under 16 C.F.R. 1227.2.	624
(36) Sales to a person engaged in the business of	625
horticulture or producing livestock of materials to be	626
incorporated into a horticulture structure or livestock	627
structure;	628
(37) Sales of personal computers, computer monitors,	629
computer keyboards, modems, and other peripheral computer	630
equipment to an individual who is licensed or certified to teach	631
in an elementary or a secondary school in this state for use by	632
that individual in preparation for teaching elementary or	633
secondary school students;	634
(38) Sales of tangible personal property that is not	635
required to be registered or licensed under the laws of this	636
state to a citizen of a foreign nation that is not a citizen of	637
the United States, provided the property is delivered to a	638
person in this state that is not a related member of the	639

purchaser, is physically present in this state for the sole

purpose of temporary storage and package consolidation, and is	641
subsequently delivered to the purchaser at a delivery address in	642
a foreign nation. As used in division (B)(38) of this section,	643
"related member" has the same meaning as in section 5733.042 of	644
the Revised Code, and "temporary storage" means the storage of	645
tangible personal property for a period of not more than sixty	646
days.	647
(39) Sales of used manufactured homes and used mobile	648
homes, as defined in section 5739.0210 of the Revised Code, made	649
on or after January 1, 2000;	650
(40) Sales of tangible personal property and services to a	651
provider of electricity used or consumed directly and primarily	652
in generating, transmitting, or distributing electricity for use	653
by others, including property that is or is to be incorporated	654
into and will become a part of the consumer's production,	655
transmission, or distribution system and that retains its	656
classification as tangible personal property after	657
incorporation; fuel or power used in the production,	658
transmission, or distribution of electricity; energy conversion	659
equipment as defined in section 5727.01 of the Revised Code; and	660
tangible personal property and services used in the repair and	661
maintenance of the production, transmission, or distribution	662
system, including only those motor vehicles as are specially	663
designed and equipped for such use. The exemption provided in	664
this division shall be in lieu of all other exemptions in	665
division (B)(42)(a) or (n) of this section to which a provider	666
of electricity may otherwise be entitled based on the use of the	667
tangible personal property or service purchased in generating,	668
transmitting, or distributing electricity.	669

(41) Sales to a person providing services under division

(B)(3)(p) of section 5739.01 of the Revised Code of tangible	671
personal property and services used directly and primarily in	672
providing taxable services under that section.	673
(42) Sales where the purpose of the purchaser is to do any	674
of the following:	675
(a) To incorporate the thing transferred as a material or	676
a part into tangible personal property to be produced for sale	677
by manufacturing, assembling, processing, or refining; or to use	678
or consume the thing transferred directly in producing tangible	679
personal property for sale by mining, including, without	680
limitation, the extraction from the earth of all substances that	681
are classed geologically as minerals, or directly in the	682
rendition of a public utility service, except that the sales tax	683
levied by this section shall be collected upon all meals,	684
drinks, and food for human consumption sold when transporting	685
persons. This paragraph does not exempt from "retail sale" or	686
"sales at retail" the sale of tangible personal property that is	687
to be incorporated into a structure or improvement to real	688
property.	689
(b) To hold the thing transferred as security for the	690
performance of an obligation of the vendor;	691
(c) To resell, hold, use, or consume the thing transferred	692
as evidence of a contract of insurance;	693
(d) To use or consume the thing directly in commercial	694
fishing;	695
(e) To incorporate the thing transferred as a material or	696
a part into, or to use or consume the thing transferred directly	697
in the production of, magazines distributed as controlled	698
circulation publications;	699

