

**As Introduced**

**136th General Assembly  
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**H. B. No. 816**

**Representatives Click, Lorenz**

**Cosponsors: Representatives Brennan, Williams**

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To amend section 5739.02 of the Revised Code to 1  
exempt service dogs and miniature horses from 2  
sales and use tax. 3

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

**Section 1.** That section 5739.02 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 5739.02.** For the purpose of providing revenue with 6  
which to meet the needs of the state, for the use of the general 7  
revenue fund of the state, for the purpose of securing a 8  
thorough and efficient system of common schools throughout the 9  
state, for the purpose of affording revenues, in addition to 10  
those from general property taxes, permitted under 11  
constitutional limitations, and from other sources, for the 12  
support of local governmental functions, and for the purpose of 13  
reimbursing the state for the expense of administering this 14  
chapter, an excise tax is hereby levied on each retail sale made 15  
in this state. 16

(A) (1) The tax shall be collected as provided in section 17  
5739.025 of the Revised Code. The rate of the tax shall be five 18  
and three-fourths per cent. The tax applies and is collectible 19

when the sale is made, regardless of the time when the price is 20  
paid or delivered. 21

(2) In the case of the lease or rental, with a fixed term 22  
of more than thirty days or an indefinite term with a minimum 23  
period of more than thirty days, of any motor vehicles designed 24  
by the manufacturer to carry a load of not more than one ton, 25  
watercraft, outboard motor, or aircraft, or of any tangible 26  
personal property, other than motor vehicles designed by the 27  
manufacturer to carry a load of more than one ton, to be used by 28  
the lessee or renter primarily for business purposes, the tax 29  
shall be collected by the vendor at the time the lease or rental 30  
is consummated and shall be calculated by the vendor on the 31  
basis of the total amount to be paid by the lessee or renter 32  
under the lease agreement. If the total amount of the 33  
consideration for the lease or rental includes amounts that are 34  
not calculated at the time the lease or rental is executed, the 35  
tax shall be calculated and collected by the vendor at the time 36  
such amounts are billed to the lessee or renter. In the case of 37  
an open-end lease or rental, the tax shall be calculated by the 38  
vendor on the basis of the total amount to be paid during the 39  
initial fixed term of the lease or rental, and for each 40  
subsequent renewal period as it comes due. As used in this 41  
division, "motor vehicle" has the same meaning as in section 42  
4501.01 of the Revised Code, and "watercraft" includes an 43  
outdrive unit attached to the watercraft. 44

A lease with a renewal clause and a termination penalty or 45  
similar provision that applies if the renewal clause is not 46  
exercised is presumed to be a sham transaction. In such a case, 47  
the tax shall be calculated and paid on the basis of the entire 48  
length of the lease period, including any renewal periods, until 49  
the termination penalty or similar provision no longer applies. 50

The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

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

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

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

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

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

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

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

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

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

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

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

(6) (a) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section

5735.14 of the Revised Code and shall cause the amount deducted	109
to be paid into the general revenue fund of this state;	110
(b) Sales of motor fuel other than that described in	111
division (B) (6) (a) of this section and used for powering a	112
refrigeration unit on a vehicle other than one used primarily to	113
provide comfort to the operator or occupants of the vehicle.	114
(7) Sales of natural gas by a natural gas company or	115
municipal gas utility, of water by a water-works company, or of	116
steam by a heating company, if in each case the thing sold is	117
delivered to consumers through pipes or conduits, and all sales	118
of communications services by a telegraph company, all terms as	119
defined in section 5727.01 of the Revised Code, and sales of	120
electricity delivered through wires;	121
(8) Casual sales by a person, or auctioneer employed	122
directly by the person to conduct such sales, except as to such	123
sales of motor vehicles, watercraft or outboard motors required	124
to be titled under section 1548.06 of the Revised Code,	125
watercraft documented with the United States coast guard,	126
snowmobiles, and all-purpose vehicles as defined in section	127
4519.01 of the Revised Code;	128
(9) (a) Sales of services or tangible personal property,	129
other than motor vehicles, mobile homes, and manufactured homes,	130
by churches, organizations exempt from taxation under section	131
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit	132
organizations operated exclusively for charitable purposes as	133
defined in division (B) (12) of this section, provided that the	134
number of days on which such tangible personal property or	135
services, other than items never subject to the tax, are sold	136
does not exceed six in any calendar year, except as otherwise	137
provided in division (B) (9) (b) of this section. If the number of	138

days on which such sales are made exceeds six in any calendar 139  
year, the church or organization shall be considered to be 140  
engaged in business and all subsequent sales by it shall be 141  
subject to the tax. In counting the number of days, all sales by 142  
groups within a church or within an organization shall be 143  
considered to be sales of that church or organization. 144

