

As Introduced

**136th General Assembly
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H. B. No. 901

Representative Brewer

**Cosponsors: Representatives Piccolantonio, Brennan, Brownlee, Synenberg,
Sigrist, McNally, Grim**

To amend sections 2923.11, 5739.01, 5739.02, 1
5739.03, 5739.17, 5747.08, and 5747.98 and to 2
enact sections 2923.26, 2923.27, 3701.982, and 3
5747.74 of the Revised Code to enact Amya's Law 4
for Child Access Prevention to provide for the 5
safe storage of firearms, to authorize a 6
nonrefundable income tax credit for the purchase 7
of secure storage and safety devices, and to 8
exempt such devices from sales and use tax. 9

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

Section 1. That sections 2923.11, 5739.01, 5739.02, 10
5739.03, 5739.17, 5747.08, and 5747.98 be amended and sections 11
2923.26, 2923.27, 3701.982, and 5747.74 of the Revised Code be 12
enacted to read as follows: 13

Sec. 2923.11. As used in sections 2923.11 to ~~2923.24~~ 14
2923.27 of the Revised Code: 15

(A) "Deadly weapon" means any instrument, device, or thing 16
capable of inflicting death, and designed or specially adapted 17
for use as a weapon, or possessed, carried, or used as a weapon. 18

(B) (1) "Firearm" means any deadly weapon capable of 19
expelling or propelling one or more projectiles by the action of 20
an explosive or combustible propellant. "Firearm" includes an 21
unloaded firearm, and any firearm that is inoperable but that 22
can readily be rendered operable. 23

(2) When determining whether a firearm is capable of 24
expelling or propelling one or more projectiles by the action of 25
an explosive or combustible propellant, the trier of fact may 26
rely upon circumstantial evidence, including, but not limited 27
to, the representations and actions of the individual exercising 28
control over the firearm. 29

(C) "Handgun" means any of the following: 30

(1) Any firearm that has a short stock and is designed to 31
be held and fired by the use of a single hand; 32

(2) Any combination of parts from which a firearm of a 33
type described in division (C) (1) of this section can be 34
assembled. 35

(D) "Semi-automatic firearm" means any firearm designed or 36
specially adapted to fire a single cartridge and automatically 37
chamber a succeeding cartridge ready to fire, with a single 38
function of the trigger. 39

(E) "Automatic firearm" means any firearm designed or 40
specially adapted to fire a succession of cartridges with a 41
single function of the trigger. 42

(F) "Sawed-off firearm" means a shotgun with a barrel less 43
than eighteen inches long, or a rifle with a barrel less than 44
sixteen inches long, or a shotgun or rifle less than twenty-six 45
inches long overall. "Sawed-off firearm" does not include any 46
firearm with an overall length of at least twenty-six inches 47

that is approved for sale by the federal bureau of alcohol, 48
tobacco, firearms, and explosives under the "Gun Control Act of 49
1968," 82 Stat. 1213, 18 U.S.C. 921(a) (3), but that is found by 50
the bureau not to be regulated under the "National Firearms 51
Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a). 52

(G) "Zip-gun" means any of the following: 53

(1) Any firearm of crude and extemporized manufacture; 54

(2) Any device, including without limitation a starter's 55
pistol, that is not designed as a firearm, but that is specially 56
adapted for use as a firearm; 57

(3) Any industrial tool, signalling device, or safety 58
device, that is not designed as a firearm, but that as designed 59
is capable of use as such, when possessed, carried, or used as a 60
firearm. 61

(H) "Explosive device" means any device designed or 62
specially adapted to cause physical harm to persons or property 63
by means of an explosion, and consisting of an explosive 64
substance or agency and a means to detonate it. "Explosive 65
device" includes without limitation any bomb, any explosive 66
demolition device, any blasting cap or detonator containing an 67
explosive charge, and any pressure vessel that has been 68
knowingly tampered with or arranged so as to explode. 69

(I) "Incendiary device" means any firebomb, and any device 70
designed or specially adapted to cause physical harm to persons 71
or property by means of fire, and consisting of an incendiary 72
substance or agency and a means to ignite it. 73

(J) "Ballistic knife" means a knife with a detachable 74
blade that is propelled by a spring-operated mechanism. 75

(K) "Dangerous ordnance" means any of the following,	76
except as provided in division (L) of this section:	77
(1) Any automatic or sawed-off firearm, zip-gun, or	78
ballistic knife;	79
(2) Any explosive device or incendiary device;	80
(3) Nitroglycerin, nitrocellulose, nitrostarch, PETN,	81
cyclonite, TNT, picric acid, and other high explosives; amatol,	82
tritonite, tetrytol, pentolite, pecretol, cyclotol, and other	83
high explosive compositions; plastic explosives; dynamite,	84
blasting gelatin, gelatin dynamite, sensitized ammonium nitrate,	85
liquid-oxygen blasting explosives, blasting powder, and other	86
blasting agents; and any other explosive substance having	87
sufficient brisance or power to be particularly suitable for use	88
as a military explosive, or for use in mining, quarrying,	89
excavating, or demolitions;	90
(4) Any firearm, rocket launcher, mortar, artillery piece,	91
grenade, mine, bomb, torpedo, or similar weapon, designed and	92
manufactured for military purposes, and the ammunition for that	93
weapon;	94
(5) Any firearm muffler or suppressor;	95
(6) Any combination of parts that is intended by the owner	96
for use in converting any firearm or other device into a	97
dangerous ordnance.	98
(L) "Dangerous ordnance" does not include any of the	99
following:	100
(1) Any firearm, including a military weapon and the	101
ammunition for that weapon, and regardless of its actual age,	102
that employs a percussion cap or other obsolete ignition system,	103

or that is designed and safe for use only with black powder;	104
(2) Any pistol, rifle, or shotgun, designed or suitable	105
for sporting purposes, including a military weapon as issued or	106
as modified, and the ammunition for that weapon, unless the	107
firearm is an automatic or sawed-off firearm;	108
(3) Any cannon or other artillery piece that, regardless	109
of its actual age, is of a type in accepted use prior to 1887,	110
has no mechanical, hydraulic, pneumatic, or other system for	111
absorbing recoil and returning the tube into battery without	112
displacing the carriage, and is designed and safe for use only	113
with black powder;	114
(4) Black powder, priming quills, and percussion caps	115
possessed and lawfully used to fire a cannon of a type defined	116
in division (L) (3) of this section during displays,	117
celebrations, organized matches or shoots, and target practice,	118
and smokeless and black powder, primers, and percussion caps	119
possessed and lawfully used as a propellant or ignition device	120
in small-arms or small-arms ammunition;	121
(5) Dangerous ordnance that is inoperable or inert and	122
cannot readily be rendered operable or activated, and that is	123
kept as a trophy, souvenir, curio, or museum piece;	124
(6) Any device that is expressly excepted from the	125
definition of a destructive device pursuant to the "Gun Control	126
Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a) (4), as amended,	127
and regulations issued under that act;	128
(7) Any firearm with an overall length of at least twenty-	129
six inches that is approved for sale by the federal bureau of	130
alcohol, tobacco, firearms, and explosives under the "Gun	131
Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a) (3), but	132

that is found by the bureau not to be regulated under the 133
"National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 134
5845(a). 135

(M) "Explosive" means any chemical compound, mixture, or 136
device, the primary or common purpose of which is to function by 137
explosion. "Explosive" includes all materials that have been 138
classified as division 1.1, division 1.2, division 1.3, or 139
division 1.4 explosives by the United States department of 140
transportation in its regulations and includes, but is not 141
limited to, dynamite, black powder, pellet powders, initiating 142
explosives, blasting caps, electric blasting caps, safety fuses, 143
fuse igniters, squibs, cordeau detonant fuses, instantaneous 144
fuses, and igniter cords and igniters. "Explosive" does not 145
include "fireworks," as defined in section 3743.01 of the 146
Revised Code, or any substance or material otherwise meeting the 147
definition of explosive set forth in this section that is 148
manufactured, sold, possessed, transported, stored, or used in 149
any activity described in section 3743.80 of the Revised Code, 150
provided the activity is conducted in accordance with all 151
applicable laws, rules, and regulations, including, but not 152
limited to, the provisions of section 3743.80 of the Revised 153
Code and the rules of the fire marshal adopted pursuant to 154
section 3737.82 of the Revised Code. 155

(N) (1) "Concealed handgun license" or "license to carry a 156
concealed handgun" means, subject to division (N) (2) of this 157
section, a license or temporary emergency license to carry a 158
concealed handgun issued under section 2923.125 or 2923.1213 of 159
the Revised Code or a license to carry a concealed handgun 160
issued by another state with which the attorney general has 161
entered into a reciprocity agreement under section 109.69 of the 162
Revised Code. 163

(2) A reference in any provision of the Revised Code to a concealed handgun license issued under section 2923.125 of the Revised Code or a license to carry a concealed handgun issued under section 2923.125 of the Revised Code means only a license of the type that is specified in that section. A reference in any provision of the Revised Code to a concealed handgun license issued under section 2923.1213 of the Revised Code, a license to carry a concealed handgun issued under section 2923.1213 of the Revised Code, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in section 2923.1213 of the Revised Code. A reference in any provision of the Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the attorney general has entered into a reciprocity agreement under section 109.69 of the Revised Code.

(O) "Valid concealed handgun license" or "valid license to carry a concealed handgun" means a concealed handgun license that is currently valid, that is not under a suspension under division (A) (1) of section 2923.128 of the Revised Code, under section 2923.1213 of the Revised Code, or under a suspension provision of the state other than this state in which the license was issued, and that has not been revoked under division (B) (1) of section 2923.128 of the Revised Code, under section 2923.1213 of the Revised Code, or under a revocation provision of the state other than this state in which the license was issued.

(P) "Misdemeanor punishable by imprisonment for a term exceeding one year" does not include any of the following:

(1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices;

(2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.

(Q) "Alien registration number" means the number issued by the United States citizenship and immigration services agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number."

(R) "Active duty" has the same meaning as defined in 10 U.S.C. 101.

Sec. 2923.26. (A) As used in this section:

(1) "Federally licensed firearms dealer" has the same meaning as in section 5502.63 of the Revised Code.

(2) "Firearm hold agreement" means an agreement between the owner of a lawfully possessed firearm and a federally licensed firearms dealer or county or municipal law enforcement agency that includes all of the following:

(a) That the federally licensed firearms dealer or county or municipal law enforcement agency will take physical possession of the owner's lawfully possessed firearm;

(b) That the federally licensed firearms dealer or county or municipal law enforcement agency will hold the owner's lawfully possessed firearm for an agreed period of time;

(c) That the federally licensed firearms dealer or county or municipal law enforcement agency will return the firearm to

the owner at the expiration of the agreed period of time. 222

(B) If a federally licensed firearms dealer or county or 223
municipal law enforcement agency enters into a firearm hold 224
agreement with the owner of a lawfully possessed firearm, the 225
federally licensed firearms dealer or county or municipal law 226
enforcement agency who enters into the firearm hold agreement 227
with the owner shall provide the owner with the pamphlet 228
described in section 3701.982 of the Revised Code at the time 229
that the federally licensed firearms dealer or county or 230
municipal law enforcement agency enters into the firearm hold 231
agreement with the owner of the lawfully possessed firearm. 232

(C) (1) Subject to division (C) (2) of this section, no 233
federally licensed firearms dealer or county or municipal law 234
enforcement agency who enters into a firearm hold agreement with 235
an owner of a lawfully possessed firearm is liable in damages in 236
a civil action for the injury, death, or loss to person or 237
property that arose from an act or omission associated with the 238
federally licensed firearms dealer or county or municipal law 239
enforcement agency returning the firearm to the owner under the 240
firearm hold agreement, unless the act or omission constitutes 241
unlawful conduct. 242

(2) Division (C) (1) of this section does not eliminate, 243
limit, or reduce any other immunity or defense that a county or 244
municipal law enforcement agency may be entitled to under 245
Chapter 2744. or any other provision of the Revised Code or 246
under the common law of this state. 247

(D) (1) If a federally licensed firearms dealer or county 248
or municipal law enforcement agency enters into a firearm hold 249
agreement with the owner of a lawfully possessed firearm and if 250
after the expiration of the agreed period of time the owner of 251

the firearm does not claim the firearm, the federally licensed 252
firearms dealer or county or municipal law enforcement agency 253
shall contact the owner of the firearm at least two times within 254
the following sixty days requesting that the owner claim the 255
firearm. 256

(2) If a federally licensed firearms dealer has physical 257
possession of the firearm and the firearm remains unclaimed 258
after the federally licensed firearm dealer complies with 259
division (D)(1) of this section, then the federally licensed 260
firearms dealer shall surrender the firearm to a county or 261
municipal law enforcement agency. 262

(3) If a county or municipal law enforcement agency has 263
physical possession of the firearm and the firearm remains 264
unclaimed after the county or municipal law enforcement agency 265
complies with division (D)(1) of this section or the firearm has 266
been surrendered to the county or municipal law enforcement 267
agency as described in division (D)(2) of this section, then the 268
county or municipal law enforcement agency shall dispose of the 269
firearm in accordance with the county or municipal law 270
enforcement agency's policies and procedures for the disposal of 271
a firearm in police custody. 272

Sec. 2923.27. (A) As used in this section: 273

(1) "Residence" has the same meaning as in section 2901.05 274
of the Revised Code. 275

(2) "Secure gun storage or safety device" means any of the 276
following: 277

(a) A device that, when installed on a firearm, is 278
designed to prevent the firearm from being operated without 279
first deactivating the device; 280

(b) A device incorporated into the design of the firearm 281
that is designed to prevent the operation of the firearm by 282
anyone not having access to the device; 283

(c) A safe, gun safe, gun case, lock box, or other device 284
that is designed to be or can be used to store a firearm and 285
that is designed to be unlocked only by means of a key, a 286
combination, or other similar means. 287

(3) A firearm is "securely stored" if, at any time that 288
the firearm is not being possessed or carried, a secure gun 289
storage or safety device is being used. 290

(B) Except as provided in division (C) of this section, no 291
person shall knowingly store or leave a firearm in a manner or 292
location at which a minor may gain access to the firearm. 293

(C) This section does not apply in any of the following 294
circumstances: 295

(1) The firearm was securely stored at the time the minor 296
gained access to the firearm. 297

(2) The minor gained access to the firearm by unlawfully 298
entering a residence. 299

(3) The minor gained access to the firearm while the 300
firearm was temporarily stored with a federally licensed 301
firearms dealer or county or municipal law enforcement agency 302
under section 2923.26 of the Revised Code. 303

(4) The minor gained access to the firearm with the 304
consent of the minor's parent or guardian. 305

(5) The minor gained access to the firearm for a lawful 306
purpose, including for hunting, sporting, educational purposes, 307
or self-defense. 308

(D) (1) Whoever violates division (B) of this section is 309
guilty of improper storage of a firearm. Except as otherwise 310
provided in division (D) (2) of this section, if the offense 311
results in physical harm to persons, including the minor, 312
improper storage of a firearm is a first degree misdemeanor. 313