(f) To use or consume the thing transferred in the	700
production and preparation in suitable condition for market and	701
sale of printed, imprinted, overprinted, lithographic,	702
multilithic, blueprinted, photostatic, or other productions or	703
reproductions of written or graphic matter;	704
(g) To use the thing transferred, as described in section	705
5739.011 of the Revised Code, primarily in a manufacturing	706
operation to produce tangible personal property for sale;	707
(h) To use the benefit of a warranty, maintenance or	708
service contract, or similar agreement, as described in division	709
(B)(7) of section 5739.01 of the Revised Code, to repair or	710
maintain tangible personal property, if all of the property that	711
is the subject of the warranty, contract, or agreement would not	712
be subject to the tax imposed by this section;	713
(i) To use the thing transferred as qualified research and	714
development equipment;	715
(j) To use or consume the thing transferred primarily in	716
storing, transporting, mailing, or otherwise handling purchased	717
sales inventory in a warehouse, distribution center, or similar	718
facility when the inventory is primarily distributed outside	719
this state to retail stores of the person who owns or controls	720
the warehouse, distribution center, or similar facility, to	721
retail stores of an affiliated group of which that person is a	722
member, or by means of direct marketing. This division does not	723
apply to motor vehicles registered for operation on the public	724
highways. As used in this division, "affiliated group" has the	725
same meaning as in division (B)(3)(e) of section 5739.01 of the	726
Revised Code and "direct marketing" means the method of selling	727
where consumers order tangible personal property by United	728

States mail, delivery service, or telecommunication and the

vendor delivers or ships the tangible personal property sold to	730
the consumer from a warehouse, catalogue distribution center, or	731
similar fulfillment facility by means of the United States mail,	732
delivery service, or common carrier.	733
(k) To use or consume the thing transferred to fulfill a	734
contractual obligation incurred by a warrantor pursuant to a	735
warranty provided as a part of the price of the tangible	736
personal property sold or by a vendor of a warranty, maintenance	737
or service contract, or similar agreement the provision of which	738
is defined as a sale under division (B)(7) of section 5739.01 of	739
the Revised Code;	740
(1) To use or consume the thing transferred in the	741
production of a newspaper for distribution to the public;	742
(m) To use tangible personal property to perform a service	743
listed in division (B)(3) of section 5739.01 of the Revised	744
Code, if the property is or is to be permanently transferred to	745
the consumer of the service as an integral part of the	746
performance of the service;	747
(n) To use or consume the thing transferred primarily in	748
producing tangible personal property for sale by farming,	749
agriculture, horticulture, or floriculture. Persons engaged in	750
rendering farming, agriculture, horticulture, or floriculture	751
services for others are deemed engaged primarily in farming,	752
agriculture, horticulture, or floriculture. This paragraph does	753
not exempt from "retail sale" or "sales at retail" the sale of	754
tangible personal property that is to be incorporated into a	755
structure or improvement to real property.	756
$\frac{(q)}{(0)}$ To use or consume the thing transferred directly in	757
production of crude oil and natural gas for sale Persons	758

engaged in rendering production services for others are deemed	759
engaged in production.	760
As used in division $\frac{(B)(42)(q)}{(B)(42)(0)}$ of this section,	761
"production" means operations and tangible personal property	762
directly used to expose and evaluate an underground reservoir	763
that may contain hydrocarbon resources, prepare the wellbore for	764
production, and lift and control all substances yielded by the	765
reservoir to the surface of the earth.	766
(i) For the purposes of division $\frac{(B)(42)(q)}{(B)(42)}$ (B) (42) (o) of	767
this section, the "thing transferred" includes, but is not	768
limited to, any of the following:	769
(I) Services provided in the construction of permanent	770
access roads, services provided in the construction of the well	771
site, and services provided in the construction of temporary	772
impoundments;	773
(II) Equipment and rigging used for the specific purpose	774
of creating with integrity a wellbore pathway to underground	775
reservoirs;	776
(III) Drilling and workover services used to work within a	777
subsurface wellbore, and tangible personal property directly	778
used in providing such services;	779
(IV) Casing, tubulars, and float and centralizing	780
equipment;	781
(V) Trailers to which production equipment is attached;	782
(VI) Well completion services, including cementing of	783
casing, and tangible personal property directly used in	784
providing such services;	785
(VII) Wireline evaluation, mud logging, and perforation	786