(b) The limitation on the number of days on which tax- 145  
exempt sales may be made by a church or organization under 146  
division (B) (9) (a) of this section does not apply to sales made 147  
by student clubs and other groups of students of a primary or 148  
secondary school, or a parent-teacher association, booster 149  
group, or similar organization that raises money to support or 150  
fund curricular or extracurricular activities of a primary or 151  
secondary school. 152

(c) Divisions (B) (9) (a) and (b) of this section do not 153  
apply to sales by a noncommercial educational radio or 154  
television broadcasting station. 155

(10) Sales not within the taxing power of this state under 156  
the Constitution or laws of the United States or the 157  
Constitution of this state including either of the following: 158

(a) Sales or rentals of tangible personal property by 159  
construction contractors or subcontractors to provide temporary 160  
traffic control or temporary structures, including material and 161  
equipment used to comply with the Ohio manual of uniform traffic 162  
control devices adopted pursuant to section 4511.09 of the 163  
Revised Code, whereby the United States takes title to, or 164  
permanent or temporary possession of, such tangible personal 165  
property for use by the United States including for use by the 166  
general public thereof; 167

(b) Sales of services by construction contractors or 168  
subcontractors to provide temporary traffic control or 169  
structures, including labor used to comply with the Ohio manual 170  
of uniform traffic control devices adopted pursuant to section 171  
4511.09 of the Revised Code, whereby the United States, 172  
including the general public thereof, receives the benefit of 173  
such services. 174

As used in divisions (B) (10) (a) and (b) of this section, 175  
"temporary structures" include temporary roads, bridges, drains, 176  
and pavement. 177

(11) Except for transactions that are sales under division 178  
(B) (3) (p) of section 5739.01 of the Revised Code, the 179  
transportation of persons or property, unless the transportation 180  
is by a private investigation and security service; 181

(12) Sales of tangible personal property or services to 182  
churches, to organizations exempt from taxation under section 183  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 184  
nonprofit organizations operated exclusively for charitable 185  
purposes in this state, no part of the net income of which 186  
inures to the benefit of any private shareholder or individual, 187  
and no substantial part of the activities of which consists of 188  
carrying on propaganda or otherwise attempting to influence 189  
legislation; sales to offices administering one or more homes 190  
for the aged or one or more hospital facilities exempt under 191  
section 140.08 of the Revised Code; and sales to organizations 192  
described in division (D) of section 5709.12 of the Revised 193  
Code. 194

"Charitable purposes" means the relief of poverty; the 195  
improvement of health through the alleviation of illness, 196  
disease, or injury; the operation of an organization exclusively 197

for the provision of professional, laundry, printing, and 198  
purchasing services to hospitals or charitable institutions; the 199  
operation of a home for the aged, as defined in section 5701.13 200  
of the Revised Code; the operation of a radio or television 201  
broadcasting station that is licensed by the federal 202  
communications commission as a noncommercial educational radio 203  
or television station; the operation of a nonprofit animal 204  
adoption service or a county humane society; the promotion of 205  
education by an institution of learning that maintains a faculty 206  
of qualified instructors, teaches regular continuous courses of 207  
study, and confers a recognized diploma upon completion of a 208  
specific curriculum; the operation of a parent-teacher 209  
association, booster group, or similar organization primarily 210  
engaged in the promotion and support of the curricular or 211  
extracurricular activities of a primary or secondary school; the 212  
operation of a community or area center in which presentations 213  
in music, dramatics, the arts, and related fields are made in 214  
order to foster public interest and education therein; the 215  
production of performances in music, dramatics, and the arts; or 216  
the promotion of education by an organization engaged in 217  
carrying on research in, or the dissemination of, scientific and 218  
technological knowledge and information primarily for the 219  
public. 220

Nothing in this division shall be deemed to exempt sales 221  
to any organization for use in the operation or carrying on of a 222  
trade or business, or sales to a home for the aged for use in 223  
the operation of independent living facilities as defined in 224  
division (A) of section 5709.12 of the Revised Code. 225

(13) Building and construction materials and services sold 226  
to construction contractors for incorporation into a structure 227  
or improvement to real property under a construction contract 228