(2) If the offense results in serious physical harm to 314
persons, including the minor, improper storage of a firearm is a 315
fourth degree felony. 316

Sec. 3701.982. (A) As used in this section, "secure gun 317
storage or safety device" has the same meaning as in section 318
2923.27 of the Revised Code. 319

(B) The department of health, in consultation with the 320
department of veterans services, shall prepare a pamphlet with 321
all of the following information: 322

(1) Mental health resources, including how to access the 323
following: 324

(a) The 9-8-8 suicide prevention and mental health crisis 325
hotline and the global crisis text line; 326

(b) The United States department of veterans affairs' 327
veterans crisis line; 328

(c) The United States department of veterans affairs' 329
suicide prevention toolkit. 330

(2) A list of local veterans organizations, including 331
veterans clinics; 332

(3) Guidance on secure gun storage and safety devices, 333
including any discounted or complimentary firearm safety device 334
programs available for veterans. 335

(C) The department of health and the department of 336
veterans services shall each publish the pamphlet described in 337
division (B) of this section on each department's web site. 338

Sec. 5739.01. As used in this chapter: 339

(A) "Person" includes individuals, receivers, assignees, 340
trustees in bankruptcy, estates, firms, partnerships, 341
associations, joint-stock companies, joint ventures, clubs, 342
societies, corporations, the state and its political 343
subdivisions, and combinations of individuals of any form. 344

(B) "Sale" and "selling" include all of the following 345
transactions for a consideration in any manner, whether 346
absolutely or conditionally, whether for a price or rental, in 347
money or by exchange, and by any means whatsoever: 348

(1) All transactions by which title or possession, or 349
both, of tangible personal property, is or is to be transferred, 350
or a license to use or consume tangible personal property is or 351
is to be granted; 352

(2) All transactions by which lodging by a hotel is or is 353
to be furnished to transient guests; 354

(3) All transactions by which: 355

(a) An item of tangible personal property is or is to be 356
repaired, except property, the purchase of which would not be 357
subject to the tax imposed by section 5739.02 of the Revised 358
Code; 359

(b) An item of tangible personal property is or is to be 360
installed, except property, the purchase of which would not be 361
subject to the tax imposed by section 5739.02 of the Revised 362
Code or property that is or is to be incorporated into and will 363

become a part of a production, transmission, transportation, or 364
distribution system for the delivery of a public utility 365
service; 366

(c) The service of washing, cleaning, waxing, polishing, 367
or painting a motor vehicle is or is to be furnished; 368

(d) Laundry and dry cleaning services are or are to be 369
provided; 370

(e) Automatic data processing, computer services, or 371
electronic information services are or are to be provided for 372
use in business when the true object of the transaction is the 373
receipt by the consumer of automatic data processing, computer 374
services, or electronic information services rather than the 375
receipt of personal or professional services to which automatic 376
data processing, computer services, or electronic information 377
services are incidental or supplemental. Notwithstanding any 378
other provision of this chapter, such transactions that occur 379
between members of an affiliated group are not sales. An 380
"affiliated group" means two or more persons related in such a 381
way that one person owns or controls the business operation of 382
another member of the group. In the case of corporations with 383
stock, one corporation owns or controls another if it owns more 384
than fifty per cent of the other corporation's common stock with 385
voting rights. 386

(f) Telecommunications service, including prepaid calling 387
service, prepaid wireless calling service, or ancillary service, 388
is or is to be provided, but not including coin-operated 389
telephone service; 390

(g) Landscaping and lawn care service is or is to be 391
provided; 392

(h) Private investigation and security service is or is to be provided;	393 394
(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	395 396
(j) Building maintenance and janitorial service is or is to be provided;	397 398
(k) Exterminating service is or is to be provided;	399
(l) Physical fitness facility service is or is to be provided;	400 401
(m) Recreation and sports club service is or is to be provided;	402 403
(n) Satellite broadcasting service is or is to be provided;	404 405
(o) Personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician, certified nurse-midwife, clinical nurse specialist, certified nurse practitioner, or chiropractor, or the cutting, coloring, or styling of an individual's hair.	406 407 408 409 410 411 412 413 414
(p) The transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public	415 416 417 418 419 420

convenience and necessity issued under 49 U.S.C. 41102; 421

(q) Motor vehicle towing service is or is to be provided. 422
As used in this division, "motor vehicle towing service" means 423
the towing or conveyance of a wrecked, disabled, or illegally 424
parked motor vehicle. 425

(r) Snow removal service is or is to be provided. As used 426
in this division, "snow removal service" means the removal of 427
snow by any mechanized means, but does not include the providing 428
of such service by a person that has less than five thousand 429
dollars in sales of such service during the calendar year. 430

(s) Electronic publishing service is or is to be provided 431
to a consumer for use in business, except that such transactions 432
occurring between members of an affiliated group, as defined in 433
division (B) (3) (e) of this section, are not sales. 434

(4) All transactions by which printed, imprinted, 435
overprinted, lithographic, multilithic, blueprinted, 436
photostatic, or other productions or reproductions of written or 437
graphic matter are or are to be furnished or transferred; 438

(5) The production or fabrication of tangible personal 439
property for a consideration for consumers who furnish either 440
directly or indirectly the materials used in the production of 441
fabrication work; and include the furnishing, preparing, or 442
serving for a consideration of any tangible personal property 443
consumed on the premises of the person furnishing, preparing, or 444
serving such tangible personal property. Except as provided in 445
section 5739.03 of the Revised Code, a construction contract 446
pursuant to which tangible personal property is or is to be 447
incorporated into a structure or improvement on and becoming a 448
part of real property is not a sale of such tangible personal 449

property. The construction contractor is the consumer of such 450
tangible personal property, provided that the sale and 451
installation of carpeting, the sale and installation of 452
agricultural land tile, the sale and erection or installation of 453
portable grain bins, or the provision of landscaping and lawn 454
care service and the transfer of property as part of such 455
service is never a construction contract. 456

As used in division (B) (5) of this section: 457

(a) "Agricultural land tile" means fired clay or concrete 458
tile, or flexible or rigid perforated plastic pipe or tubing, 459
incorporated or to be incorporated into a subsurface drainage 460
system appurtenant to land used or to be used primarily in 461
production by farming, agriculture, horticulture, or 462
floriculture. The term does not include such materials when they 463
are or are to be incorporated into a drainage system appurtenant 464
to a building or structure even if the building or structure is 465
used or to be used in such production. 466

(b) "Portable grain bin" means a structure that is used or 467
to be used by a person engaged in farming or agriculture to 468
shelter the person's grain and that is designed to be 469
disassembled without significant damage to its component parts. 470

(6) All transactions in which all of the shares of stock 471
of a closely held corporation are transferred, or an ownership 472
interest in a pass-through entity, as defined in section 5733.04 473
of the Revised Code, is transferred, if the corporation or pass- 474
through entity is not engaging in business and its entire assets 475
consist of boats, planes, motor vehicles, or other tangible 476
personal property operated primarily for the use and enjoyment 477
of the shareholders or owners; 478

(7) All transactions in which a warranty, maintenance or 479
service contract, or similar agreement by which the vendor of 480
the warranty, contract, or agreement agrees to repair or 481
maintain the tangible personal property of the consumer is or is 482
to be provided; 483

(8) The transfer of copyrighted motion picture films used 484
solely for advertising purposes, except that the transfer of 485
such films for exhibition purposes is not a sale; 486

(9) All transactions by which tangible personal property 487
is or is to be stored, except such property that the consumer of 488
the storage holds for sale in the regular course of business; 489

(10) All transactions in which "guaranteed auto 490
protection" is provided whereby a person promises to pay to the 491
consumer the difference between the amount the consumer receives 492
from motor vehicle insurance and the amount the consumer owes to 493
a person holding title to or a lien on the consumer's motor 494
vehicle in the event the consumer's motor vehicle suffers a 495
total loss under the terms of the motor vehicle insurance policy 496
or is stolen and not recovered, if the protection and its price 497
are included in the purchase or lease agreement; 498

(11) (a) Except as provided in division (B) (11) (b) of this 499
section, all transactions by which health care services are paid 500
for, reimbursed, provided, delivered, arranged for, or otherwise 501
made available by a medicaid health insuring corporation 502
pursuant to the corporation's contract with the state. 503

(b) If the centers for medicare and medicaid services of 504
the United States department of health and human services 505
determines that the taxation of transactions described in 506
division (B) (11) (a) of this section constitutes an impermissible 507

health care-related tax under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, the medicaid director shall notify the tax commissioner of that determination. Beginning with the first day of the month following that notification, the transactions described in division (B)(11)(a) of this section are not sales for the purposes of this chapter or Chapter 5741. of the Revised Code. The tax commissioner shall order that the collection of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code shall cease for transactions occurring on or after that date.

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

(13) All transactions by a delivery network company for the company's delivery network services, provided the company has a waiver issued under section 5741.072 of the Revised Code.

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

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business

under a single trade name in which all collections on account of 538
sales by each are made, such persons shall constitute a single 539
vendor. 540

Physicians, certified nurse-midwives, clinical nurse 541
specialists, certified nurse practitioners, dentists, hospitals, 542
and veterinarians who are engaged in selling tangible personal 543
property as received from others, such as eyeglasses, 544
mouthwashes, dentifrices, or similar articles, are vendors. 545
Veterinarians who are engaged in transferring to others for a 546
consideration drugs, the dispensing of which does not require an 547
order of a licensed veterinarian, physician, certified nurse- 548
midwife, clinical nurse specialist, or certified nurse 549
practitioner under federal law, are vendors. 550

The operator of any peer-to-peer car sharing program shall 551
be considered to be the vendor. 552

(D) (1) "Consumer" means the person for whom the service is 553
provided, to whom the transfer effected or license given by a 554
sale is or is to be made or given, to whom the service described 555
in division (B) (3) (f) or (i) of this section is charged, or to 556
whom the admission is granted. 557

(2) Physicians, certified nurse-midwives, clinical nurse 558
specialists, certified nurse practitioners, dentists, hospitals, 559
and blood banks operated by nonprofit institutions and persons 560
licensed to practice veterinary medicine, surgery, and dentistry 561
are consumers of all tangible personal property and services 562
purchased by them in connection with the practice of medicine, 563
dentistry, the rendition of hospital or blood bank service, or 564
the practice of veterinary medicine, surgery, and dentistry. In 565
addition to being consumers of drugs administered by them or by 566
their assistants according to their direction, veterinarians 567

also are consumers of drugs that under federal law may be 568
dispensed only by or upon the order of a licensed veterinarian, 569
physician, certified nurse-midwife, clinical nurse specialist, 570
or certified nurse practitioner, when transferred by them to 571
others for a consideration to provide treatment to animals as 572
directed by the veterinarian. 573

(3) A person who performs a facility management, or 574
similar service contract for a contractee is a consumer of all 575
tangible personal property and services purchased for use in 576
connection with the performance of such contract, regardless of 577
whether title to any such property vests in the contractee. The 578
purchase of such property and services is not subject to the 579
exception for resale under division (E) of this section. 580

(4) (a) In the case of a person who purchases printed 581
matter for the purpose of distributing it or having it 582
distributed to the public or to a designated segment of the 583
public, free of charge, that person is the consumer of that 584
printed matter, and the purchase of that printed matter for that 585
purpose is a sale. 586

(b) In the case of a person who produces, rather than 587
purchases, printed matter for the purpose of distributing it or 588
having it distributed to the public or to a designated segment 589
of the public, free of charge, that person is the consumer of 590
all tangible personal property and services purchased for use or 591
consumption in the production of that printed matter. That 592
person is not entitled to claim exemption under division (B) (42) 593
(f) of section 5739.02 of the Revised Code for any material 594
incorporated into the printed matter or any equipment, supplies, 595
or services primarily used to produce the printed matter. 596

(c) The distribution of printed matter to the public or to 597

a designated segment of the public, free of charge, is not a 598
sale to the members of the public to whom the printed matter is 599
distributed or to any persons who purchase space in the printed 600
matter for advertising or other purposes. 601

(5) A person who makes sales of any of the services listed 602
in division (B)(3) of this section is the consumer of any 603
tangible personal property used in performing the service. The 604
purchase of that property is not subject to the resale exception 605
under division (E) of this section. 606

(6) A person who engages in highway transportation for 607
hire is the consumer of all packaging materials purchased by 608
that person and used in performing the service, except for 609
packaging materials sold by such person in a transaction 610
separate from the service. 611

(7) In the case of a transaction for health care services 612
under division (B)(11) of this section, a medicaid health 613
insuring corporation is the consumer of such services. The 614
purchase of such services by a medicaid health insuring 615
corporation is not subject to the exception for resale under 616
division (E) of this section or to the exemptions provided under 617
divisions (B)(12), (18), (19), and (22) of section 5739.02 of 618
the Revised Code. 619

(E) "Retail sale" and "sales at retail" include all sales, 620
except those in which the purpose of the consumer is to resell 621
the thing transferred or benefit of the service provided, by a 622
person engaging in business, in the form in which the same is, 623
or is to be, received by the person. 624

(F) "Business" includes any activity engaged in by any 625
person with the object of gain, benefit, or advantage, either 626

direct or indirect. "Business" does not include the activity of 627
a person in managing and investing the person's own funds. 628

(G) "Engaging in business" means commencing, conducting, 629
or continuing in business, and liquidating a business when the 630
liquidator thereof holds itself out to the public as conducting 631
such business. Making a casual sale is not engaging in business. 632

(H) (1) (a) "Price," except as provided in divisions (H) (2), 633
(3), and (4) of this section, means the total amount of 634
consideration, including cash, credit, property, and services, 635
for which tangible personal property or services are sold, 636
leased, or rented, valued in money, whether received in money or 637
otherwise, without any deduction for any of the following: 638

(i) The vendor's cost of the property sold; 639

(ii) The cost of materials used, labor or service costs, 640
interest, losses, all costs of transportation to the vendor, all 641
taxes imposed on the vendor, including the tax imposed under 642
Chapter 5751. of the Revised Code, and any other expense of the 643
vendor; 644

(iii) Charges by the vendor for any services necessary to 645
complete the sale; 646

(iv) Delivery charges. As used in this division, "delivery 647
charges" means charges by the vendor for preparation and 648
delivery to a location designated by the consumer of tangible 649
personal property or a service, including transportation, 650
shipping, postage, handling, crating, and packing. 651

(v) Installation charges; 652

(vi) Credit for any trade-in. 653

(b) "Price" includes consideration received by the vendor 654

from a third party, if the vendor actually receives the 655
consideration from a party other than the consumer, and the 656
consideration is directly related to a price reduction or 657
discount on the sale; the vendor has an obligation to pass the 658
price reduction or discount through to the consumer; the amount 659
of the consideration attributable to the sale is fixed and 660
determinable by the vendor at the time of the sale of the item 661
to the consumer; and one of the following criteria is met: 662

(i) The consumer presents a coupon, certificate, or other 663
document to the vendor to claim a price reduction or discount 664
where the coupon, certificate, or document is authorized, 665
distributed, or granted by a third party with the understanding 666
that the third party will reimburse any vendor to whom the 667
coupon, certificate, or document is presented; 668