services, and tangible personal property directly used in	787
providing such services;	788
(VIII) Reservoir stimulation, hydraulic fracturing, and	789
acidizing services, and tangible personal property directly used	790
in providing such services, including all material pumped	791
downhole;	792
(IX) Pressure pumping equipment;	793
(X) Artificial lift systems equipment;	794
(XI) Wellhead equipment and well site equipment used to	795
separate, stabilize, and control hydrocarbon phases and produced	796
water;	797
(XII) Tangible personal property directly used to control	798
production equipment.	799
(ii) For the purposes of division $\frac{(B)(42)(q)}{(B)(42)(0)}$ of	800
this section, the "thing transferred" does not include any of	801
the following:	802
(I) Tangible personal property used primarily in the	803
exploration and production of any mineral resource regulated	804
under Chapter 1509. of the Revised Code other than oil or gas;	805
(II) Tangible personal property used primarily in storing,	806
holding, or delivering solutions or chemicals used in well	807
stimulation as defined in section 1509.01 of the Revised Code;	808
(III) Tangible personal property used primarily in	809
preparing, installing, or reclaiming foundations for drilling or	810
pumping equipment or well stimulation material tanks;	811
(IV) Tangible personal property used primarily in	812
transporting, delivering, or removing equipment to or from the	813

well site or storing such equipment before its use at the well	814
site;	815
(V) Tangible personal property used primarily in gathering	816
operations occurring off the well site, including gathering	817
pipelines transporting hydrocarbon gas or liquids away from a	818
crude oil or natural gas production facility;	819
(VI) Tangible personal property that is to be incorporated	820
into a structure or improvement to real property;	821
(VII) Well site fencing, lighting, or security systems;	822
(VIII) Communication devices or services;	823
(IX) Office supplies;	824
(X) Trailers used as offices or lodging;	825
(XI) Motor vehicles of any kind;	826
(XII) Tangible personal property used primarily for the	827
storage of drilling byproducts and fuel not used for production;	828
(XIII) Tangible personal property used primarily as a	829
safety device;	830
(XIV) Data collection or monitoring devices;	831
(XV) Access ladders, stairs, or platforms attached to	832
storage tanks.	833
The enumeration of tangible personal property in division	834
(B) (42) (q) (ii) (B) (42) (o) (ii) of this section is not intended to	835
be exhaustive, and any tangible personal property not so	836
enumerated shall not necessarily be construed to be a "thing	837
transferred" for the purposes of division $\frac{(B)(42)(q)}{(B)(42)(0)}$	838
of this section.	839

The commissioner shall adopt and promulgate rules under	840
sections 119.01 to 119.13 of the Revised Code that the	841
commissioner deems necessary to administer division (B)(42)(q)	842
(B) (42) (o) of this section.	843
As used in division (B)(42) of this section, "thing"	844
includes all transactions included in divisions (B)(3)(a), (b),	845
and (e) of section 5739.01 of the Revised Code.	846
(43) Sales conducted through a coin operated device that	847
activates vacuum equipment or equipment that dispenses water,	848
whether or not in combination with soap or other cleaning agents	849
or wax, to the consumer for the consumer's use on the premises	850
in washing, cleaning, or waxing a motor vehicle, provided no	851
other personal property or personal service is provided as part	852
of the transaction.	853
(44) Sales of replacement and modification parts for	854
engines, airframes, instruments, and interiors in, and paint	855
for, aircraft used primarily in a fractional aircraft ownership	856
program, and sales of services for the repair, modification, and	857
maintenance of such aircraft, and machinery, equipment, and	858
supplies primarily used to provide those services.	859
(45) The fee imposed by section 3743.22 of the Revised	860
Code, if it is separately stated on the invoice, bill of sale,	861
or similar document given by the vendor to the consumer for a	862
retail sale made in this state.	863
	0.64
(46) Sales by a telecommunications service vendor of 900	864
service to a subscriber. This division does not apply to	865
information services.	866
(47) Sales of value-added non-voice data service. This	867
division does not apply to any similar service that is not	868