with this state or a political subdivision of this state, or 229  
with the United States government or any of its agencies; 230  
building and construction materials and services sold to 231  
construction contractors for incorporation into a structure or 232  
improvement to real property that are accepted for ownership by 233  
this state or any of its political subdivisions, or by the 234  
United States government or any of its agencies at the time of 235  
completion of the structures or improvements; building and 236  
construction materials sold to construction contractors for 237  
incorporation into a horticulture structure or livestock 238  
structure for a person engaged in the business of horticulture 239  
or producing livestock; building materials and services sold to 240  
a construction contractor for incorporation into a house of 241  
public worship or religious education, or a building used 242  
exclusively for charitable purposes under a construction 243  
contract with an organization whose purpose is as described in 244  
division (B) (12) of this section; building materials and 245  
services sold to a construction contractor for incorporation 246  
into a building under a construction contract with an 247  
organization exempt from taxation under section 501(c) (3) of the 248  
Internal Revenue Code of 1986 when the building is to be used 249  
exclusively for the organization's exempt purposes; tangible 250  
personal property sold for incorporation into the construction 251  
of a sports facility under section 307.696 of the Revised Code; 252  
building and construction materials and services sold to a 253  
construction contractor for incorporation into real property 254  
outside this state if such materials and services, when sold to 255  
a construction contractor in the state in which the real 256  
property is located for incorporation into real property in that 257  
state, would be exempt from a tax on sales levied by that state; 258  
building and construction materials for incorporation into a 259  
transportation facility pursuant to a public-private agreement 260

entered into under sections 5501.70 to 5501.83 of the Revised Code; until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center; and building and construction materials sold for incorporation into a structure or improvement to real property that is used primarily as, or primarily in support of, a manufacturing facility or research and development facility and that is to be owned by a megaproject operator upon completion and located at the site of a megaproject that satisfies the criteria described in division (A) (11) (a) (ii) of section 122.17 of the Revised Code, provided that the sale occurs during the period that the megaproject operator has an agreement for such megaproject with the tax credit authority under division (D) of section 122.17 of the Revised Code that remains in effect and has not expired or been terminated.

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

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

(15) Sales to persons primarily engaged in any of the

activities mentioned in division (B)(42)(a), (g), or (h) of this 291  
section, to persons engaged in making retail sales, or to 292  
persons who purchase for sale from a manufacturer tangible 293  
personal property that was produced by the manufacturer in 294  
accordance with specific designs provided by the purchaser, of 295  
packages, including material, labels, and parts for packages, 296  
and of machinery, equipment, and material for use primarily in 297  
packaging tangible personal property produced for sale, 298  
including any machinery, equipment, and supplies used to make 299  
labels or packages, to prepare packages or products for 300  
labeling, or to label packages or products, by or on the order 301  
of the person doing the packaging, or sold at retail. "Packages" 302  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 303  
bindings, wrappings, and other similar devices and containers, 304  
but does not include motor vehicles or bulk tanks, trailers, or 305  
similar devices attached to motor vehicles. "Packaging" means 306  
placing in a package. Division (B)(15) of this section does not 307  
apply to persons engaged in highway transportation for hire. 308

(16) Sales of food to persons using supplemental nutrition 309  
assistance program benefits to purchase the food. As used in 310  
this division, "food" has the same meaning as in 7 U.S.C. 2012 311  
and federal regulations adopted pursuant to the Food and 312  
Nutrition Act of 2008. 313

(17) Sales to persons engaged in farming, agriculture, 314  
horticulture, or floriculture, of tangible personal property for 315  
use or consumption primarily in the production by farming, 316  
agriculture, horticulture, or floriculture of other tangible 317  
personal property for use or consumption primarily in the 318  
production of tangible personal property for sale by farming, 319  
agriculture, horticulture, or floriculture; or material and 320  
parts for incorporation into any such tangible personal property 321

for use or consumption in production; and of tangible personal 322  
property for such use or consumption in the conditioning or 323  
holding of products produced by and for such use, consumption, 324  
or sale by persons engaged in farming, agriculture, 325  
horticulture, or floriculture, except where such property is 326  
incorporated into real property; 327

(18) Sales of drugs for a human being that may be 328  
dispensed only pursuant to a prescription; insulin as recognized 329  
in the official United States pharmacopoeia; urine and blood 330  
testing materials when used by diabetics or persons with 331  
hypoglycemia to test for glucose or acetone; hypodermic syringes 332  
and needles when used by diabetics for insulin injections; 333  
epoetin alfa when purchased for use in the treatment of persons 334  
with medical disease; hospital beds when purchased by hospitals, 335  
nursing homes, or other medical facilities; and medical oxygen 336  
and medical oxygen-dispensing equipment when purchased by 337  
hospitals, nursing homes, or other medical facilities; 338

(19) Sales of prosthetic devices, durable medical 339  
equipment for home use, or mobility enhancing equipment, when 340  
made pursuant to a prescription and when such devices or 341  
equipment are for use by a human being. 342

(20) Sales of emergency and fire protection vehicles and 343  
equipment to nonprofit organizations for use solely in providing 344  
fire protection and emergency services, including trauma care 345  
and emergency medical services, for political subdivisions of 346  
the state; 347