(ii) The consumer identifies the consumer's self to the 669
seller as a member of a group or organization entitled to a 670
price reduction or discount. A preferred customer card that is 671
available to any patron does not constitute membership in such a 672
group or organization. 673

(iii) The price reduction or discount is identified as a 674
third party price reduction or discount on the invoice received 675
by the consumer, or on a coupon, certificate, or other document 676
presented by the consumer. 677

(c) "Price" does not include any of the following: 678

(i) Discounts, including cash, term, or coupons that are 679
not reimbursed by a third party that are allowed by a vendor and 680
taken by a consumer on a sale; 681

(ii) Interest, financing, and carrying charges from credit 682
extended on the sale of tangible personal property or services, 683

if the amount is separately stated on the invoice, bill of sale, 684
or similar document given to the purchaser; 685

(iii) Any taxes legally imposed directly on the consumer 686
that are separately stated on the invoice, bill of sale, or 687
similar document given to the consumer. For the purpose of this 688
division, the tax imposed under Chapter 5751. of the Revised 689
Code is not a tax directly on the consumer, even if the tax or a 690
portion thereof is separately stated. 691

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 692
this section, any discount allowed by an automobile manufacturer 693
to its employee, or to the employee of a supplier, on the 694
purchase of a new motor vehicle from a new motor vehicle dealer 695
in this state. 696

(v) The dollar value of a gift card that is not sold by a 697
vendor or purchased by a consumer and that is redeemed by the 698
consumer in purchasing tangible personal property or services if 699
the vendor is not reimbursed and does not receive compensation 700
from a third party to cover all or part of the gift card value. 701
For the purposes of this division, a gift card is not sold by a 702
vendor or purchased by a consumer if it is distributed pursuant 703
to an awards, loyalty, or promotional program. Past and present 704
purchases of tangible personal property or services by the 705
consumer shall not be treated as consideration exchanged for a 706
gift card. 707

(2) In the case of a sale of any new motor vehicle by a 708
new motor vehicle dealer, as defined in section 4517.01 of the 709
Revised Code, in which another motor vehicle is accepted by the 710
dealer as part of the consideration received, "price" has the 711
same meaning as in division (H) (1) of this section, reduced by 712
the credit afforded the consumer by the dealer for the motor 713

vehicle received in trade. 714

(3) In the case of a sale of any watercraft or outboard 715
motor by a watercraft dealer licensed in accordance with section 716
1547.543 of the Revised Code, in which another watercraft, 717
watercraft and trailer, or outboard motor is accepted by the 718
dealer as part of the consideration received, "price" has the 719
same meaning as in division (H) (1) of this section, reduced by 720
the credit afforded the consumer by the dealer for the 721
watercraft, watercraft and trailer, or outboard motor received 722
in trade. As used in this division, "watercraft" includes an 723
outdrive unit attached to the watercraft. 724

(4) In the case of transactions for health care services 725
under division (B) (11) of this section, "price" means the amount 726
of managed care premiums received each month by a medicaid 727
health insuring corporation. 728

(I) "Receipts" means the total amount of the prices of the 729
sales of vendors, provided that the dollar value of gift cards 730
distributed pursuant to an awards, loyalty, or promotional 731
program, and cash discounts allowed and taken on sales at the 732
time they are consummated are not included, minus any amount 733
deducted as a bad debt pursuant to section 5739.121 of the 734
Revised Code. "Receipts" does not include the sale price of 735
property returned or services rejected by consumers when the 736
full sale price and tax are refunded either in cash or by 737
credit. 738

(J) "Place of business" means any location at which a 739
person engages in business. 740

(K) "Premises" includes any real property or portion 741
thereof upon which any person engages in selling tangible 742

personal property at retail or making retail sales and also 743
includes any real property or portion thereof designated for, or 744
devoted to, use in conjunction with the business engaged in by 745
such person. 746

(L) "Casual sale" means a sale of an item of tangible 747
personal property, in person or online, that was obtained by the 748
person making the sale, through purchase or otherwise, for the 749
person's own use and was previously subject to any state's 750
taxing jurisdiction on its sale or use, and includes such items 751
acquired for the seller's use that are sold by an auctioneer 752
employed directly by the person for such purpose, provided the 753
location of such sales is not the auctioneer's physical 754
permanent place of business. As used in this division, 755
"permanent place of business" includes any physical location 756
where such auctioneer has conducted more than two auctions 757
during the year. 758

(M) "Hotel" means every establishment kept, used, 759
maintained, advertised, or held out to the public to be a place 760
where sleeping accommodations are offered to guests, in which 761
five or more rooms are used for the accommodation of such 762
guests, whether the rooms are in one or several structures, 763
except as otherwise provided in section 5739.091 of the Revised 764
Code. 765

(N) "Transient guests" means persons occupying a room or 766
rooms for sleeping accommodations for less than thirty 767
consecutive days. 768

(O) "Making retail sales" means the effecting of 769
transactions wherein one party is obligated to pay the price and 770
the other party is obligated to provide a service or to transfer 771
title to or possession of the item sold. "Making retail sales" 772

does not include the preliminary acts of promoting or soliciting 773
the retail sales, other than the distribution of printed matter 774
which displays or describes and prices the item offered for 775
sale, nor does it include delivery of a predetermined quantity 776
of tangible personal property or transportation of property or 777
personnel to or from a place where a service is performed. 778

(P) "Used directly in the rendition of a public utility 779
service" means that property that is to be incorporated into and 780
will become a part of the consumer's production, transmission, 781
transportation, or distribution system and that retains its 782
classification as tangible personal property after such 783
incorporation; fuel or power used in the production, 784
transmission, transportation, or distribution system; and 785
tangible personal property used in the repair and maintenance of 786
the production, transmission, transportation, or distribution 787
system, including only such motor vehicles as are specially 788
designed and equipped for such use. Tangible personal property 789
and services used primarily in providing highway transportation 790
for hire are not used directly in the rendition of a public 791
utility service. In this definition, "public utility" includes a 792
citizen of the United States holding, and required to hold, a 793
certificate of public convenience and necessity issued under 49 794
U.S.C. 41102. 795

(Q) "Refining" means removing or separating a desirable 796
product from raw or contaminated materials by distillation or 797
physical, mechanical, or chemical processes. 798

(R) "Assembly" and "assembling" mean attaching or fitting 799
together parts to form a product, but do not include packaging a 800
product. 801

(S) "Manufacturing operation" means a process in which 802

materials are changed, converted, or transformed into a 803
different state or form from which they previously existed and 804
includes refining materials, assembling parts, and preparing raw 805
materials and parts by mixing, measuring, blending, or otherwise 806
committing such materials or parts to the manufacturing process. 807
"Manufacturing operation" does not include packaging. 808

(T) "Fiscal officer" means, with respect to a regional 809
transit authority, the secretary-treasurer thereof, and with 810
respect to a county that is a transit authority, the fiscal 811
officer of the county transit board if one is appointed pursuant 812
to section 306.03 of the Revised Code or the county auditor if 813
the board of county commissioners operates the county transit 814
system. 815

(U) "Transit authority" means a regional transit authority 816
created pursuant to section 306.31 of the Revised Code or a 817
county in which a county transit system is created pursuant to 818
section 306.01 of the Revised Code. For the purposes of this 819
chapter, a transit authority must extend to at least the entire 820
area of a single county. A transit authority that includes 821
territory in more than one county must include all the area of 822
the most populous county that is a part of such transit 823
authority. County population shall be measured by the most 824
recent census taken by the United States census bureau. 825

(V) "Legislative authority" means, with respect to a 826
regional transit authority, the board of trustees thereof, and 827
with respect to a county that is a transit authority, the board 828
of county commissioners. 829

(W) "Territory of the transit authority" means all of the 830
area included within the territorial boundaries of a transit 831
authority as they from time to time exist. Such territorial 832

boundaries must at all times include all the area of a single 833
county or all the area of the most populous county that is a 834
part of such transit authority. County population shall be 835
measured by the most recent census taken by the United States 836
census bureau. 837

(X) "Providing a service" means providing or furnishing 838
anything described in division (B)(3) of this section for 839
consideration. 840

(Y)(1)(a) "Automatic data processing" means processing of 841
others' data, including keypunching or similar data entry 842
services together with verification thereof, or providing access 843
to computer equipment for the purpose of processing data. 844

(b) "Computer services" means providing services 845
consisting of specifying computer hardware configurations and 846
evaluating technical processing characteristics, computer 847
programming, and training of computer programmers and operators, 848
provided in conjunction with and to support the sale, lease, or 849
operation of taxable computer equipment or systems. 850

(c) "Electronic information services" means providing 851
access to computer equipment by means of telecommunications 852
equipment for the purpose of either of the following: 853

(i) Examining or acquiring data stored in or accessible to 854
the computer equipment; 855

(ii) Placing data into the computer equipment to be 856
retrieved by designated recipients with access to the computer 857
equipment. 858

"Electronic information services" does not include 859
electronic publishing. 860

(d) "Automatic data processing, computer services, or 861
electronic information services" shall not include personal or 862
professional services. 863

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 864
section, "personal and professional services" means all services 865
other than automatic data processing, computer services, or 866
electronic information services, including but not limited to: 867

(a) Accounting and legal services such as advice on tax 868
matters, asset management, budgetary matters, quality control, 869
information security, and auditing and any other situation where 870
the service provider receives data or information and studies, 871
alters, analyzes, interprets, or adjusts such material; 872

(b) Analyzing business policies and procedures; 873

(c) Identifying management information needs; 874

(d) Feasibility studies, including economic and technical 875
analysis of existing or potential computer hardware or software 876
needs and alternatives; 877

(e) Designing policies, procedures, and custom software 878
for collecting business information, and determining how data 879
should be summarized, sequenced, formatted, processed, 880
controlled, and reported so that it will be meaningful to 881
management; 882

(f) Developing policies and procedures that document how 883
business events and transactions are to be authorized, executed, 884
and controlled; 885

(g) Testing of business procedures; 886

(h) Training personnel in business procedure applications; 887

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

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

(k) Providing digital advertising services;

(l) Providing services to electronically file any federal, state, or local individual income tax return, report, or other related document or schedule with a federal, state, or local government entity or to electronically remit a payment of any such individual income tax to such an entity. For the purpose of this division, "individual income tax" does not include federal, state, or local taxes withheld by an employer from an employee's compensation.

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

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

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

(2) A person who engages in the transportation of personal

property belonging to others for consideration over or on 917
highways, roadways, streets, or any similar public thoroughfare 918
but who could not have engaged in such transportation on 919
December 11, 1985, unless the person was the holder of a permit 920
or certificate of the types described in division (Z)(1) of this 921
section; 922

(3) A person who leases a motor vehicle to and operates it 923
for a person described by division (Z)(1) or (2) of this 924
section. 925

"Highway transportation for hire" does not include 926
delivery network services. 927

(AA)(1) "Telecommunications service" means the electronic 928
transmission, conveyance, or routing of voice, data, audio, 929
video, or any other information or signals to a point, or 930
between or among points. "Telecommunications service" includes 931
such transmission, conveyance, or routing in which computer 932
processing applications are used to act on the form, code, or 933
protocol of the content for purposes of transmission, 934
conveyance, or routing without regard to whether the service is 935
referred to as voice-over internet protocol service or is 936
classified by the federal communications commission as enhanced 937
or value-added. "Telecommunications service" does not include 938
any of the following: 939

(a) Data processing and information services that allow 940
data to be generated, acquired, stored, processed, or retrieved 941
and delivered by an electronic transmission to a consumer where 942
the consumer's primary purpose for the underlying transaction is 943
the processed data or information; 944

(b) Installation or maintenance of wiring or equipment on 945

a customer's premises;	946
(c) Tangible personal property;	947
(d) Advertising, including directory advertising;	948
(e) Billing and collection services provided to third parties;	949 950
(f) Internet access service;	951
(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;	952 953 954 955 956 957 958 959
(h) Ancillary service;	960
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	961 962
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	963 964 965 966 967 968
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	969 970 971 972 973

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

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

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

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

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

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or

electronically dialed, and that is sold in predetermined units 1003
or dollars of which the number declines with use in a known 1004
amount. 1005

(5) "Prepaid wireless calling service" means a 1006
telecommunications service that provides the right to utilize 1007
mobile telecommunications service as well as other non- 1008
telecommunications services, including the download of digital 1009
products delivered electronically, and content and ancillary 1010
services, that must be paid for in advance and that is sold in 1011
predetermined units or dollars of which the number declines with 1012
use in a known amount. 1013

(6) "Value-added non-voice data service" means a 1014
telecommunications service in which computer processing 1015
applications are used to act on the form, content, code, or 1016
protocol of the information or data primarily for a purpose 1017
other than transmission, conveyance, or routing. 1018

(7) "Coin-operated telephone service" means a 1019
telecommunications service paid for by inserting money into a 1020
telephone accepting direct deposits of money to operate. 1021

(8) "Customer" has the same meaning as in section 5739.034 1022
of the Revised Code. 1023

(BB) "Laundry and dry cleaning services" means removing 1024
soil or dirt from towels, linens, articles of clothing, or other 1025
fabric items that belong to others and supplying towels, linens, 1026
articles of clothing, or other fabric items. "Laundry and dry 1027
cleaning services" does not include the provision of self- 1028
service facilities for use by consumers to remove soil or dirt 1029
from towels, linens, articles of clothing, or other fabric 1030
items. 1031

(CC) "Magazines distributed as controlled circulation 1032
publications" means magazines containing at least twenty-four 1033
pages, at least twenty-five per cent editorial content, issued 1034
at regular intervals four or more times a year, and circulated 1035
without charge to the recipient, provided that such magazines 1036
are not owned or controlled by individuals or business concerns 1037
which conduct such publications as an auxiliary to, and 1038
essentially for the advancement of the main business or calling 1039
of, those who own or control them. 1040

(DD) "Landscaping and lawn care service" means the 1041
services of planting, seeding, sodding, removing, cutting, 1042
trimming, pruning, mulching, aerating, applying chemicals, 1043
watering, fertilizing, and providing similar services to 1044
establish, promote, or control the growth of trees, shrubs, 1045
flowers, grass, ground cover, and other flora, or otherwise 1046
maintaining a lawn or landscape grown or maintained by the owner 1047
for ornamentation or other nonagricultural purpose. However, 1048
"landscaping and lawn care service" does not include the 1049
providing of such services by a person who has less than five 1050
thousand dollars in sales of such services during the calendar 1051
year. 1052

(EE) "Private investigation and security service" means 1053
the performance of any activity for which the provider of such 1054
service is required to be licensed pursuant to Chapter 4749. of 1055
the Revised Code, or would be required to be so licensed in 1056
performing such services in this state, and also includes the 1057
services of conducting polygraph examinations and of monitoring 1058
or overseeing the activities on or in, or the condition of, the 1059
consumer's home, business, or other facility by means of 1060
electronic or similar monitoring devices. "Private investigation 1061
and security service" does not include special duty services 1062

provided by off-duty police officers, deputy sheriffs, and other 1063
peace officers regularly employed by the state or a political 1064
subdivision. 1065