otherwise a telecommunications service.	869
(48) Sales of feminine hygiene products.	870
(49) Sales of materials, parts, equipment, or engines used	871
in the repair or maintenance of aircraft or avionics systems of	872
such aircraft, and sales of repair, remodeling, replacement, or	873
maintenance services in this state performed on aircraft or on	874
an aircraft's avionics, engine, or component materials or parts.	875
As used in division (B)(49) of this section, "aircraft" means	876
aircraft of more than six thousand pounds maximum certified	877
takeoff weight or used exclusively in general aviation.	878
(50) Sales of full flight simulators that are used for	879
pilot or flight-crew training, sales of repair or replacement	880
parts or components, and sales of repair or maintenance services	881
for such full flight simulators. "Full flight simulator" means a	882
replica of a specific type, or make, model, and series of	883
aircraft cockpit. It includes the assemblage of equipment and	884
computer programs necessary to represent aircraft operations in	885
ground and flight conditions, a visual system providing an out-	886
of-the-cockpit view, and a system that provides cues at least	887
equivalent to those of a three-degree-of-freedom motion system,	888
and has the full range of capabilities of the systems installed	889
in the device as described in appendices A and B of part 60 of	890
chapter 1 of title 14 of the Code of Federal Regulations.	891
(51) Any transfer or lease of tangible personal property	892
between the state and JobsOhio in accordance with section	893
4313.02 of the Revised Code.	894
(52)(a) Sales to a qualifying corporation.	895
(b) As used in division (B)(52) of this section:	896
(i) "Qualifying corporation" means a nonprofit corporation	897

organized in this state that leases from an eligible county	898
land, buildings, structures, fixtures, and improvements to the	899
land that are part of or used in a public recreational facility	900
used by a major league professional athletic team or a class A	901
to class AAA minor league affiliate of a major league	902
professional athletic team for a significant portion of the	903
team's home schedule, provided the following apply:	904
(I) The facility is leased from the eligible county	905
pursuant to a lease that requires substantially all of the	906
revenue from the operation of the business or activity conducted	907
by the nonprofit corporation at the facility in excess of	908
operating costs, capital expenditures, and reserves to be paid	909
to the eligible county at least once per calendar year.	910
(II) Upon dissolution and liquidation of the nonprofit	911
corporation, all of its net assets are distributable to the	912
board of commissioners of the eligible county from which the	913
corporation leases the facility.	914
(ii) "Eligible county" has the same meaning as in section	915
307.695 of the Revised Code.	916
(53) Sales to or by a cable service provider, video	917
service provider, or radio or television broadcast station	918
regulated by the federal government of cable service or	919
programming, video service or programming, audio service or	920
programming, or electronically transferred digital audiovisual	921
or audio work. As used in division (B)(53) of this section,	922
"cable service" and "cable service provider" have the same	923
meanings as in section 1332.01 of the Revised Code, and "video	924
service," "video service provider," and "video programming" have	925

the same meanings as in section 1332.21 of the Revised Code.

(54) Sales of a digital audio work electronically	927
transferred for delivery through use of a machine, such as a	928
juke box, that does all of the following:	929
(a) Accepts direct payments to operate;	930
(b) Automatically plays a selected digital audio work for	931
a single play upon receipt of a payment described in division	932
(B) (54) (a) of this section;	933
(c) Operates exclusively for the purpose of playing	934
digital audio works in a commercial establishment.	935
(55)(a) Sales of the following occurring on the first	936
Friday of August and the following Saturday and Sunday of any	937
year, except in 2024 or any subsequent year in which a sales tax	938
holiday is held pursuant to section 5739.41 of the Revised Code:	939
(i) An item of clothing, the price of which is seventy-	940
five dollars or less;	941
(ii) An item of school supplies, the price of which is	942
twenty dollars or less;	943
(iii) An item of school instructional material, the price	944
of which is twenty dollars or less.	945
(b) As used in division (B)(55) of this section:	946
(i) "Clothing" means all human wearing apparel suitable	947
for general use. "Clothing" includes, but is not limited to,	948
aprons, household and shop; athletic supporters; baby receiving	949
blankets; bathing suits and caps; beach capes and coats; belts	950
and suspenders; boots; coats and jackets; costumes; diapers,	951
children and adult, including disposable diapers; earmuffs;	952
footlets; formal wear; garters and garter belts; girdles; gloves	953
and mittens for general use; hats and caps; hosiery; insoles for	954

shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	955
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	956
sneakers; socks and stockings; steel-toed shoes; underwear;	957
uniforms, athletic and nonathletic; and wedding apparel.	958
"Clothing" does not include items purchased for use in a trade	959
or business; clothing accessories or equipment; protective	960
equipment; sports or recreational equipment; belt buckles sold	961
separately; costume masks sold separately; patches and emblems	962
sold separately; sewing equipment and supplies including, but	963
not limited to, knitting needles, patterns, pins, scissors,	964
sewing machines, sewing needles, tape measures, and thimbles;	965
and sewing materials that become part of "clothing" including,	966
out not limited to, buttons, fabric, lace, thread, yarn, and	967
zippers.	968

- (ii) "School supplies" means items commonly used by a 969 student in a course of study. "School supplies" includes only 970 the following items: binders; book bags; calculators; cellophane 971 tape; blackboard chalk; compasses; composition books; crayons; 972 erasers; folders, expandable, pocket, plastic, and manila; glue, 973 paste, and paste sticks; highlighters; index cards; index card 974 boxes; legal pads; lunch boxes; markers; notebooks; paper, 975 loose-leaf ruled notebook paper, copy paper, graph paper, 976 tracing paper, manila paper, colored paper, poster board, and 977 construction paper; pencil boxes and other school supply boxes; 978 pencil sharpeners; pencils; pens; protractors; rulers; scissors; 979 and writing tablets. "School supplies" does not include any item 980 purchased for use in a trade or business. 981
- (iii) "School instructional material" means written

  material commonly used by a student in a course of study as a

  reference and to learn the subject being taught. "School

  instructional material" includes only the following items:

  982

reference books, reference maps and globes, textbooks, and	986
workbooks. "School instructional material" does not include any	987
material purchased for use in a trade or business.	988
(56)(a) Sales of adult diapers or incontinence underpads	989
sold pursuant to a prescription, for the benefit of a medicaid	990
recipient with a diagnosis of incontinence, and by a medicaid	991
provider that maintains a valid provider agreement under section	992
5164.30 of the Revised Code with the department of medicaid,	993
provided that the medicaid program covers diapers or	994
incontinence underpads as an incontinence garment.	995
(b) As used in division (B)(56)(a) of this section,	996
"incontinence underpad" means an absorbent product, not worn on	997
the body, designed to protect furniture or other tangible	998
personal property from soiling or damage due to human	999
incontinence.	1000
(57) Sales of investment metal bullion and investment	1001
coins. "Investment metal bullion" means any bullion described in	1002
section 408(m)(3)(B) of the Internal Revenue Code, regardless of	1003
whether that bullion is in the physical possession of a trustee.	1004
"Investment coin" means any coin composed primarily of gold,	1005
silver, platinum, or palladium.	1006
(58) Sales of tangible personal property used primarily	1007
for any of the following purposes by a megaproject operator at	1008
the site of a megaproject that satisfies the criteria described	1009
in division (A)(11)(a)(ii) of section 122.17 of the Revised	1010
Code, provided that the sale occurs during the period that the	1011
megaproject operator has an agreement for such megaproject with	1012
the tax credit authority under division (D) of section 122.17 of	1013
the Revised Code that remains in effect and has not expired or	1014
been terminated:	1015