(21) Sales of tangible personal property manufactured in 348  
this state, if sold by the manufacturer in this state to a 349  
retailer for use in the retail business of the retailer outside 350  
of this state and if possession is taken from the manufacturer 351

by the purchaser within this state for the sole purpose of 352  
immediately removing the same from this state in a vehicle owned 353  
by the purchaser; 354

(22) Sales of services provided by the state or any of its 355  
political subdivisions, agencies, instrumentalities, 356  
institutions, or authorities, or by governmental entities of the 357  
state or any of its political subdivisions, agencies, 358  
instrumentalities, institutions, or authorities; 359

(23) Sales of motor vehicles to nonresidents of this state 360  
under the circumstances described in division (B) of section 361  
5739.029 of the Revised Code; 362

(24) Sales to persons engaged in the preparation of eggs 363  
for sale of tangible personal property used or consumed directly 364  
in such preparation, including such tangible personal property 365  
used for cleaning, sanitizing, preserving, grading, sorting, and 366  
classifying by size; packages, including material and parts for 367  
packages, and machinery, equipment, and material for use in 368  
packaging eggs for sale; and handling and transportation 369  
equipment and parts therefor, except motor vehicles licensed to 370  
operate on public highways, used in intraplant or interplant 371  
transfers or shipment of eggs in the process of preparation for 372  
sale, when the plant or plants within or between which such 373  
transfers or shipments occur are operated by the same person. 374  
"Packages" includes containers, cases, baskets, flats, fillers, 375  
filler flats, cartons, closure materials, labels, and labeling 376  
materials, and "packaging" means placing therein. 377

(25) (a) Sales of water to a consumer for residential use; 378

(b) Sales of water by a nonprofit corporation engaged 379  
exclusively in the treatment, distribution, and sale of water to 380

consumers, if such water is delivered to consumers through pipes	381
or tubing.	382
(26) Fees charged for inspection or reinspection of motor	383
vehicles under section 3704.14 of the Revised Code;	384
(27) Sales to persons licensed to conduct a food service	385
operation pursuant to section 3717.43 of the Revised Code, of	386
tangible personal property primarily used directly for the	387
following:	388
(a) To prepare food for human consumption for sale;	389
(b) To preserve food that has been or will be prepared for	390
human consumption for sale by the food service operator, not	391
including tangible personal property used to display food for	392
selection by the consumer;	393
(c) To clean tangible personal property used to prepare or	394
serve food for human consumption for sale.	395
(28) Sales of animals by nonprofit animal adoption	396
services or county humane societies;	397
(29) Sales of services to a corporation described in	398
division (A) of section 5709.72 of the Revised Code, and sales	399
of tangible personal property that qualifies for exemption from	400
taxation under section 5709.72 of the Revised Code;	401
(30) Sales and installation of agricultural land tile, as	402
defined in division (B) (5) (a) of section 5739.01 of the Revised	403
Code;	404
(31) Sales and erection or installation of portable grain	405
bins, as defined in division (B) (5) (b) of section 5739.01 of the	406
Revised Code;	407

(32) The sale, lease, repair, and maintenance of, parts 408  
for, or items attached to or incorporated in, motor vehicles 409  
that are primarily used for transporting tangible personal 410  
property belonging to others by a person engaged in highway 411  
transportation for hire, except for packages and packaging used 412  
for the transportation of tangible personal property; 413

(33) Sales to the state headquarters of any veterans' 414  
organization in this state that is either incorporated and 415  
issued a charter by the congress of the United States or is 416  
recognized by the United States veterans administration, for use 417  
by the headquarters; 418

(34) Sales to a telecommunications service vendor, mobile 419  
telecommunications service vendor, or satellite broadcasting 420  
service vendor of tangible personal property and services used 421  
directly and primarily in transmitting, receiving, switching, or 422  
recording any interactive, one- or two-way electromagnetic 423  
communications, including voice, image, data, and information, 424  
through the use of any medium, including, but not limited to, 425  
poles, wires, cables, switching equipment, computers, and record 426  
storage devices and media, and component parts for the tangible 427  
personal property. The exemption provided in this division shall 428  
be in lieu of all other exemptions under division (B) (42) (a) or 429  
(n) of this section to which the vendor may otherwise be 430  
entitled, based upon the use of the thing purchased in providing 431  
the telecommunications, mobile telecommunications, or satellite 432  
broadcasting service. 433

(35) Sales of strollers meant for transporting children 434  
from infancy to about thirty-six months of age that meet the 435  
United States consumer product safety commission safety standard 436  
for carriages and strollers under 16 C.F.R. 1227.2. 437

(36) Sales to a person engaged in the business of 438  
horticulture or producing livestock of materials to be 439  
incorporated into a horticulture structure or livestock 440  
structure; 441