(FF) "Information services" means providing conversation, 1066
giving consultation or advice, playing or making a voice or 1067
other recording, making or keeping a record of the number of 1068
callers, and any other service provided to a consumer by means 1069
of a nine hundred telephone call, except when the nine hundred 1070
telephone call is the means by which the consumer makes a 1071
contribution to a recognized charity. 1072

(GG) "Research and development" means designing, creating, 1073
or formulating new or enhanced products, equipment, or 1074
manufacturing processes, and also means conducting scientific or 1075
technological inquiry and experimentation in the physical 1076
sciences with the goal of increasing scientific knowledge which 1077
may reveal the bases for new or enhanced products, equipment, or 1078
manufacturing processes. 1079

(HH) "Qualified research and development equipment" means 1080
either of the following: 1081

(1) Capitalized tangible personal property, and leased 1082
personal property that would be capitalized if purchased, used 1083
by a person primarily to perform research and development; 1084

(2) Any tangible personal property used by a megaproject 1085
operator primarily to perform research and development at the 1086
site of a megaproject that satisfies the criteria described in 1087
division (A) (11) (a) (ii) of section 122.17 of the Revised Code 1088
during the period that the megaproject operator has an agreement 1089
for such megaproject with the tax credit authority under 1090
division (D) of that section that remains in effect and has not 1091

expired or been terminated. 1092

"Qualified research and development equipment" does not 1093
include tangible personal property primarily used in testing, as 1094
defined in division (A) (4) of section 5739.011 of the Revised 1095
Code, or used for recording or storing test results, unless such 1096
property is primarily used by the consumer in testing the 1097
product, equipment, or manufacturing process being created, 1098
designed, or formulated by the consumer in the research and 1099
development activity or in recording or storing such test 1100
results. 1101

(II) "Building maintenance and janitorial service" means 1102
cleaning the interior or exterior of a building and any tangible 1103
personal property located therein or thereon, including any 1104
services incidental to such cleaning for which no separate 1105
charge is made. However, "building maintenance and janitorial 1106
service" does not include the providing of such service by a 1107
person who has less than five thousand dollars in sales of such 1108
service during the calendar year. As used in this division, 1109
"cleaning" does not include sanitation services necessary for an 1110
establishment described in 21 U.S.C. 608 to comply with rules 1111
and regulations adopted pursuant to that section. 1112

(JJ) "Exterminating service" means eradicating or 1113
attempting to eradicate vermin infestations from a building or 1114
structure, or the area surrounding a building or structure, and 1115
includes activities to inspect, detect, or prevent vermin 1116
infestation of a building or structure. 1117

(KK) "Physical fitness facility service" means all 1118
transactions by which a membership is granted, maintained, or 1119
renewed, including initiation fees, membership dues, renewal 1120
fees, monthly minimum fees, and other similar fees and dues, by 1121

a physical fitness facility such as an athletic club, health 1122
spa, or gymnasium, which entitles the member to use the facility 1123
for physical exercise. 1124

(LL) "Recreation and sports club service" means all 1125
transactions by which a membership is granted, maintained, or 1126
renewed, including initiation fees, membership dues, renewal 1127
fees, monthly minimum fees, and other similar fees and dues, by 1128
a recreation and sports club, which entitles the member to use 1129
the facilities of the organization. "Recreation and sports club" 1130
means an organization that has ownership of, or controls or 1131
leases on a continuing, long-term basis, the facilities used by 1132
its members and includes an aviation club, gun or shooting club, 1133
yacht club, card club, swimming club, tennis club, golf club, 1134
country club, riding club, amateur sports club, or similar 1135
organization. 1136

(MM) "Livestock" means farm animals commonly raised for 1137
food, food production, or other agricultural purposes, 1138
including, but not limited to, cattle, sheep, goats, swine, 1139
poultry, and captive deer. "Livestock" does not include 1140
invertebrates, amphibians, reptiles, domestic pets, animals for 1141
use in laboratories or for exhibition, or other animals not 1142
commonly raised for food or food production. 1143

(NN) "Livestock structure" means a building or structure 1144
used exclusively for the housing, raising, feeding, or 1145
sheltering of livestock, and includes feed storage or handling 1146
structures and structures for livestock waste handling. 1147

(OO) "Horticulture" means the growing, cultivation, and 1148
production of flowers, fruits, herbs, vegetables, sod, 1149
mushrooms, and nursery stock. As used in this division, "nursery 1150
stock" has the same meaning as in section 927.51 of the Revised 1151

Code. 1152

(PP) "Horticulture structure" means a building or 1153
structure used exclusively for the commercial growing, raising, 1154
or overwintering of horticultural products, and includes the 1155
area used for stocking, storing, and packing horticultural 1156
products when done in conjunction with the production of those 1157
products. 1158

(QQ) "Newspaper" means an unbound publication bearing a 1159
title or name that is regularly published, at least as 1160
frequently as biweekly, and distributed from a fixed place of 1161
business to the public in a specific geographic area, and that 1162
contains a substantial amount of news matter of international, 1163
national, or local events of interest to the general public. 1164

(RR) (1) "Feminine hygiene products" means tampons, panty 1165
liners, menstrual cups, sanitary napkins, and other similar 1166
tangible personal property designed for feminine hygiene in 1167
connection with the human menstrual cycle, but does not include 1168
grooming and hygiene products. 1169

(2) "Grooming and hygiene products" means soaps and 1170
cleaning solutions, shampoo, toothpaste, mouthwash, 1171
antiperspirants, and sun tan lotions and screens, regardless of 1172
whether any of these products are over-the-counter drugs. 1173

(3) "Over-the-counter drugs" means a drug that contains a 1174
label that identifies the product as a drug as required by 21 1175
C.F.R. 201.66, which label includes a drug facts panel or a 1176
statement of the active ingredients with a list of those 1177
ingredients contained in the compound, substance, or 1178
preparation. 1179

(SS) (1) "Lease" or "rental" means any transfer of the 1180

possession or control of tangible personal property for a fixed 1181
or indefinite term, for consideration. "Lease" or "rental" 1182
includes future options to purchase or extend, and agreements 1183
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 1184
trailers where the amount of consideration may be increased or 1185
decreased by reference to the amount realized upon the sale or 1186
disposition of the property. "Lease" or "rental" does not 1187
include: 1188

(a) A transfer of possession or control of tangible 1189
personal property under a security agreement or a deferred 1190
payment plan that requires the transfer of title upon completion 1191
of the required payments; 1192

(b) A transfer of possession or control of tangible 1193
personal property under an agreement that requires the transfer 1194
of title upon completion of required payments and payment of an 1195
option price that does not exceed the greater of one hundred 1196
dollars or one per cent of the total required payments; 1197

(c) Providing tangible personal property along with an 1198
operator for a fixed or indefinite period of time, if the 1199
operator is necessary for the property to perform as designed. 1200
For purposes of this division, the operator must do more than 1201
maintain, inspect, or set up the tangible personal property. 1202

(2) "Lease" and "rental," as defined in division (SS) of 1203
this section, shall not apply to leases or rentals that exist 1204
before June 26, 2003. 1205

(3) "Lease" and "rental" have the same meaning as in 1206
division (SS) (1) of this section regardless of whether a 1207
transaction is characterized as a lease or rental under 1208
generally accepted accounting principles, the Internal Revenue 1209

Code, Title XIII of the Revised Code, or other federal, state, 1210
or local laws. 1211

(TT) "Mobile telecommunications service" has the same 1212
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 1213
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 1214
amended, and, on and after August 1, 2003, includes related fees 1215
and ancillary services, including universal service fees, 1216
detailed billing service, directory assistance, service 1217
initiation, voice mail service, and vertical services, such as 1218
caller ID and three-way calling. 1219

(UU) "Certified service provider" has the same meaning as 1220
in section 5740.01 of the Revised Code. 1221

(VV) "Satellite broadcasting service" means the 1222
distribution or broadcasting of programming or services by 1223
satellite directly to the subscriber's receiving equipment 1224
without the use of ground receiving or distribution equipment, 1225
except the subscriber's receiving equipment or equipment used in 1226
the uplink process to the satellite, and includes all service 1227
and rental charges, premium channels or other special services, 1228
installation and repair service charges, and any other charges 1229
having any connection with the provision of the satellite 1230
broadcasting service. 1231

(WW) "Tangible personal property" means personal property 1232
that can be seen, weighed, measured, felt, or touched, or that 1233
is in any other manner perceptible to the senses. For purposes 1234
of this chapter and Chapter 5741. of the Revised Code, "tangible 1235
personal property" includes motor vehicles, electricity, water, 1236
gas, steam, and prewritten computer software. 1237

(XX) "Municipal gas utility" means a municipal corporation 1238

that owns or operates a system for the distribution of natural gas. 1239
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(YY) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions. 1241
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(ZZ) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task. 1244
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(AAA) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media. 1247
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(BBB) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other 1250
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statement of the price given to the purchaser for the 1269
modification or enhancement, the modification or enhancement 1270
shall not constitute prewritten computer software. 1271

(CCC) (1) "Food" means substances, whether in liquid, 1272
concentrated, solid, frozen, dried, or dehydrated form, that are 1273
sold for ingestion or chewing by humans and are consumed for 1274
their taste or nutritional value. "Food" does not include 1275
alcoholic beverages, dietary supplements, soft drinks, or 1276
tobacco. 1277

(2) As used in division (CCC) (1) of this section: 1278

(a) "Dietary supplements" means any product, other than 1279
tobacco, that is intended to supplement the diet and that is 1280
intended for ingestion in tablet, capsule, powder, softgel, 1281
gelcap, or liquid form, or, if not intended for ingestion in 1282
such a form, is not represented as conventional food for use as 1283
a sole item of a meal or of the diet; that is required to be 1284
labeled as a dietary supplement, identifiable by the "supplement 1285
facts" box found on the label, as required by 21 C.F.R. 101.36; 1286
and that contains one or more of the following dietary 1287
ingredients: 1288

(i) A vitamin; 1289

(ii) A mineral; 1290

(iii) An herb or other botanical; 1291

(iv) An amino acid; 1292

(v) A dietary substance for use by humans to supplement 1293
the diet by increasing the total dietary intake; 1294

(vi) A concentrate, metabolite, constituent, extract, or 1295
combination of any ingredient described in divisions (CCC) (2) (a) 1296

(i) to (v) of this section. 1297

(b) "Soft drinks" means nonalcoholic beverages that 1298
contain natural or artificial sweeteners. "Soft drinks" does not 1299
include beverages that contain milk or milk products, soy, rice, 1300
or similar milk substitutes, or that contains greater than fifty 1301
per cent vegetable or fruit juice by volume. 1302

(DDD) "Drug" means a compound, substance, or preparation, 1303
and any component of a compound, substance, or preparation, 1304
other than food, dietary supplements, or alcoholic beverages 1305
that is recognized in the official United States pharmacopoeia, 1306
official homeopathic pharmacopoeia of the United States, or 1307
official national formulary, and supplements to them; is 1308
intended for use in the diagnosis, cure, mitigation, treatment, 1309
or prevention of disease; or is intended to affect the structure 1310
or any function of the body. 1311

(EEE) "Prescription" means an order, formula, or recipe 1312
issued in any form of oral, written, electronic, or other means 1313
of transmission by a duly licensed practitioner authorized by 1314
the laws of this state to issue a prescription. 1315

(FFF) "Durable medical equipment" means equipment, 1316
including repair and replacement parts for such equipment, that 1317
can withstand repeated use, is primarily and customarily used to 1318
serve a medical purpose, generally is not useful to a person in 1319
the absence of illness or injury, and is not worn in or on the 1320
body. "Durable medical equipment" does not include mobility 1321
enhancing equipment. 1322

(GGG) "Mobility enhancing equipment" means equipment, 1323
including repair and replacement parts for such equipment, that 1324
is primarily and customarily used to provide or increase the 1325

ability to move from one place to another and is appropriate for 1326
use either in a home or a motor vehicle, that is not generally 1327
used by persons with normal mobility, and that does not include 1328
any motor vehicle or equipment on a motor vehicle normally 1329
provided by a motor vehicle manufacturer. "Mobility enhancing 1330
equipment" does not include durable medical equipment. 1331

(HHH) "Prosthetic device" means a replacement, corrective, 1332
or supportive device, including repair and replacement parts for 1333
the device, worn on or in the human body to artificially replace 1334
a missing portion of the body, prevent or correct physical 1335
deformity or malfunction, or support a weak or deformed portion 1336
of the body. As used in this division, before July 1, 2019, 1337
"prosthetic device" does not include corrective eyeglasses, 1338
contact lenses, or dental prosthesis. On or after July 1, 2019, 1339
"prosthetic device" does not include dental prosthesis but does 1340
include corrective eyeglasses or contact lenses. 1341

(III) (1) "Fractional aircraft ownership program" means a 1342
program in which persons within an affiliated group sell and 1343
manage fractional ownership program aircraft, provided that at 1344
least one hundred airworthy aircraft are operated in the program 1345
and the program meets all of the following criteria: 1346

(a) Management services are provided by at least one 1347
program manager within an affiliated group on behalf of the 1348
fractional owners. 1349

(b) Each program aircraft is owned or possessed by at 1350
least one fractional owner. 1351

(c) Each fractional owner owns or possesses at least a 1352
one-sixteenth interest in at least one fixed-wing program 1353
aircraft. 1354

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners. 1355
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(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program. 1357
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(2) As used in division (III)(1) of this section: 1360

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section. 1361
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(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (III)(1)(e) of this section. 1363
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(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (III)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program. 1367
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(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (III)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the 1374
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fractional owner; the satisfaction of record-keeping 1384
requirements; and the development and use of an operations 1385
manual and a maintenance manual for the fractional aircraft 1386
ownership program. 1387

(e) "Program manager" means the person that offers 1388
management services to fractional owners pursuant to a 1389
management services agreement under division (III) (1) (e) of this 1390
section. 1391

(JJJ) "Electronic publishing" means providing access to 1392
one or more of the following primarily for business customers, 1393
including the federal government or a state government or a 1394
political subdivision thereof, to conduct research: news; 1395
business, financial, legal, consumer, or credit materials; 1396
editorials, columns, reader commentary, or features; photos or 1397
images; archival or research material; legal notices, identity 1398
verification, or public records; scientific, educational, 1399
instructional, technical, professional, trade, or other literary 1400
materials; or other similar information which has been gathered 1401
and made available by the provider to the consumer in an 1402
electronic format. Providing electronic publishing includes the 1403
functions necessary for the acquisition, formatting, editing, 1404
storage, and dissemination of data or information that is the 1405
subject of a sale. 1406

(KKK) "Medicaid health insuring corporation" means a 1407
health insuring corporation that holds a certificate of 1408
authority under Chapter 1751. of the Revised Code and is under 1409
contract with the department of medicaid pursuant to section 1410
5167.10 of the Revised Code. 1411