(a) To store, transmit, convey, distribute, recycle,	1016
circulate, or clean water, steam, or other gases used in or	1017
produced as a result of manufacturing activity, including items	1018
that support or aid in the operation of such property;	1019
(b) To clean or prepare inventory, at any stage of storage	1020
or production, or equipment used in a manufacturing activity,	1021
including chemicals, solvents, catalysts, soaps, and other items	1022
that support or aid in the operation of property;	1023
(c) To regulate, treat, filter, condition, improve, clean,	1024
maintain, or monitor environmental conditions within areas where	1025
manufacturing activities take place;	1026
(d) To handle, transport, or convey inventory during	1027
production or manufacturing.	1028
(59) Documentary services charges imposed pursuant to	1029
section 4517.261 or 4781.24 of the Revised Code.	1030
(60) Sales of children's diapers.	1031
(61) Sales of therapeutic or preventative creams and wipes	1032
marketed primarily for use on the skin of children.	1033
(62) Sales of a child restraint device or booster seat	1034
that meets the national highway traffic safety administration	1035
standard for child restraint systems under 49 C.F.R. 571.213.	1036
(63) Sales of cribs intended to provide sleeping	1037
accommodations for children that comply with the United States	1038
consumer product safety commission's safety standard for full-	1039
size baby cribs under 16 C.F.R. 1219 or the commission's safety	1040
standard for non-full-size baby cribs under 16 C.F.R. 1220.	1041
(64) Sales of eligible tangible personal property	1042
occurring during the period of a sales tax holiday held pursuant	1043

to section 5739.41 of the Revised Code.	1044
(65) Sales of cigars by a vendor for consumption on the	1045
premises of either of the following owned by the vendor:	1046
(a) A cigar bar that holds a current, valid license issued	1047
under section 3794.22 of the Revised Code;	1048
(b) A retail tobacco store, as defined in section 3794.03	1049
of the Revised Code, if the only products that the store allows	1050
consumers to smoke on its premises are cigars.	1051
(C) For the purpose of the proper administration of this	1052
chapter, and to prevent the evasion of the tax, it is presumed	1053
that all sales made in this state are subject to the tax until	1054
the contrary is established.	1055
(D) The tax collected by the vendor from the consumer	1056
under this chapter is not part of the price, but is a tax	1057
collection for the benefit of the state, and of counties levying	1058
an additional sales tax pursuant to section 5739.021 or 5739.026	1059
of the Revised Code and of transit authorities levying an	1060
additional sales tax pursuant to section 5739.023 of the Revised	1061
Code. Except for the discount authorized under section 5739.12	1062
of the Revised Code and the effects of any rounding pursuant to	1063
section 5703.055 of the Revised Code, no person other than the	1064
state or such a county or transit authority shall derive any	1065
benefit from the collection or payment of the tax levied by this	1066
section or section 5739.021, 5739.023, or 5739.026 of the	1067
Revised Code.	1068
Sec. 5739.03. (A) Except as provided in section 5739.05 or	1069
section 5739.051 of the Revised Code, the tax imposed by or	1070
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of	1071
the Revised Code shall be paid by the consumer to the vendor,	1072

and each vendor shall collect from the consumer, as a trustee	1073
for the state of Ohio, the full and exact amount of the tax	1074
payable on each taxable sale, in the manner and at the times	1075
provided as follows:	1076
(1) If the price is, at or prior to the provision of the	1077
service or the delivery of possession of the thing sold to the	1078
consumer, paid in currency passed from hand to hand by the	1079
consumer or the consumer's agent to the vendor or the vendor's	1080
agent, the vendor or the vendor's agent shall collect the tax	1081
with and at the same time as the price;	1082
(2) If the price is otherwise paid or to be paid, the	1083
vendor or the vendor's agent shall, at or prior to the provision	1084
of the service or the delivery of possession of the thing sold	1085
to the consumer, charge the tax imposed by or pursuant to	1086
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised	1087
Code to the account of the consumer, which amount shall be	1088
collected by the vendor from the consumer in addition to the	1089
price. Such sale shall be reported on and the amount of the tax	1090
applicable thereto shall be remitted with the return for the	1091
period in which the sale is made, and the amount of the tax	1092
shall become a legal charge in favor of the vendor and against	1093
the consumer.	1094
(B)(1)(a) If any sale is claimed to be exempt under	1095
division (E) of section 5739.01 of the Revised Code or under	1096
section 5739.02 of the Revised Code, with the exception of	1097
divisions (B)(1) to (11), (28), (48), (55), (59), $\frac{1}{9}$ (62), or	1098
(65) of section 5739.02 of the Revised Code, the consumer must	1099
provide to the vendor, and the vendor must obtain from the	1100
consumer, a certificate specifying the reason that the sale is	1101