(37) Sales of personal computers, computer monitors, 442  
computer keyboards, modems, and other peripheral computer 443  
equipment to an individual who is licensed or certified to teach 444  
in an elementary or a secondary school in this state for use by 445  
that individual in preparation for teaching elementary or 446  
secondary school students; 447

(38) Sales of tangible personal property that is not 448  
required to be registered or licensed under the laws of this 449  
state to a citizen of a foreign nation that is not a citizen of 450  
the United States, provided the property is delivered to a 451  
person in this state that is not a related member of the 452  
purchaser, is physically present in this state for the sole 453  
purpose of temporary storage and package consolidation, and is 454  
subsequently delivered to the purchaser at a delivery address in 455  
a foreign nation. As used in division (B)(38) of this section, 456  
"related member" has the same meaning as in section 5733.042 of 457  
the Revised Code, and "temporary storage" means the storage of 458  
tangible personal property for a period of not more than sixty 459  
days. 460

(39) Sales of used manufactured homes and used mobile 461  
homes, as defined in section 5739.0210 of the Revised Code, made 462  
on or after January 1, 2000; 463

(40) Sales of tangible personal property and services to a 464  
provider of electricity used or consumed directly and primarily 465  
in generating, transmitting, or distributing electricity for use 466  
by others, including property that is or is to be incorporated 467

into and will become a part of the consumer's production, 468  
transmission, or distribution system and that retains its 469  
classification as tangible personal property after 470  
incorporation; fuel or power used in the production, 471  
transmission, or distribution of electricity; energy conversion 472  
equipment as defined in section 5727.01 of the Revised Code; and 473  
tangible personal property and services used in the repair and 474  
maintenance of the production, transmission, or distribution 475  
system, including only those motor vehicles as are specially 476  
designed and equipped for such use. The exemption provided in 477  
this division shall be in lieu of all other exemptions in 478  
division (B) (42) (a) or (n) of this section to which a provider 479  
of electricity may otherwise be entitled based on the use of the 480  
tangible personal property or service purchased in generating, 481  
transmitting, or distributing electricity. 482

(41) Sales to a person providing services under division 483  
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 484  
personal property and services used directly and primarily in 485  
providing taxable services under that section. 486

(42) Sales where the purpose of the purchaser is to do any 487  
of the following: 488

(a) To incorporate the thing transferred as a material or 489  
a part into tangible personal property to be produced for sale 490  
by manufacturing, assembling, processing, or refining; or to use 491  
or consume the thing transferred directly in producing tangible 492  
personal property for sale by mining, including, without 493  
limitation, the extraction from the earth of all substances that 494  
are classed geologically as minerals, or directly in the 495  
rendition of a public utility service, except that the sales tax 496  
levied by this section shall be collected upon all meals, 497

drinks, and food for human consumption sold when transporting	498
persons. This paragraph does not exempt from "retail sale" or	499
"sales at retail" the sale of tangible personal property that is	500
to be incorporated into a structure or improvement to real	501
property.	502
(b) To hold the thing transferred as security for the	503
performance of an obligation of the vendor;	504
(c) To resell, hold, use, or consume the thing transferred	505
as evidence of a contract of insurance;	506
(d) To use or consume the thing directly in commercial	507
fishing;	508
(e) To incorporate the thing transferred as a material or	509
a part into, or to use or consume the thing transferred directly	510
in the production of, magazines distributed as controlled	511
circulation publications;	512
(f) To use or consume the thing transferred in the	513
production and preparation in suitable condition for market and	514
sale of printed, imprinted, overprinted, lithographic,	515
multilithic, blueprinted, photostatic, or other productions or	516
reproductions of written or graphic matter;	517
(g) To use the thing transferred, as described in section	518
5739.011 of the Revised Code, primarily in a manufacturing	519
operation to produce tangible personal property for sale;	520
(h) To use the benefit of a warranty, maintenance or	521
service contract, or similar agreement, as described in division	522
(B) (7) of section 5739.01 of the Revised Code, to repair or	523
maintain tangible personal property, if all of the property that	524
is the subject of the warranty, contract, or agreement would not	525
be subject to the tax imposed by this section;	526

- (i) To use the thing transferred as qualified research and development equipment; 527  
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- (j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B) (3) (e) of section 5739.01 of the Revised Code and "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier. 529  
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- (k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B) (7) of section 5739.01 of the Revised Code; 547  
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- (l) To use or consume the thing transferred in the production of a newspaper for distribution to the public; 554  
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- (m) To use tangible personal property to perform a service 556

listed in division (B) (3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

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

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

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

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

(I) Services provided in the construction of permanent access roads, services provided in the construction of the well site, and services provided in the construction of temporary

impoundments;	586
(II) Equipment and rigging used for the specific purpose of creating with integrity a wellbore pathway to underground reservoirs;	587 588 589
(III) Drilling and workover services used to work within a subsurface wellbore, and tangible personal property directly used in providing such services;	590 591 592
(IV) Casing, tubulars, and float and centralizing equipment;	593 594
(V) Trailers to which production equipment is attached;	595
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	596 597 598
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	599 600 601
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	602 603 604 605
(IX) Pressure pumping equipment;	606
(X) Artificial lift systems equipment;	607
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	608 609 610
(XII) Tangible personal property directly used to control production equipment.	611 612