(LLL) "Managed care premium" means any premium, 1412
capitation, or other payment a medicaid health insuring 1413

corporation receives for providing or arranging for the 1414
provision of health care services to its members or enrollees 1415
residing in this state. 1416

(MMM) "Captive deer" means deer and other cervidae that 1417
have been legally acquired, or their offspring, that are 1418
privately owned for agricultural or farming purposes. 1419

(NNN) "Gift card" means a document, card, certificate, or 1420
other record, whether tangible or intangible, that may be 1421
redeemed by a consumer for a dollar value when making a purchase 1422
of tangible personal property or services. 1423

(OOO) "Specified digital product" means an electronically 1424
transferred digital audiovisual work, digital audio work, or 1425
digital book. 1426

As used in division (OOO) of this section: 1427

(1) "Digital audiovisual work" means a series of related 1428
images that, when shown in succession, impart an impression of 1429
motion, together with accompanying sounds, if any. 1430

(2) "Digital audio work" means a work that results from 1431
the fixation of a series of musical, spoken, or other sounds, 1432
including digitized sound files that are downloaded onto a 1433
device and that may be used to alert the customer with respect 1434
to a communication. 1435

(3) "Digital book" means a work that is generally 1436
recognized in the ordinary and usual sense as a book. 1437

(4) "Electronically transferred" means obtained by the 1438
purchaser by means other than tangible storage media. 1439

(PPP) "Digital advertising services" means providing 1440
access, by means of telecommunications equipment, to computer 1441

equipment that is used to enter, upload, download, review, 1442
manipulate, store, add, or delete data for the purpose of 1443
electronically displaying, delivering, placing, or transferring 1444
promotional advertisements to potential customers about products 1445
or services or about industry or business brands. 1446

(QQQ) "Peer-to-peer car sharing program" has the same 1447
meaning as in section 4516.01 of the Revised Code. 1448

(RRR) "Megaproject" and "megaproject operator" have the 1449
same meanings as in section 122.17 of the Revised Code. 1450

(SSS) (1) "Diaper" means an absorbent garment worn by 1451
humans who are incapable of, or have difficulty, controlling 1452
their bladder or bowel movements. 1453

(2) "Children's diaper" means a diaper marketed to be worn 1454
by children. 1455

(3) "Adult diaper" means a diaper other than a children's 1456
diaper. 1457

(TTT) "Sales tax holiday" means three or more dates on 1458
which sales of all eligible tangible personal property are 1459
exempt from the taxes levied under sections 5739.02, 5739.021, 1460
5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of 1461
the Revised Code. 1462

(UUU) "Eligible tangible personal property" means any item 1463
of tangible personal property that meets both of the following 1464
requirements: 1465

(1) The price of the item does not exceed five hundred 1466
dollars; 1467

(2) The item is not a watercraft or outboard motor 1468
required to be titled pursuant to Chapter 1548. of the Revised 1469

Code, a motor vehicle, an alcoholic beverage, tobacco, a vapor 1470
product as defined in section 5743.01 of the Revised Code, or an 1471
item that contains marijuana as defined in section 3796.01 of 1472
the Revised Code. 1473

(VVV) "Alcoholic beverages" means beverages that are 1474
suitable for human consumption and contain one-half of one per 1475
cent or more of alcohol by volume. 1476

(WWW) "Tobacco" means cigarettes, cigars, chewing or pipe 1477
tobacco, or any other item that contains tobacco. 1478

(XXX) (1) "Delivery network company" means a person that 1479
operates a business platform, including a web site or mobile 1480
application, to facilitate delivery network services. 1481

(2) "Delivery network courier" means an individual 1482
connected to a consumer through a delivery network company and 1483
who provides delivery network services to that consumer. 1484

(3) "Delivery network services" means both of the 1485
following when performed as part of a single transaction: 1486

(a) Pickup of a local product by a delivery network 1487
courier from a local merchant that is not under common ownership 1488
or control of the delivery network company through which the 1489
transaction was initiated, and which may include selection, 1490
collection, and purchase of the local product; 1491

(b) Delivery by the delivery network courier of that local 1492
product to a location designated by the consumer that is not 1493
more than seventy-five miles from the local merchant's place of 1494
business where the pickup described in division (XXX) (3) (a) of 1495
this section occurs. 1496

(4) "Local merchant" means a person engaged in selling 1497

local products from a temporary or fixed place of business in 1498
this state, including a kitchen, restaurant, grocery store, 1499
retail store, or convenience store. 1500

(5) "Local product" means any tangible personal property, 1501
including food, but excluding freight, mail, or a package to 1502
which postage is affixed. 1503

(YYY) "Secure gun storage or safety device" means either 1504
of the following: 1505

(1) A device that, when installed on a firearm, is 1506
designed to prevent the firearm from being operated without 1507
first deactivating the device; 1508

(2) A safe, gun safe, gun case, lock box, or other device 1509
that is designed to be or can be used to store a firearm and 1510
that is designed to be unlocked only by means of a key, a 1511
combination, or other similar means. 1512

A "secure gun storage or safety device" does not include a 1513
glass-faced cabinet or other form of storage that is primarily 1514
designed to allow for the display of firearms. 1515

Sec. 5739.02. For the purpose of providing revenue with 1516
which to meet the needs of the state, for the use of the general 1517
revenue fund of the state, for the purpose of securing a 1518
thorough and efficient system of common schools throughout the 1519
state, for the purpose of affording revenues, in addition to 1520
those from general property taxes, permitted under 1521
constitutional limitations, and from other sources, for the 1522
support of local governmental functions, and for the purpose of 1523
reimbursing the state for the expense of administering this 1524
chapter, an excise tax is hereby levied on each retail sale made 1525
in this state. 1526

(A) (1) The tax shall be collected as provided in section 1527
5739.025 of the Revised Code. The rate of the tax shall be five 1528
and three-fourths per cent. The tax applies and is collectible 1529
when the sale is made, regardless of the time when the price is 1530
paid or delivered. 1531

(2) In the case of the lease or rental, with a fixed term 1532
of more than thirty days or an indefinite term with a minimum 1533
period of more than thirty days, of any motor vehicles designed 1534
by the manufacturer to carry a load of not more than one ton, 1535
watercraft, outboard motor, or aircraft, or of any tangible 1536
personal property, other than motor vehicles designed by the 1537
manufacturer to carry a load of more than one ton, to be used by 1538
the lessee or renter primarily for business purposes, the tax 1539
shall be collected by the vendor at the time the lease or rental 1540
is consummated and shall be calculated by the vendor on the 1541
basis of the total amount to be paid by the lessee or renter 1542
under the lease agreement. If the total amount of the 1543
consideration for the lease or rental includes amounts that are 1544
not calculated at the time the lease or rental is executed, the 1545
tax shall be calculated and collected by the vendor at the time 1546
such amounts are billed to the lessee or renter. In the case of 1547
an open-end lease or rental, the tax shall be calculated by the 1548
vendor on the basis of the total amount to be paid during the 1549
initial fixed term of the lease or rental, and for each 1550
subsequent renewal period as it comes due. As used in this 1551
division, "motor vehicle" has the same meaning as in section 1552
4501.01 of the Revised Code, and "watercraft" includes an 1553
outdrive unit attached to the watercraft. 1554

A lease with a renewal clause and a termination penalty or 1555
similar provision that applies if the renewal clause is not 1556
exercised is presumed to be a sham transaction. In such a case, 1557

the tax shall be calculated and paid on the basis of the entire 1558
length of the lease period, including any renewal periods, until 1559
the termination penalty or similar provision no longer applies. 1560
The taxpayer shall bear the burden, by a preponderance of the 1561
evidence, that the transaction or series of transactions is not 1562
a sham transaction. 1563

(3) Except as provided in division (A) (2) of this section, 1564
in the case of a sale, the price of which consists in whole or 1565
in part of the lease or rental of tangible personal property, 1566
the tax shall be measured by the installments of that lease or 1567
rental. 1568

(4) In the case of a sale of a physical fitness facility 1569
service or recreation and sports club service, the price of 1570
which consists in whole or in part of a membership for the 1571
receipt of the benefit of the service, the tax applicable to the 1572
sale shall be measured by the installments thereof. 1573

(B) The tax does not apply to the following: 1574

(1) Sales to the state or any of its political 1575
subdivisions, or to any other state or its political 1576
subdivisions if the laws of that state exempt from taxation 1577
sales made to this state and its political subdivisions 1578
including either of the following: 1579

(a) Sales or rentals of tangible personal property by 1580
construction contractors or subcontractors to provide temporary 1581
traffic control or temporary structures, including material and 1582
equipment used to comply with the Ohio manual of uniform traffic 1583
control devices adopted pursuant to section 4511.09 of the 1584
Revised Code, whereby the state or any of its political 1585
subdivisions take title to, or permanent or temporary possession 1586

of, such tangible personal property for use by the state or any 1587
of its political subdivisions, including for use by the general 1588
public thereof; 1589

(b) Sales of services by construction contractors or 1590
subcontractors to provide temporary traffic control or 1591
structures, including labor used to comply with the Ohio manual 1592
of uniform traffic control devices adopted pursuant to section 1593
4511.09 of the Revised Code, whereby the state or any of its 1594
political subdivisions, including the general public thereof, 1595
receive the benefit of such services. 1596

As used in divisions (B) (1) (a) and (b) of this section, 1597
"temporary structures" include temporary roads, bridges, drains, 1598
and pavement. 1599

(2) Sales of food for human consumption off the premises 1600
where sold; 1601

(3) Sales of food sold to students only in a cafeteria, 1602
dormitory, fraternity, or sorority maintained in a private, 1603
public, or parochial school, college, or university; 1604

(4) Sales of newspapers and sales or transfers of 1605
magazines distributed as controlled circulation publications; 1606

(5) The furnishing, preparing, or serving of meals without 1607
charge by an employer to an employee provided the employer 1608
records the meals as part compensation for services performed or 1609
work done; 1610

(6) (a) Sales of motor fuel upon receipt, use, 1611
distribution, or sale of which in this state a tax is imposed by 1612
the law of this state, but this exemption shall not apply to the 1613
sale of motor fuel on which a refund of the tax is allowable 1614
under division (A) of section 5735.14 of the Revised Code; and 1615

the tax commissioner may deduct the amount of tax levied by this 1616
section applicable to the price of motor fuel when granting a 1617
refund of motor fuel tax pursuant to division (A) of section 1618
5735.14 of the Revised Code and shall cause the amount deducted 1619
to be paid into the general revenue fund of this state; 1620

(b) Sales of motor fuel other than that described in 1621
division (B) (6) (a) of this section and used for powering a 1622
refrigeration unit on a vehicle other than one used primarily to 1623
provide comfort to the operator or occupants of the vehicle. 1624

(7) Sales of natural gas by a natural gas company or 1625
municipal gas utility, of water by a water-works company, or of 1626
steam by a heating company, if in each case the thing sold is 1627
delivered to consumers through pipes or conduits, and all sales 1628
of communications services by a telegraph company, all terms as 1629
defined in section 5727.01 of the Revised Code, and sales of 1630
electricity delivered through wires; 1631

(8) Casual sales by a person, or auctioneer employed 1632
directly by the person to conduct such sales, except as to such 1633
sales of motor vehicles, watercraft or outboard motors required 1634
to be titled under section 1548.06 of the Revised Code, 1635
watercraft documented with the United States coast guard, 1636
snowmobiles, and all-purpose vehicles as defined in section 1637
4519.01 of the Revised Code; 1638

(9) (a) Sales of services or tangible personal property, 1639
other than motor vehicles, mobile homes, and manufactured homes, 1640
by churches, organizations exempt from taxation under section 1641
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 1642
organizations operated exclusively for charitable purposes as 1643
defined in division (B) (12) of this section, provided that the 1644
number of days on which such tangible personal property or 1645

services, other than items never subject to the tax, are sold 1646
does not exceed six in any calendar year, except as otherwise 1647
provided in division (B) (9) (b) of this section. If the number of 1648
days on which such sales are made exceeds six in any calendar 1649
year, the church or organization shall be considered to be 1650
engaged in business and all subsequent sales by it shall be 1651
subject to the tax. In counting the number of days, all sales by 1652
groups within a church or within an organization shall be 1653
considered to be sales of that church or organization. 1654

(b) The limitation on the number of days on which tax- 1655
exempt sales may be made by a church or organization under 1656
division (B) (9) (a) of this section does not apply to sales made 1657
by student clubs and other groups of students of a primary or 1658
secondary school, or a parent-teacher association, booster 1659
group, or similar organization that raises money to support or 1660
fund curricular or extracurricular activities of a primary or 1661
secondary school. 1662

(c) Divisions (B) (9) (a) and (b) of this section do not 1663
apply to sales by a noncommercial educational radio or 1664
television broadcasting station. 1665

(10) Sales not within the taxing power of this state under 1666
the Constitution or laws of the United States or the 1667
Constitution of this state including either of the following: 1668

(a) Sales or rentals of tangible personal property by 1669
construction contractors or subcontractors to provide temporary 1670
traffic control or temporary structures, including material and 1671
equipment used to comply with the Ohio manual of uniform traffic 1672
control devices adopted pursuant to section 4511.09 of the 1673
Revised Code, whereby the United States takes title to, or 1674
permanent or temporary possession of, such tangible personal 1675

property for use by the United States including for use by the 1676
general public thereof; 1677

(b) Sales of services by construction contractors or 1678
subcontractors to provide temporary traffic control or 1679
structures, including labor used to comply with the Ohio manual 1680
of uniform traffic control devices adopted pursuant to section 1681
4511.09 of the Revised Code, whereby the United States, 1682
including the general public thereof, receives the benefit of 1683
such services. 1684

As used in divisions (B) (10) (a) and (b) of this section, 1685
"temporary structures" include temporary roads, bridges, drains, 1686
and pavement. 1687

(11) Except for transactions that are sales under division 1688
(B) (3) (p) of section 5739.01 of the Revised Code, the 1689
transportation of persons or property, unless the transportation 1690
is by a private investigation and security service; 1691

(12) Sales of tangible personal property or services to 1692
churches, to organizations exempt from taxation under section 1693
501(c) (3) of the Internal Revenue Code of 1986, and to any other 1694
nonprofit organizations operated exclusively for charitable 1695
purposes in this state, no part of the net income of which 1696
inures to the benefit of any private shareholder or individual, 1697
and no substantial part of the activities of which consists of 1698
carrying on propaganda or otherwise attempting to influence 1699
legislation; sales to offices administering one or more homes 1700
for the aged or one or more hospital facilities exempt under 1701
section 140.08 of the Revised Code; and sales to organizations 1702
described in division (D) of section 5709.12 of the Revised 1703
Code. 1704