not legally subject to the tax. The certificate shall be in such

form, and shall be provided either in a hard copy form or	1103
electronic form, as the tax commissioner prescribes.	1104
(b) A vendor that obtains a fully completed exemption	1105
certificate from a consumer is relieved of liability for	1106
collecting and remitting tax on any sale covered by that	1107
certificate. If it is determined the exemption was improperly	1108
claimed, the consumer shall be liable for any tax due on that	1109
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or	1110
Chapter 5741. of the Revised Code. Relief under this division	1111
from liability does not apply to any of the following:	1112
(i) A vendor that fraudulently fails to collect tax;	1113
(ii) A vendor that solicits consumers to participate in	1114
the unlawful claim of an exemption;	1115
(iii) A vendor that accepts an exemption certificate from	1116
a consumer that claims an exemption based on who purchases or	1117
who sells property or a service, when the subject of the	1118
transaction sought to be covered by the exemption certificate is	1119
actually received by the consumer at a location operated by the	1120
vendor in this state, and this state has posted to its web site	1121
an exemption certificate form that clearly and affirmatively	1122
indicates that the claimed exemption is not available in this	1123
state;	1124
(iv) A vendor that accepts an exemption certificate from a	1125
consumer who claims a multiple points of use exemption under	1126
division (D) of section 5739.033 of the Revised Code, if the	1127
item purchased is tangible personal property, other than	1128
prewritten computer software.	1129
(2) The vendor shall maintain records, including exemption	1130
certificates, of all sales on which a consumer has claimed an	1131

exemption, and provide them to the tax commissioner on request.	1132				
(3) The tax commissioner may establish an identification	1133				
system whereby the commissioner issues an identification number	1134				
to a consumer that is exempt from payment of the tax. The	1135				
consumer must present the number to the vendor, if any sale is	1136				
claimed to be exempt as provided in this section.	1137				
(4) If no certificate is provided or obtained within	1138				
ninety days after the date on which such sale is consummated, it	1139				
shall be presumed that the tax applies. Failure to have so	1140				
provided or obtained a certificate shall not preclude a vendor,	1141				
within one hundred twenty days after the tax commissioner gives	1142				
written notice of intent to levy an assessment, from either	1143				
establishing that the sale is not subject to the tax, or	1144				
obtaining, in good faith, a fully completed exemption					
certificate.	1146				
(5) Certificates need not be obtained nor provided where	1147				
the identity of the consumer is such that the transaction is	1148				
never subject to the tax imposed or where the item of tangible	1149				
personal property sold or the service provided is never subject	1150				
to the tax imposed, regardless of use, or when the sale is in	1151				
interstate commerce.	1152				
(6) If a transaction is claimed to be exempt under	1153				
division (B)(13) of section 5739.02 of the Revised Code, the	1154				
contractor shall obtain certification of the claimed exemption	1155				
from the contractee. This certification shall be in addition to	1156				
an exemption certificate provided by the contractor to the	1157				
vendor. A contractee that provides a certification under this	1158				
division shall be deemed to be the consumer of all items	1159				
purchased by the contractor under the claim of exemption, if it	1160				

is subsequently determined that the exemption is not properly

claimed.	The	certification	shall	be	in	such	form	as	the	tax	1162
commissio	oner	prescribes.									1163

- (7) If a transaction is claimed to be exempt under

  division (B)(13) of section 5739.02 of the Revised Code, the

  person that leases a sports facility, as defined in section

  1166

  307.696 of the Revised Code, wholly owned by a county may

  provide and sign, on behalf of the county, an exemption

  1168

  certificate required under this section for that exemption.
- (C) As used in this division, "contractee" means a person 1170 who seeks to enter or enters into a contract or agreement with a 1171 contractor or vendor for the construction of real property or 1172 for the sale and installation onto real property of tangible 1173 personal property.