(ii) For the purposes of division ~~(B) (42) (g)~~ (B) (42) (o) of 613  
this section, the "thing transferred" does not include any of 614  
the following: 615

(I) Tangible personal property used primarily in the 616  
exploration and production of any mineral resource regulated 617  
under Chapter 1509. of the Revised Code other than oil or gas; 618

(II) Tangible personal property used primarily in storing, 619  
holding, or delivering solutions or chemicals used in well 620  
stimulation as defined in section 1509.01 of the Revised Code; 621

(III) Tangible personal property used primarily in 622  
preparing, installing, or reclaiming foundations for drilling or 623  
pumping equipment or well stimulation material tanks; 624

(IV) Tangible personal property used primarily in 625  
transporting, delivering, or removing equipment to or from the 626  
well site or storing such equipment before its use at the well 627  
site; 628

(V) Tangible personal property used primarily in gathering 629  
operations occurring off the well site, including gathering 630  
pipelines transporting hydrocarbon gas or liquids away from a 631  
crude oil or natural gas production facility; 632

(VI) Tangible personal property that is to be incorporated 633  
into a structure or improvement to real property; 634

(VII) Well site fencing, lighting, or security systems; 635

(VIII) Communication devices or services; 636

(IX) Office supplies; 637

(X) Trailers used as offices or lodging; 638

(XI) Motor vehicles of any kind; 639

(XII) Tangible personal property used primarily for the 640  
storage of drilling byproducts and fuel not used for production; 641

(XIII) Tangible personal property used primarily as a 642  
safety device; 643

(XIV) Data collection or monitoring devices; 644

(XV) Access ladders, stairs, or platforms attached to 645  
storage tanks. 646

The enumeration of tangible personal property in division 647  
~~(B) (42) (e) (ii)~~ (B) (42) (o) (ii) of this section is not intended to 648  
be exhaustive, and any tangible personal property not so 649  
enumerated shall not necessarily be construed to be a "thing 650  
transferred" for the purposes of division ~~(B) (42) (e)~~ (B) (42) (o) 651  
of this section. 652

The commissioner shall adopt and promulgate rules under 653  
sections 119.01 to 119.13 of the Revised Code that the 654  
commissioner deems necessary to administer division ~~(B) (42) (e)~~ 655  
(B) (42) (o) of this section. 656

As used in division (B) (42) of this section, "thing" 657  
includes all transactions included in divisions (B) (3) (a), (b), 658  
and (e) of section 5739.01 of the Revised Code. 659

(43) Sales conducted through a coin operated device that 660  
activates vacuum equipment or equipment that dispenses water, 661  
whether or not in combination with soap or other cleaning agents 662  
or wax, to the consumer for the consumer's use on the premises 663  
in washing, cleaning, or waxing a motor vehicle, provided no 664  
other personal property or personal service is provided as part 665  
of the transaction. 666

(44) Sales of replacement and modification parts for 667

engines, airframes, instruments, and interiors in, and paint 668  
for, aircraft used primarily in a fractional aircraft ownership 669  
program, and sales of services for the repair, modification, and 670  
maintenance of such aircraft, and machinery, equipment, and 671  
supplies primarily used to provide those services. 672

(45) The fee imposed by section 3743.22 of the Revised 673  
Code, if it is separately stated on the invoice, bill of sale, 674  
or similar document given by the vendor to the consumer for a 675  
retail sale made in this state. 676

(46) Sales by a telecommunications service vendor of 900 677  
service to a subscriber. This division does not apply to 678  
information services. 679

(47) Sales of value-added non-voice data service. This 680  
division does not apply to any similar service that is not 681  
otherwise a telecommunications service. 682

(48) Sales of feminine hygiene products. 683

(49) Sales of materials, parts, equipment, or engines used 684  
in the repair or maintenance of aircraft or avionics systems of 685  
such aircraft, and sales of repair, remodeling, replacement, or 686  
maintenance services in this state performed on aircraft or on 687  
an aircraft's avionics, engine, or component materials or parts. 688  
As used in division (B) (49) of this section, "aircraft" means 689  
aircraft of more than six thousand pounds maximum certified 690  
takeoff weight or used exclusively in general aviation. 691