"Charitable purposes" means the relief of poverty; the 1705
improvement of health through the alleviation of illness, 1706
disease, or injury; the operation of an organization exclusively 1707
for the provision of professional, laundry, printing, and 1708
purchasing services to hospitals or charitable institutions; the 1709
operation of a home for the aged, as defined in section 5701.13 1710
of the Revised Code; the operation of a radio or television 1711
broadcasting station that is licensed by the federal 1712
communications commission as a noncommercial educational radio 1713
or television station; the operation of a nonprofit animal 1714
adoption service or a county humane society; the promotion of 1715
education by an institution of learning that maintains a faculty 1716
of qualified instructors, teaches regular continuous courses of 1717
study, and confers a recognized diploma upon completion of a 1718
specific curriculum; the operation of a parent-teacher 1719
association, booster group, or similar organization primarily 1720
engaged in the promotion and support of the curricular or 1721
extracurricular activities of a primary or secondary school; the 1722
operation of a community or area center in which presentations 1723
in music, dramatics, the arts, and related fields are made in 1724
order to foster public interest and education therein; the 1725
production of performances in music, dramatics, and the arts; or 1726
the promotion of education by an organization engaged in 1727
carrying on research in, or the dissemination of, scientific and 1728
technological knowledge and information primarily for the 1729
public. 1730

Nothing in this division shall be deemed to exempt sales 1731
to any organization for use in the operation or carrying on of a 1732
trade or business, or sales to a home for the aged for use in 1733
the operation of independent living facilities as defined in 1734
division (A) of section 5709.12 of the Revised Code. 1735

(13) Building and construction materials and services sold 1736
to construction contractors for incorporation into a structure 1737
or improvement to real property under a construction contract 1738
with this state or a political subdivision of this state, or 1739
with the United States government or any of its agencies; 1740
building and construction materials and services sold to 1741
construction contractors for incorporation into a structure or 1742
improvement to real property that are accepted for ownership by 1743
this state or any of its political subdivisions, or by the 1744
United States government or any of its agencies at the time of 1745
completion of the structures or improvements; building and 1746
construction materials sold to construction contractors for 1747
incorporation into a horticulture structure or livestock 1748
structure for a person engaged in the business of horticulture 1749
or producing livestock; building materials and services sold to 1750
a construction contractor for incorporation into a house of 1751
public worship or religious education, or a building used 1752
exclusively for charitable purposes under a construction 1753
contract with an organization whose purpose is as described in 1754
division (B) (12) of this section; building materials and 1755
services sold to a construction contractor for incorporation 1756
into a building under a construction contract with an 1757
organization exempt from taxation under section 501(c) (3) of the 1758
Internal Revenue Code of 1986 when the building is to be used 1759
exclusively for the organization's exempt purposes; tangible 1760
personal property sold for incorporation into the construction 1761
of a sports facility under section 307.696 of the Revised Code; 1762
building and construction materials and services sold to a 1763
construction contractor for incorporation into real property 1764
outside this state if such materials and services, when sold to 1765
a construction contractor in the state in which the real 1766
property is located for incorporation into real property in that 1767

state, would be exempt from a tax on sales levied by that state; 1768
building and construction materials for incorporation into a 1769
transportation facility pursuant to a public-private agreement 1770
entered into under sections 5501.70 to 5501.83 of the Revised 1771
Code; until one calendar year after the construction of a 1772
convention center that qualifies for property tax exemption 1773
under section 5709.084 of the Revised Code is completed, 1774
building and construction materials and services sold to a 1775
construction contractor for incorporation into the real property 1776
comprising that convention center; and building and construction 1777
materials sold for incorporation into a structure or improvement 1778
to real property that is used primarily as, or primarily in 1779
support of, a manufacturing facility or research and development 1780
facility and that is to be owned by a megaproject operator upon 1781
completion and located at the site of a megaproject that 1782
satisfies the criteria described in division (A) (11) (a) (ii) of 1783
section 122.17 of the Revised Code, provided that the sale 1784
occurs during the period that the megaproject operator has an 1785
agreement for such megaproject with the tax credit authority 1786
under division (D) of section 122.17 of the Revised Code that 1787
remains in effect and has not expired or been terminated. 1788

This division does not apply to building and construction 1789
materials and services sold to construction contractors for 1790
incorporation into a structure or improvement to real property 1791
under a construction contract with a port authority if the 1792
contract is subject to section 4582.72 of the Revised Code but 1793
approval from the appropriate board of county commissioners, as 1794
required by that section, has not been obtained. 1795

(14) Sales of ships or vessels or rail rolling stock used 1796
or to be used principally in interstate or foreign commerce, and 1797
repairs, alterations, fuel, and lubricants for such ships or 1798

vessels or rail rolling stock; 1799

(15) Sales to persons primarily engaged in any of the 1800
activities mentioned in division (B) (42) (a), (g), or (h) of this 1801
section, to persons engaged in making retail sales, or to 1802
persons who purchase for sale from a manufacturer tangible 1803
personal property that was produced by the manufacturer in 1804
accordance with specific designs provided by the purchaser, of 1805
packages, including material, labels, and parts for packages, 1806
and of machinery, equipment, and material for use primarily in 1807
packaging tangible personal property produced for sale, 1808
including any machinery, equipment, and supplies used to make 1809
labels or packages, to prepare packages or products for 1810
labeling, or to label packages or products, by or on the order 1811
of the person doing the packaging, or sold at retail. "Packages" 1812
includes bags, baskets, cartons, crates, boxes, cans, bottles, 1813
bindings, wrappings, and other similar devices and containers, 1814
but does not include motor vehicles or bulk tanks, trailers, or 1815
similar devices attached to motor vehicles. "Packaging" means 1816
placing in a package. Division (B) (15) of this section does not 1817
apply to persons engaged in highway transportation for hire. 1818

(16) Sales of food to persons using supplemental nutrition 1819
assistance program benefits to purchase the food. As used in 1820
this division, "food" has the same meaning as in 7 U.S.C. 2012 1821
and federal regulations adopted pursuant to the Food and 1822
Nutrition Act of 2008. 1823

(17) Sales to persons engaged in farming, agriculture, 1824
horticulture, or floriculture, of tangible personal property for 1825
use or consumption primarily in the production by farming, 1826
agriculture, horticulture, or floriculture of other tangible 1827
personal property for use or consumption primarily in the 1828

production of tangible personal property for sale by farming, 1829
agriculture, horticulture, or floriculture; or material and 1830
parts for incorporation into any such tangible personal property 1831
for use or consumption in production; and of tangible personal 1832
property for such use or consumption in the conditioning or 1833
holding of products produced by and for such use, consumption, 1834
or sale by persons engaged in farming, agriculture, 1835
horticulture, or floriculture, except where such property is 1836
incorporated into real property; 1837

(18) Sales of drugs for a human being that may be 1838
dispensed only pursuant to a prescription; insulin as recognized 1839
in the official United States pharmacopoeia; urine and blood 1840
testing materials when used by diabetics or persons with 1841
hypoglycemia to test for glucose or acetone; hypodermic syringes 1842
and needles when used by diabetics for insulin injections; 1843
epoetin alfa when purchased for use in the treatment of persons 1844
with medical disease; hospital beds when purchased by hospitals, 1845
nursing homes, or other medical facilities; and medical oxygen 1846
and medical oxygen-dispensing equipment when purchased by 1847
hospitals, nursing homes, or other medical facilities; 1848

(19) Sales of prosthetic devices, durable medical 1849
equipment for home use, or mobility enhancing equipment, when 1850
made pursuant to a prescription and when such devices or 1851
equipment are for use by a human being. 1852

(20) Sales of emergency and fire protection vehicles and 1853
equipment to nonprofit organizations for use solely in providing 1854
fire protection and emergency services, including trauma care 1855
and emergency medical services, for political subdivisions of 1856
the state; 1857

(21) Sales of tangible personal property manufactured in 1858

this state, if sold by the manufacturer in this state to a 1859
retailer for use in the retail business of the retailer outside 1860
of this state and if possession is taken from the manufacturer 1861
by the purchaser within this state for the sole purpose of 1862
immediately removing the same from this state in a vehicle owned 1863
by the purchaser; 1864

(22) Sales of services provided by the state or any of its 1865
political subdivisions, agencies, instrumentalities, 1866
institutions, or authorities, or by governmental entities of the 1867
state or any of its political subdivisions, agencies, 1868
instrumentalities, institutions, or authorities; 1869

(23) Sales of motor vehicles to nonresidents of this state 1870
under the circumstances described in division (B) of section 1871
5739.029 of the Revised Code; 1872

(24) Sales to persons engaged in the preparation of eggs 1873
for sale of tangible personal property used or consumed directly 1874
in such preparation, including such tangible personal property 1875
used for cleaning, sanitizing, preserving, grading, sorting, and 1876
classifying by size; packages, including material and parts for 1877
packages, and machinery, equipment, and material for use in 1878
packaging eggs for sale; and handling and transportation 1879
equipment and parts therefor, except motor vehicles licensed to 1880
operate on public highways, used in intraplant or interplant 1881
transfers or shipment of eggs in the process of preparation for 1882
sale, when the plant or plants within or between which such 1883
transfers or shipments occur are operated by the same person. 1884
"Packages" includes containers, cases, baskets, flats, fillers, 1885
filler flats, cartons, closure materials, labels, and labeling 1886
materials, and "packaging" means placing therein. 1887

(25) (a) Sales of water to a consumer for residential use; 1888

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	1889 1890 1891 1892
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	1893 1894
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	1895 1896 1897 1898
(a) To prepare food for human consumption for sale;	1899
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	1900 1901 1902 1903
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	1904 1905
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	1906 1907
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	1908 1909 1910 1911
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	1912 1913 1914
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the	1915 1916

Revised Code;	1917
(32) The sale, lease, repair, and maintenance of, parts	1918
for, or items attached to or incorporated in, motor vehicles	1919
that are primarily used for transporting tangible personal	1920
property belonging to others by a person engaged in highway	1921
transportation for hire, except for packages and packaging used	1922
for the transportation of tangible personal property;	1923
(33) Sales to the state headquarters of any veterans'	1924
organization in this state that is either incorporated and	1925
issued a charter by the congress of the United States or is	1926
recognized by the United States veterans administration, for use	1927
by the headquarters;	1928
(34) Sales to a telecommunications service vendor, mobile	1929
telecommunications service vendor, or satellite broadcasting	1930
service vendor of tangible personal property and services used	1931
directly and primarily in transmitting, receiving, switching, or	1932
recording any interactive, one- or two-way electromagnetic	1933
communications, including voice, image, data, and information,	1934
through the use of any medium, including, but not limited to,	1935
poles, wires, cables, switching equipment, computers, and record	1936
storage devices and media, and component parts for the tangible	1937
personal property. The exemption provided in this division shall	1938
be in lieu of all other exemptions under division (B) (42) (a) or	1939
(n) of this section to which the vendor may otherwise be	1940
entitled, based upon the use of the thing purchased in providing	1941
the telecommunications, mobile telecommunications, or satellite	1942
broadcasting service.	1943
(35) Sales of strollers meant for transporting children	1944
from infancy to about thirty-six months of age that meet the	1945
United States consumer product safety commission safety standard	1946

for carriages and strollers under 16 C.F.R. 1227.2.	1947
(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;	1948 1949 1950 1951
(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;	1952 1953 1954 1955 1956 1957
(38) Sales of tangible personal property that is not required to be registered or licensed under the laws of this state to a citizen of a foreign nation that is not a citizen of the United States, provided the property is delivered to a person in this state that is not a related member of the purchaser, is physically present in this state for the sole purpose of temporary storage and package consolidation, and is subsequently delivered to the purchaser at a delivery address in a foreign nation. As used in division (B) (38) of this section, "related member" has the same meaning as in section 5733.042 of the Revised Code, and "temporary storage" means the storage of tangible personal property for a period of not more than sixty days.	1958 1959 1960 1961 1962 1963 1964 1965 1966 1967 1968 1969 1970
(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;	1971 1972 1973
(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily	1974 1975

in generating, transmitting, or distributing electricity for use 1976
by others, including property that is or is to be incorporated 1977
into and will become a part of the consumer's production, 1978
transmission, or distribution system and that retains its 1979
classification as tangible personal property after 1980
incorporation; fuel or power used in the production, 1981
transmission, or distribution of electricity; energy conversion 1982
equipment as defined in section 5727.01 of the Revised Code; and 1983
tangible personal property and services used in the repair and 1984
maintenance of the production, transmission, or distribution 1985
system, including only those motor vehicles as are specially 1986
designed and equipped for such use. The exemption provided in 1987
this division shall be in lieu of all other exemptions in 1988
division (B) (42) (a) or (n) of this section to which a provider 1989
of electricity may otherwise be entitled based on the use of the 1990
tangible personal property or service purchased in generating, 1991
transmitting, or distributing electricity. 1992

(41) Sales to a person providing services under division 1993
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 1994
personal property and services used directly and primarily in 1995
providing taxable services under that section. 1996

(42) Sales where the purpose of the purchaser is to do any 1997
of the following: 1998

(a) To incorporate the thing transferred as a material or 1999
a part into tangible personal property to be produced for sale 2000
by manufacturing, assembling, processing, or refining; or to use 2001
or consume the thing transferred directly in producing tangible 2002
personal property for sale by mining, including, without 2003
limitation, the extraction from the earth of all substances that 2004
are classed geologically as minerals, or directly in the 2005

rendition of a public utility service, except that the sales tax 2006
levied by this section shall be collected upon all meals, 2007
drinks, and food for human consumption sold when transporting 2008
persons. This paragraph does not exempt from "retail sale" or 2009
"sales at retail" the sale of tangible personal property that is 2010
to be incorporated into a structure or improvement to real 2011
property. 2012

(b) To hold the thing transferred as security for the 2013
performance of an obligation of the vendor; 2014

(c) To resell, hold, use, or consume the thing transferred 2015
as evidence of a contract of insurance; 2016

(d) To use or consume the thing directly in commercial 2017
fishing; 2018

(e) To incorporate the thing transferred as a material or 2019
a part into, or to use or consume the thing transferred directly 2020
in the production of, magazines distributed as controlled 2021
circulation publications; 2022

(f) To use or consume the thing transferred in the 2023
production and preparation in suitable condition for market and 2024
sale of printed, imprinted, overprinted, lithographic, 2025
multilithic, blueprinted, photostatic, or other productions or 2026
reproductions of written or graphic matter; 2027

(g) To use the thing transferred, as described in section 2028
5739.011 of the Revised Code, primarily in a manufacturing 2029
operation to produce tangible personal property for sale; 2030

(h) To use the benefit of a warranty, maintenance or 2031
service contract, or similar agreement, as described in division 2032
(B) (7) of section 5739.01 of the Revised Code, to repair or 2033
maintain tangible personal property, if all of the property that 2034

is the subject of the warranty, contract, or agreement would not 2035
be subject to the tax imposed by this section; 2036

(i) To use the thing transferred as qualified research and 2037
development equipment; 2038