Any contractor or vendor may request from any contractee a 1175 certification of what portion of the property to be transferred 1176 under such contract or agreement is to be incorporated into the 1177 realty and what portion will retain its status as tangible 1178 personal property after installation is completed. The 1179 contractor or vendor shall request the certification by 1180 certified mail delivered to the contractee, return receipt 1181 requested. Upon receipt of such request and prior to entering 1182 into the contract or agreement, the contractee shall provide to 1183 the contractor or vendor a certification sufficiently detailed 1184 to enable the contractor or vendor to ascertain the resulting 1185 classification of all materials purchased or fabricated by the 1186 contractor or vendor and transferred to the contractee. This 1187 requirement applies to a contractee regardless of whether the 1188 contractee holds a direct payment permit under section 5739.031 1189 of the Revised Code or provides to the contractor or vendor an 1190 exemption certificate as provided under this section. 1191

For the purposes of the taxes levied by this chapter and	1192
Chapter 5741. of the Revised Code, the contractor or vendor may	1193
in good faith rely on the contractee's certification.	1194
Notwithstanding division (B) of section 5739.01 of the Revised	1195
Code, if the tax commissioner determines that certain property	1196
certified by the contractee as tangible personal property	1197
pursuant to this division is, in fact, real property, the	1198
contractee shall be considered to be the consumer of all	1199
materials so incorporated into that real property and shall be	1200
liable for the applicable tax, and the contractor or vendor	1201
shall be excused from any liability on those materials.	1202

If a contractee fails to provide such certification upon 1203 the request of the contractor or vendor, the contractor or 1204 vendor shall comply with the provisions of this chapter and 1205 Chapter 5741. of the Revised Code without the certification. If 1206 the tax commissioner determines that such compliance has been 1207 performed in good faith and that certain property treated as 1208 tangible personal property by the contractor or vendor is, in 1209 fact, real property, the contractee shall be considered to be 1210 the consumer of all materials so incorporated into that real 1211 property and shall be liable for the applicable tax, and the 1212 construction contractor or vendor shall be excused from any 1213 liability on those materials. 1214

This division does not apply to any contract or agreement 1215 where the tax commissioner determines as a fact that a 1216 certification under this division was made solely on the 1217 decision or advice of the contractor or vendor. 1218

(D) Notwithstanding division (B) of section 5739.01 of the 1219
Revised Code, whenever the total rate of tax imposed under this 1220
chapter is increased after the date after a construction 1221

contract is entered into, the contractee shall reimburse the	1222
construction contractor for any additional tax paid on tangible	1223
property consumed or services received pursuant to the contract.	1224
(E) A vendor who files a petition for reassessment	1225
contesting the assessment of tax on sales for which the vendor	1226
obtained no valid exemption certificates and for which the	1227
vendor failed to establish that the sales were properly not	1228
subject to the tax during the one-hundred-twenty-day period	1229
allowed under division (B) of this section, may present to the	1230
tax commissioner additional evidence to prove that the sales	1231
were properly subject to a claim of exception or exemption. The	1232
vendor shall file such evidence within ninety days of the	1233
receipt by the vendor of the notice of assessment, except that,	1234
upon application and for reasonable cause, the period for	1235
submitting such evidence shall be extended thirty days.	1236
The commissioner shall consider such additional evidence	1237
in reaching the final determination on the assessment and	1238
petition for reassessment.	1239
(F) Whenever a vendor refunds the price, minus any	1240
separately stated delivery charge, of an item of tangible	1241
personal property on which the tax imposed under this chapter	1242
has been paid, the vendor shall also refund the amount of tax	1243
paid, minus the amount of tax attributable to the delivery	1244
charge.	1245
Section 2. That existing sections 3794.03, 5739.02, and	1246
5739.03 of the Revised Code are hereby repealed.	1247
Section 3. The amendment by this act of section 5739.02 of	1248
the Revised Code applies on and after the first day of the first	1249

1250

month beginning after the effective date of this section.