(50) Sales of full flight simulators that are used for 692  
pilot or flight-crew training, sales of repair or replacement 693  
parts or components, and sales of repair or maintenance services 694  
for such full flight simulators. "Full flight simulator" means a 695  
replica of a specific type, or make, model, and series of 696

aircraft cockpit. It includes the assemblage of equipment and 697  
computer programs necessary to represent aircraft operations in 698  
ground and flight conditions, a visual system providing an out- 699  
of-the-cockpit view, and a system that provides cues at least 700  
equivalent to those of a three-degree-of-freedom motion system, 701  
and has the full range of capabilities of the systems installed 702  
in the device as described in appendices A and B of part 60 of 703  
chapter 1 of title 14 of the Code of Federal Regulations. 704

(51) Any transfer or lease of tangible personal property 705  
between the state and JobsOhio in accordance with section 706  
4313.02 of the Revised Code. 707

(52) (a) Sales to a qualifying corporation. 708

(b) As used in division (B) (52) of this section: 709

(i) "Qualifying corporation" means a nonprofit corporation 710  
organized in this state that leases from an eligible county 711  
land, buildings, structures, fixtures, and improvements to the 712  
land that are part of or used in a public recreational facility 713  
used by a major league professional athletic team or a class A 714  
to class AAA minor league affiliate of a major league 715  
professional athletic team for a significant portion of the 716  
team's home schedule, provided the following apply: 717

(I) The facility is leased from the eligible county 718  
pursuant to a lease that requires substantially all of the 719  
revenue from the operation of the business or activity conducted 720  
by the nonprofit corporation at the facility in excess of 721  
operating costs, capital expenditures, and reserves to be paid 722  
to the eligible county at least once per calendar year. 723

(II) Upon dissolution and liquidation of the nonprofit 724  
corporation, all of its net assets are distributable to the 725

board of commissioners of the eligible county from which the	726
corporation leases the facility.	727
(ii) "Eligible county" has the same meaning as in section	728
307.695 of the Revised Code.	729
(53) Sales to or by a cable service provider, video	730
service provider, or radio or television broadcast station	731
regulated by the federal government of cable service or	732
programming, video service or programming, audio service or	733
programming, or electronically transferred digital audiovisual	734
or audio work. As used in division (B) (53) of this section,	735
"cable service" and "cable service provider" have the same	736
meanings as in section 1332.01 of the Revised Code, and "video	737
service," "video service provider," and "video programming" have	738
the same meanings as in section 1332.21 of the Revised Code.	739
(54) Sales of a digital audio work electronically	740
transferred for delivery through use of a machine, such as a	741
juke box, that does all of the following:	742
(a) Accepts direct payments to operate;	743
(b) Automatically plays a selected digital audio work for	744
a single play upon receipt of a payment described in division	745
(B) (54) (a) of this section;	746
(c) Operates exclusively for the purpose of playing	747
digital audio works in a commercial establishment.	748
(55) (a) Sales of the following occurring on the first	749
Friday of August and the following Saturday and Sunday of any	750
year, except in 2024 or any subsequent year in which a sales tax	751
holiday is held pursuant to section 5739.41 of the Revised Code:	752
(i) An item of clothing, the price of which is seventy-	753

five dollars or less;	754
(ii) An item of school supplies, the price of which is	755
twenty dollars or less;	756
(iii) An item of school instructional material, the price	757
of which is twenty dollars or less.	758
(b) As used in division (B) (55) of this section:	759
(i) "Clothing" means all human wearing apparel suitable	760
for general use. "Clothing" includes, but is not limited to,	761
aprons, household and shop; athletic supporters; baby receiving	762
blankets; bathing suits and caps; beach capes and coats; belts	763
and suspenders; boots; coats and jackets; costumes; diapers,	764
children and adult, including disposable diapers; earmuffs;	765
footlets; formal wear; garters and garter belts; girdles; gloves	766
and mittens for general use; hats and caps; hosiery; insoles for	767
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	768
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	769
sneakers; socks and stockings; steel-toed shoes; underwear;	770
uniforms, athletic and nonathletic; and wedding apparel.	771
"Clothing" does not include items purchased for use in a trade	772
or business; clothing accessories or equipment; protective	773
equipment; sports or recreational equipment; belt buckles sold	774
separately; costume masks sold separately; patches and emblems	775
sold separately; sewing equipment and supplies including, but	776
not limited to, knitting needles, patterns, pins, scissors,	777
sewing machines, sewing needles, tape measures, and thimbles;	778
and sewing materials that become part of "clothing" including,	779
but not limited to, buttons, fabric, lace, thread, yarn, and	780
zippers.	781
(ii) "School supplies" means items commonly used by a	782

student in a course of study. "School supplies" includes only 783  
the following items: binders; book bags; calculators; cellophane 784  
tape; blackboard chalk; compasses; composition books; crayons; 785  
erasers; folders, expandable, pocket, plastic, and manila; glue, 786  
paste, and paste sticks; highlighters; index cards; index card 787  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 788  
loose-leaf ruled notebook paper, copy paper, graph paper, 789  
tracing paper, manila paper, colored paper, poster board, and 790  
construction paper; pencil boxes and other school supply boxes; 791  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 792  
and writing tablets. "School supplies" does not include any item 793  
purchased for use in a trade or business. 794