(j) To use or consume the thing transferred primarily in 2039
storing, transporting, mailing, or otherwise handling purchased 2040
sales inventory in a warehouse, distribution center, or similar 2041
facility when the inventory is primarily distributed outside 2042
this state to retail stores of the person who owns or controls 2043
the warehouse, distribution center, or similar facility, to 2044
retail stores of an affiliated group of which that person is a 2045
member, or by means of direct marketing. This division does not 2046
apply to motor vehicles registered for operation on the public 2047
highways. As used in this division, "affiliated group" has the 2048
same meaning as in division (B) (3) (e) of section 5739.01 of the 2049
Revised Code and "direct marketing" means the method of selling 2050
where consumers order tangible personal property by United 2051
States mail, delivery service, or telecommunication and the 2052
vendor delivers or ships the tangible personal property sold to 2053
the consumer from a warehouse, catalogue distribution center, or 2054
similar fulfillment facility by means of the United States mail, 2055
delivery service, or common carrier. 2056

(k) To use or consume the thing transferred to fulfill a 2057
contractual obligation incurred by a warrantor pursuant to a 2058
warranty provided as a part of the price of the tangible 2059
personal property sold or by a vendor of a warranty, maintenance 2060
or service contract, or similar agreement the provision of which 2061
is defined as a sale under division (B) (7) of section 5739.01 of 2062
the Revised Code; 2063

(l) To use or consume the thing transferred in the 2064

production of a newspaper for distribution to the public; 2065

(m) To use tangible personal property to perform a service 2066
listed in division (B) (3) of section 5739.01 of the Revised 2067
Code, if the property is or is to be permanently transferred to 2068
the consumer of the service as an integral part of the 2069
performance of the service; 2070

(n) To use or consume the thing transferred primarily in 2071
producing tangible personal property for sale by farming, 2072
agriculture, horticulture, or floriculture. Persons engaged in 2073
rendering farming, agriculture, horticulture, or floriculture 2074
services for others are deemed engaged primarily in farming, 2075
agriculture, horticulture, or floriculture. This paragraph does 2076
not exempt from "retail sale" or "sales at retail" the sale of 2077
tangible personal property that is to be incorporated into a 2078
structure or improvement to real property. 2079

~~(q)~~ (o) To use or consume the thing transferred directly in 2080
production of crude oil and natural gas for sale. Persons 2081
engaged in rendering production services for others are deemed 2082
engaged in production. 2083

As used in division ~~(B) (42) (q)~~ (B) (42) (o) of this section, 2084
"production" means operations and tangible personal property 2085
directly used to expose and evaluate an underground reservoir 2086
that may contain hydrocarbon resources, prepare the wellbore for 2087
production, and lift and control all substances yielded by the 2088
reservoir to the surface of the earth. 2089

(i) For the purposes of division ~~(B) (42) (q)~~ (B) (42) (o) of 2090
this section, the "thing transferred" includes, but is not 2091
limited to, any of the following: 2092

(I) Services provided in the construction of permanent 2093

access roads, services provided in the construction of the well site, and services provided in the construction of temporary impoundments;	2094 2095 2096
(II) Equipment and rigging used for the specific purpose of creating with integrity a wellbore pathway to underground reservoirs;	2097 2098 2099
(III) Drilling and workover services used to work within a subsurface wellbore, and tangible personal property directly used in providing such services;	2100 2101 2102
(IV) Casing, tubulars, and float and centralizing equipment;	2103 2104
(V) Trailers to which production equipment is attached;	2105
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	2106 2107 2108
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	2109 2110 2111
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	2112 2113 2114 2115
(IX) Pressure pumping equipment;	2116
(X) Artificial lift systems equipment;	2117
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	2118 2119 2120

(XII) Tangible personal property directly used to control production equipment.	2121 2122
(ii) For the purposes of division (B) (42) (q) (B) (42) (o) of this section, the "thing transferred" does not include any of the following:	2123 2124 2125
(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	2126 2127 2128
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well stimulation as defined in section 1509.01 of the Revised Code;	2129 2130 2131
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	2132 2133 2134
(IV) Tangible personal property used primarily in transporting, delivering, or removing equipment to or from the well site or storing such equipment before its use at the well site;	2135 2136 2137 2138
(V) Tangible personal property used primarily in gathering operations occurring off the well site, including gathering pipelines transporting hydrocarbon gas or liquids away from a crude oil or natural gas production facility;	2139 2140 2141 2142
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	2143 2144
(VII) Well site fencing, lighting, or security systems;	2145
(VIII) Communication devices or services;	2146
(IX) Office supplies;	2147

(X) Trailers used as offices or lodging;	2148
(XI) Motor vehicles of any kind;	2149
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	2150 2151
(XIII) Tangible personal property used primarily as a safety device;	2152 2153
(XIV) Data collection or monitoring devices;	2154
(XV) Access ladders, stairs, or platforms attached to storage tanks.	2155 2156
The enumeration of tangible personal property in division (B) (42) (q) (ii) <u>(B) (42) (o) (ii)</u> of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) <u>(B) (42) (o)</u> of this section.	2157 2158 2159 2160 2161 2162
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) <u>(B) (42) (o)</u> of this section.	2163 2164 2165 2166
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.	2167 2168 2169
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part	2170 2171 2172 2173 2174 2175

of the transaction.	2176
(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.	2177 2178 2179 2180 2181 2182
(45) The fee imposed by section 3743.22 of the Revised Code, if it is separately stated on the invoice, bill of sale, or similar document given by the vendor to the consumer for a retail sale made in this state.	2183 2184 2185 2186
(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services.	2187 2188 2189
(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.	2190 2191 2192
(48) Sales of feminine hygiene products.	2193
(49) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B) (49) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.	2194 2195 2196 2197 2198 2199 2200 2201
(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services	2202 2203 2204

for such full flight simulators. "Full flight simulator" means a 2205
replica of a specific type, or make, model, and series of 2206
aircraft cockpit. It includes the assemblage of equipment and 2207
computer programs necessary to represent aircraft operations in 2208
ground and flight conditions, a visual system providing an out- 2209
of-the-cockpit view, and a system that provides cues at least 2210
equivalent to those of a three-degree-of-freedom motion system, 2211
and has the full range of capabilities of the systems installed 2212
in the device as described in appendices A and B of part 60 of 2213
chapter 1 of title 14 of the Code of Federal Regulations. 2214

(51) Any transfer or lease of tangible personal property 2215
between the state and JobsOhio in accordance with section 2216
4313.02 of the Revised Code. 2217

(52) (a) Sales to a qualifying corporation. 2218

(b) As used in division (B) (52) of this section: 2219

(i) "Qualifying corporation" means a nonprofit corporation 2220
organized in this state that leases from an eligible county 2221
land, buildings, structures, fixtures, and improvements to the 2222
land that are part of or used in a public recreational facility 2223
used by a major league professional athletic team or a class A 2224
to class AAA minor league affiliate of a major league 2225
professional athletic team for a significant portion of the 2226
team's home schedule, provided the following apply: 2227

(I) The facility is leased from the eligible county 2228
pursuant to a lease that requires substantially all of the 2229
revenue from the operation of the business or activity conducted 2230
by the nonprofit corporation at the facility in excess of 2231
operating costs, capital expenditures, and reserves to be paid 2232
to the eligible county at least once per calendar year. 2233

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

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

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

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

(a) Accepts direct payments to operate;

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

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

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

(i) An item of clothing, the price of which is seventy-	2263
five dollars or less;	2264
(ii) An item of school supplies, the price of which is	2265
twenty dollars or less;	2266
(iii) An item of school instructional material, the price	2267
of which is twenty dollars or less.	2268
(b) As used in division (B) (55) of this section:	2269
(i) "Clothing" means all human wearing apparel suitable	2270
for general use. "Clothing" includes, but is not limited to,	2271
aprons, household and shop; athletic supporters; baby receiving	2272
blankets; bathing suits and caps; beach capes and coats; belts	2273
and suspenders; boots; coats and jackets; costumes; diapers,	2274
children and adult, including disposable diapers; earmuffs;	2275
footlets; formal wear; garters and garter belts; girdles; gloves	2276
and mittens for general use; hats and caps; hosiery; insoles for	2277
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	2278
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	2279
sneakers; socks and stockings; steel-toed shoes; underwear;	2280
uniforms, athletic and nonathletic; and wedding apparel.	2281
"Clothing" does not include items purchased for use in a trade	2282
or business; clothing accessories or equipment; protective	2283
equipment; sports or recreational equipment; belt buckles sold	2284
separately; costume masks sold separately; patches and emblems	2285
sold separately; sewing equipment and supplies including, but	2286
not limited to, knitting needles, patterns, pins, scissors,	2287
sewing machines, sewing needles, tape measures, and thimbles;	2288
and sewing materials that become part of "clothing" including,	2289
but not limited to, buttons, fabric, lace, thread, yarn, and	2290
zippers.	2291

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

(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: reference books, reference maps and globes, textbooks, and workbooks. "School instructional material" does not include any material purchased for use in a trade or business.

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

(b) As used in division (B) (56) (a) of this section, "incontinence underpad" means an absorbent product, not worn on the body, designed to protect furniture or other tangible

personal property from soiling or damage due to human 2322
incontinence. 2323

(57) Sales of investment metal bullion and investment 2324
coins. "Investment metal bullion" means any bullion described in 2325
section 408(m)(3)(B) of the Internal Revenue Code, regardless of 2326
whether that bullion is in the physical possession of a trustee. 2327
"Investment coin" means any coin composed primarily of gold, 2328
silver, platinum, or palladium. 2329

(58) Sales of tangible personal property used primarily 2330
for any of the following purposes by a megaproject operator at 2331
the site of a megaproject that satisfies the criteria described 2332
in division (A)(11)(a)(ii) of section 122.17 of the Revised 2333
Code, provided that the sale occurs during the period that the 2334
megaproject operator has an agreement for such megaproject with 2335
the tax credit authority under division (D) of section 122.17 of 2336
the Revised Code that remains in effect and has not expired or 2337
been terminated: 2338

(a) To store, transmit, convey, distribute, recycle, 2339
circulate, or clean water, steam, or other gases used in or 2340
produced as a result of manufacturing activity, including items 2341
that support or aid in the operation of such property; 2342

(b) To clean or prepare inventory, at any stage of storage 2343
or production, or equipment used in a manufacturing activity, 2344
including chemicals, solvents, catalysts, soaps, and other items 2345
that support or aid in the operation of property; 2346

(c) To regulate, treat, filter, condition, improve, clean, 2347
maintain, or monitor environmental conditions within areas where 2348
manufacturing activities take place; 2349

(d) To handle, transport, or convey inventory during 2350

production or manufacturing.	2351
(59) Documentary services charges imposed pursuant to section 4517.261 or 4781.24 of the Revised Code.	2352 2353
(60) Sales of children's diapers.	2354
(61) Sales of therapeutic or preventative creams and wipes marketed primarily for use on the skin of children.	2355 2356
(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.	2357 2358 2359
(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.	2360 2361 2362 2363 2364
(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.	2365 2366 2367
<u>(65) Sales of secure gun storage or safety devices.</u>	2368
(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.	2369 2370 2371 2372
(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 additional sales tax pursuant to section 5739.023 of the Revised	2373 2374 2375 2376 2377 2378

Code. Except for the discount authorized under section 5739.12 2379
of the Revised Code and the effects of any rounding pursuant to 2380
section 5703.055 of the Revised Code, no person other than the 2381
state or such a county or transit authority shall derive any 2382
benefit from the collection or payment of the tax levied by this 2383
section or section 5739.021, 5739.023, or 5739.026 of the 2384
Revised Code. 2385

Sec. 5739.03. (A) Except as provided in section 5739.05 or 2386
section 5739.051 of the Revised Code, the tax imposed by or 2387
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 2388
the Revised Code shall be paid by the consumer to the vendor, 2389
and each vendor shall collect from the consumer, as a trustee 2390
for the state of Ohio, the full and exact amount of the tax 2391
payable on each taxable sale, in the manner and at the times 2392
provided as follows: 2393

(1) If the price is, at or prior to the provision of the 2394
service or the delivery of possession of the thing sold to the 2395
consumer, paid in currency passed from hand to hand by the 2396
consumer or the consumer's agent to the vendor or the vendor's 2397
agent, the vendor or the vendor's agent shall collect the tax 2398
with and at the same time as the price; 2399

(2) If the price is otherwise paid or to be paid, the 2400
vendor or the vendor's agent shall, at or prior to the provision 2401
of the service or the delivery of possession of the thing sold 2402
to the consumer, charge the tax imposed by or pursuant to 2403
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 2404
Code to the account of the consumer, which amount shall be 2405
collected by the vendor from the consumer in addition to the 2406
price. Such sale shall be reported on and the amount of the tax 2407
applicable thereto shall be remitted with the return for the 2408

period in which the sale is made, and the amount of the tax 2409
shall become a legal charge in favor of the vendor and against 2410
the consumer. 2411

(B) (1) (a) If any sale is claimed to be exempt under 2412
division (E) of section 5739.01 of the Revised Code or under 2413
section 5739.02 of the Revised Code, with the exception of 2414
divisions (B) (1) to (11), (28), (48), (55), (59), ~~or (62)~~, or 2415
(65) of section 5739.02 of the Revised Code, the consumer must 2416
provide to the vendor, and the vendor must obtain from the 2417
consumer, a certificate specifying the reason that the sale is 2418
not legally subject to the tax. The certificate shall be in such 2419
form, and shall be provided either in a hard copy form or 2420
electronic form, as the tax commissioner prescribes. 2421

(b) A vendor that obtains a fully completed exemption 2422
certificate from a consumer is relieved of liability for 2423
collecting and remitting tax on any sale covered by that 2424
certificate. If it is determined the exemption was improperly 2425
claimed, the consumer shall be liable for any tax due on that 2426
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 2427
Chapter 5741. of the Revised Code. Relief under this division 2428
from liability does not apply to any of the following: 2429

(i) A vendor that fraudulently fails to collect tax; 2430

(ii) A vendor that solicits consumers to participate in 2431
the unlawful claim of an exemption; 2432

(iii) A vendor that accepts an exemption certificate from 2433
a consumer that claims an exemption based on who purchases or 2434
who sells property or a service, when the subject of the 2435
transaction sought to be covered by the exemption certificate is 2436
actually received by the consumer at a location operated by the 2437

vendor in this state, and this state has posted to its web site 2438
an exemption certificate form that clearly and affirmatively 2439
indicates that the claimed exemption is not available in this 2440
state; 2441

(iv) A vendor that accepts an exemption certificate from a 2442
consumer who claims a multiple points of use exemption under 2443
division (D) of section 5739.033 of the Revised Code, if the 2444
item purchased is tangible personal property, other than 2445
prewritten computer software. 2446

(2) The vendor shall maintain records, including exemption 2447
certificates, of all sales on which a consumer has claimed an 2448
exemption, and provide them to the tax commissioner on request. 2449

(3) The tax commissioner may establish an identification 2450
system whereby the commissioner issues an identification number 2451
to a consumer that is exempt from payment of the tax. The 2452
consumer must present the number to the vendor, if any sale is 2453
claimed to be exempt as provided in this section. 2454

(4) If no certificate is provided or obtained within 2455
ninety days after the date on which such sale is consummated, it 2456
shall be presumed that the tax applies. Failure to have so 2457
provided or obtained a certificate shall not preclude a vendor, 2458
within one hundred twenty days after the tax commissioner gives 2459
written notice of intent to levy an assessment, from either 2460
establishing that the sale is not subject to the tax, or 2461
obtaining, in good faith, a fully completed exemption 2462
certificate. 2463