(iii) "School instructional material" means written 795  
material commonly used by a student in a course of study as a 796  
reference and to learn the subject being taught. "School 797  
instructional material" includes only the following items: 798  
reference books, reference maps and globes, textbooks, and 799  
workbooks. "School instructional material" does not include any 800  
material purchased for use in a trade or business. 801

(56) (a) Sales of adult diapers or incontinence underpads 802  
sold pursuant to a prescription, for the benefit of a medicaid 803  
recipient with a diagnosis of incontinence, and by a medicaid 804  
provider that maintains a valid provider agreement under section 805  
5164.30 of the Revised Code with the department of medicaid, 806  
provided that the medicaid program covers diapers or 807  
incontinence underpads as an incontinence garment. 808

(b) As used in division (B) (56) (a) of this section, 809  
"incontinence underpad" means an absorbent product, not worn on 810  
the body, designed to protect furniture or other tangible 811  
personal property from soiling or damage due to human 812

incontinence.	813
(57) Sales of investment metal bullion and investment	814
coins. "Investment metal bullion" means any bullion described in	815
section 408(m) (3) (B) of the Internal Revenue Code, regardless of	816
whether that bullion is in the physical possession of a trustee.	817
"Investment coin" means any coin composed primarily of gold,	818
silver, platinum, or palladium.	819
(58) Sales of tangible personal property used primarily	820
for any of the following purposes by a megaproject operator at	821
the site of a megaproject that satisfies the criteria described	822
in division (A) (11) (a) (ii) of section 122.17 of the Revised	823
Code, provided that the sale occurs during the period that the	824
megaproject operator has an agreement for such megaproject with	825
the tax credit authority under division (D) of section 122.17 of	826
the Revised Code that remains in effect and has not expired or	827
been terminated:	828
(a) To store, transmit, convey, distribute, recycle,	829
circulate, or clean water, steam, or other gases used in or	830
produced as a result of manufacturing activity, including items	831
that support or aid in the operation of such property;	832
(b) To clean or prepare inventory, at any stage of storage	833
or production, or equipment used in a manufacturing activity,	834
including chemicals, solvents, catalysts, soaps, and other items	835
that support or aid in the operation of property;	836
(c) To regulate, treat, filter, condition, improve, clean,	837
maintain, or monitor environmental conditions within areas where	838
manufacturing activities take place;	839
(d) To handle, transport, or convey inventory during	840
production or manufacturing.	841

(59) Documentary services charges imposed pursuant to section 4517.261 or 4781.24 of the Revised Code.	842 843
(60) Sales of children's diapers.	844
(61) Sales of therapeutic or preventative creams and wipes marketed primarily for use on the skin of children.	845 846
(62) Sales of a child restraint device or booster seat that meets the national highway traffic safety administration standard for child restraint systems under 49 C.F.R. 571.213.	847 848 849
(63) Sales of cribs intended to provide sleeping accommodations for children that comply with the United States consumer product safety commission's safety standard for full-size baby cribs under 16 C.F.R. 1219 or the commission's safety standard for non-full-size baby cribs under 16 C.F.R. 1220.	850 851 852 853 854
(64) Sales of eligible tangible personal property occurring during the period of a sales tax holiday held pursuant to section 5739.41 of the Revised Code.	855 856 857
<u>(65) Sales of service animals as defined in 28 C.F.R. 35.104 or miniature horses that meet the standards described in 28 C.F.R. 35.136(i).</u>	858 859 860
(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.	861 862 863 864
(D) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an	865 866 867 868 869

additional sales tax pursuant to section 5739.023 of the Revised 870  
Code. Except for the discount authorized under section 5739.12 871  
of the Revised Code and the effects of any rounding pursuant to 872  
section 5703.055 of the Revised Code, no person other than the 873  
state or such a county or transit authority shall derive any 874  
benefit from the collection or payment of the tax levied by this 875  
section or section 5739.021, 5739.023, or 5739.026 of the 876  
Revised Code. 877

**Section 2.** That existing section 5739.02 of the Revised 878  
Code is hereby repealed. 879

**Section 3.** The amendment by this act of section 5739.02 of 880  
the Revised Code applies beginning on and after the first day of 881  
the first month beginning after the effective date of this 882  
section. 883