(5) Certificates need not be obtained nor provided where 2464
the identity of the consumer is such that the transaction is 2465
never subject to the tax imposed or where the item of tangible 2466

personal property sold or the service provided is never subject 2467
to the tax imposed, regardless of use, or when the sale is in 2468
interstate commerce. 2469

(6) If a transaction is claimed to be exempt under 2470
division (B) (13) of section 5739.02 of the Revised Code, the 2471
contractor shall obtain certification of the claimed exemption 2472
from the contractee. This certification shall be in addition to 2473
an exemption certificate provided by the contractor to the 2474
vendor. A contractee that provides a certification under this 2475
division shall be deemed to be the consumer of all items 2476
purchased by the contractor under the claim of exemption, if it 2477
is subsequently determined that the exemption is not properly 2478
claimed. The certification shall be in such form as the tax 2479
commissioner prescribes. 2480

(7) If a transaction is claimed to be exempt under 2481
division (B) (13) of section 5739.02 of the Revised Code, the 2482
person that leases a sports facility, as defined in section 2483
307.696 of the Revised Code, wholly owned by a county may 2484
provide and sign, on behalf of the county, an exemption 2485
certificate required under this section for that exemption. 2486

(C) As used in this division, "contractee" means a person 2487
who seeks to enter or enters into a contract or agreement with a 2488
contractor or vendor for the construction of real property or 2489
for the sale and installation onto real property of tangible 2490
personal property. 2491

Any contractor or vendor may request from any contractee a 2492
certification of what portion of the property to be transferred 2493
under such contract or agreement is to be incorporated into the 2494
realty and what portion will retain its status as tangible 2495
personal property after installation is completed. The 2496

contractor or vendor shall request the certification by 2497
certified mail delivered to the contractee, return receipt 2498
requested. Upon receipt of such request and prior to entering 2499
into the contract or agreement, the contractee shall provide to 2500
the contractor or vendor a certification sufficiently detailed 2501
to enable the contractor or vendor to ascertain the resulting 2502
classification of all materials purchased or fabricated by the 2503
contractor or vendor and transferred to the contractee. This 2504
requirement applies to a contractee regardless of whether the 2505
contractee holds a direct payment permit under section 5739.031 2506
of the Revised Code or provides to the contractor or vendor an 2507
exemption certificate as provided under this section. 2508

For the purposes of the taxes levied by this chapter and 2509
Chapter 5741. of the Revised Code, the contractor or vendor may 2510
in good faith rely on the contractee's certification. 2511
Notwithstanding division (B) of section 5739.01 of the Revised 2512
Code, if the tax commissioner determines that certain property 2513
certified by the contractee as tangible personal property 2514
pursuant to this division is, in fact, real property, the 2515
contractee shall be considered to be the consumer of all 2516
materials so incorporated into that real property and shall be 2517
liable for the applicable tax, and the contractor or vendor 2518
shall be excused from any liability on those materials. 2519

If a contractee fails to provide such certification upon 2520
the request of the contractor or vendor, the contractor or 2521
vendor shall comply with the provisions of this chapter and 2522
Chapter 5741. of the Revised Code without the certification. If 2523
the tax commissioner determines that such compliance has been 2524
performed in good faith and that certain property treated as 2525
tangible personal property by the contractor or vendor is, in 2526
fact, real property, the contractee shall be considered to be 2527

the consumer of all materials so incorporated into that real 2528
property and shall be liable for the applicable tax, and the 2529
construction contractor or vendor shall be excused from any 2530
liability on those materials. 2531

This division does not apply to any contract or agreement 2532
where the tax commissioner determines as a fact that a 2533
certification under this division was made solely on the 2534
decision or advice of the contractor or vendor. 2535

(D) Notwithstanding division (B) of section 5739.01 of the 2536
Revised Code, whenever the total rate of tax imposed under this 2537
chapter is increased after the date after a construction 2538
contract is entered into, the contractee shall reimburse the 2539
construction contractor for any additional tax paid on tangible 2540
property consumed or services received pursuant to the contract. 2541

(E) A vendor who files a petition for reassessment 2542
contesting the assessment of tax on sales for which the vendor 2543
obtained no valid exemption certificates and for which the 2544
vendor failed to establish that the sales were properly not 2545
subject to the tax during the one-hundred-twenty-day period 2546
allowed under division (B) of this section, may present to the 2547
tax commissioner additional evidence to prove that the sales 2548
were properly subject to a claim of exception or exemption. The 2549
vendor shall file such evidence within ninety days of the 2550
receipt by the vendor of the notice of assessment, except that, 2551
upon application and for reasonable cause, the period for 2552
submitting such evidence shall be extended thirty days. 2553

The commissioner shall consider such additional evidence 2554
in reaching the final determination on the assessment and 2555
petition for reassessment. 2556

(F) Whenever a vendor refunds the price, minus any 2557
separately stated delivery charge, of an item of tangible 2558
personal property on which the tax imposed under this chapter 2559
has been paid, the vendor shall also refund the amount of tax 2560
paid, minus the amount of tax attributable to the delivery 2561
charge. 2562

Sec. 5739.17. (A) No person shall engage in making retail 2563
sales subject to a tax imposed by or pursuant to section 2564
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as 2565
a business without having a license therefor, except as 2566
otherwise provided in divisions (A) (1), (2), and (3) of this 2567
section. 2568

(1) In the dissolution of a partnership by death, the 2569
surviving partner may operate under the license of the 2570
partnership for a period of sixty days. 2571

(2) The heirs or legal representatives of deceased 2572
persons, and receivers and trustees in bankruptcy, appointed by 2573
any competent authority, may operate under the license of the 2574
person so succeeded in possession. 2575

(3) Two or more persons who are not partners may operate a 2576
single place of business under one license. In such case neither 2577
the retirement of any such person from business at that place of 2578
business, nor the entrance of any person, under an existing 2579
arrangement, shall affect the license or require the issuance of 2580
a new license, unless the person retiring from the business is 2581
the individual named on the vendor's license. 2582

Except as otherwise provided in this section, each 2583
applicant for a license shall make out and deliver to the county 2584
auditor of each county in which the applicant desires to engage 2585

in business, upon a blank to be furnished by such auditor for 2586
that purpose, a statement showing the name of the applicant, 2587
each place of business in the county where the applicant will 2588
make retail sales, the nature of the business, and any other 2589
information the tax commissioner reasonably prescribes in the 2590
form of a statement prescribed by the commissioner. 2591

At the time of making the application, the applicant shall 2592
pay into the county treasury a license fee in the sum of fifty 2593
dollars for each fixed place of business in the county that will 2594
be the situs of retail sales. Upon receipt of the application 2595
and exhibition of the county treasurer's receipt, showing the 2596
payment of the license fee, the county auditor shall issue to 2597
the applicant a license for each fixed place of business 2598
designated in the application, authorizing the applicant to 2599
engage in business at that location. The county auditor shall 2600
transmit twenty-five dollars of each license fee to the 2601
treasurer of state for deposit into the state treasury to the 2602
credit of the organized crime commission fund for the purposes 2603
specified in section 177.011 of the Revised Code. The remaining 2604
twenty-five dollars of each license fee shall be credited to the 2605
general fund of the county. 2606

(B) If a vendor's identity changes, the vendor shall apply 2607
for a new license. If a vendor wishes to move an existing fixed 2608
place of business to a new location within the same county, the 2609
vendor shall obtain a new vendor's license or submit a request 2610
to the commissioner to transfer the existing vendor's license to 2611
the new location. When the new location has been verified as 2612
being within the same county, the commissioner shall authorize 2613
the transfer and notify the county auditor of the change of 2614
location. If a vendor wishes to move an existing fixed place of 2615
business to another county, the vendor's license shall not 2616

transfer and the vendor shall obtain a new vendor's license from 2617
the county in which the business is to be located. The form of 2618
the license shall be prescribed by the commissioner. The fees 2619
collected shall be credited as specified in division (A) (3) of 2620
this section. If a vendor fails to notify the commissioner of a 2621
change of location of its fixed place of business or that its 2622
business has closed, the commissioner may cancel the vendor's 2623
license if ordinary mail sent to the location shown on the 2624
license is returned because of an undeliverable address. 2625

(C) The commissioner may establish or participate in a 2626
registration system whereby any vendor may obtain a vendor's 2627
license by submitting to the commissioner a vendor's license 2628
application and a license fee of fifty dollars for each fixed 2629
place of business at which the vendor intends to make retail 2630
sales. Under this registration system, the commissioner shall 2631
issue a vendor's license to the applicant on behalf of the 2632
county auditor of the county in which the applicant desires to 2633
engage in business, and shall forward a copy of the application 2634
and license fee to that county. Twenty-five dollars of each 2635
license fee received by the commissioner for the issuance of 2636
vendor's licenses shall be deposited into the vendor's license 2637
application fund, which is hereby created in the state treasury. 2638
The remaining twenty-five dollars of each license fee shall be 2639
deposited into the organized crime commission fund for the 2640
purposes specified in section 177.011 of the Revised Code. The 2641
commissioner shall certify to the director of budget and 2642
management within ten business days after the close of a month 2643
the license fees to be transmitted to each county from the 2644
vendor's license application fund for vendor's license 2645
applications received by the commissioner during that month. 2646
License fees transmitted to a county for which payment was not 2647

received by the commissioner may be netted against a future 2648
distribution to that county, including distributions made 2649
pursuant to section 5739.21 of the Revised Code. 2650

A vendor that makes retail sales subject to tax under 2651
Chapter 5739. of the Revised Code pursuant to a permit issued by 2652
the division of liquor control shall obtain a vendor's license 2653
in the identical name and for the identical address as shown on 2654
the permit. 2655

Except as otherwise provided in this section, if a vendor 2656
has no fixed place of business and sells from a vehicle, each 2657
vehicle intended to be used within a county constitutes a place 2658
of business for the purpose of this section. 2659

(D) As used in this section, "transient vendor" means any 2660
person who makes sales of tangible personal property from 2661
vending machines located on land owned by others, who leases 2662
titled motor vehicles, titled watercraft, or titled outboard 2663
motors, who effectuates leases that are taxed according to 2664
division (A) (2) of section 5739.02 of the Revised Code, or who, 2665
in the usual course of the person's business, transports 2666
inventory, stock of goods, or similar tangible personal property 2667
to a temporary place of business or temporary exhibition, show, 2668
fair, flea market, or similar event in a county in which the 2669
person has no fixed place of business, for the purpose of making 2670
retail sales of such property. A "temporary place of business" 2671
means any public or quasi-public place including, but not 2672
limited to, a hotel, rooming house, storeroom, building, part of 2673
a building, tent, vacant lot, railroad car, or motor vehicle 2674
that is temporarily occupied for the purpose of making retail 2675
sales of goods to the public. A place of business is not 2676
temporary if the same person conducted business at the place 2677

continuously for more than six months or occupied the premises 2678
as the person's permanent residence for more than six months, or 2679
if the person intends it to be a fixed place of business. 2680

Any transient vendor, in lieu of obtaining a vendor's 2681
license under division (A) of this section for counties in which 2682
the transient vendor has no fixed place of business, may apply 2683
to the tax commissioner, on a form prescribed by the 2684
commissioner, for a transient vendor's license. The transient 2685
vendor's license authorizes the transient vendor to make retail 2686
sales in any county in which the transient vendor does not 2687
maintain a fixed place of business. Any holder of a transient 2688
vendor's license shall not be required to obtain a separate 2689
vendor's license from the county auditor in that county. Upon 2690
the commissioner's determination that an applicant is a 2691
transient vendor, the applicant shall pay a license fee in the 2692
amount of fifty dollars, at which time the tax commissioner 2693
shall issue the license. Twenty-five dollars of that license fee 2694
shall be deposited into the organized crime commission fund for 2695
the purposes specified in section 177.011 of the Revised Code. 2696
The tax commissioner may require a vendor to be licensed as a 2697
transient vendor if, in the opinion of the commissioner, such 2698
licensing is necessary for the efficient administration of the 2699
tax. 2700

Any holder of a valid transient vendor's license may make 2701
retail sales at a temporary place of business or temporary 2702
exhibition, show, fair, flea market, or similar event, held 2703
anywhere in the state without complying with any provision of 2704
section 311.37 of the Revised Code. Any holder of a valid 2705
vendor's license may make retail sales as a transient vendor at 2706
a temporary place of business or temporary exhibition, show, 2707
fair, flea market, or similar event held in any county in which 2708

the vendor maintains a fixed place of business for which the 2709
vendor holds a vendor's license without obtaining a transient 2710
vendor's license. 2711

(E) Any vendor who is issued a license pursuant to this 2712
section shall display the license or a copy of it prominently, 2713
in plain view, at every place of business of the vendor. 2714

(F) No owner, organizer, or promoter who operates a fair, 2715
flea market, show, exhibition, convention, or similar event at 2716
which transient vendors are present shall fail to keep a 2717
comprehensive record of all such vendors, listing the vendor's 2718
name, permanent address, vendor's license number, and the type 2719
of goods sold. Such records shall be kept for four years and 2720
shall be open to inspection by the commissioner. 2721

(G) The commissioner may issue additional types of 2722
licenses if required to efficiently administer the tax imposed 2723
by this chapter. 2724

(H) A vendor shall post in a conspicuous manner at all 2725
points of sale on the vendor's premises where firearms are sold 2726
a notice that says the following: "The State of Ohio has 2727
exempted the sale of secure gun storage and safety devices from 2728
the sales and use tax imposed by this state and local 2729
governments." The vendor, upon the retail sale or transfer of a 2730
firearm, shall furnish such a written notice to the consumer. 2731

Sec. 5747.08. An annual return with respect to the tax 2732
imposed by section 5747.02 of the Revised Code and each tax 2733
imposed under Chapter 5748. of the Revised Code shall be made by 2734
every taxpayer for any taxable year for which the taxpayer is 2735
liable for the tax imposed by that section or under that 2736
chapter, unless the total credits allowed under division (E) of 2737

section 5747.05 and divisions (F) and (G) of section 5747.055 of 2738
the Revised Code for the year are equal to or exceed the tax 2739
imposed by section 5747.02 of the Revised Code, in which case no 2740
return shall be required unless the taxpayer is liable for a tax 2741
imposed pursuant to Chapter 5748. of the Revised Code. 2742

(A) If an individual is deceased, any return or notice 2743
required of that individual under this chapter shall be made and 2744
filed by that decedent's executor, administrator, or other 2745
person charged with the property of that decedent. 2746

(B) If an individual is unable to make a return or notice 2747
required by this chapter, the return or notice required of that 2748
individual shall be made and filed by the individual's duly 2749
authorized agent, guardian, conservator, fiduciary, or other 2750
person charged with the care of the person or property of that 2751
individual. 2752

(C) Returns or notices required of an estate or a trust 2753
shall be made and filed by the fiduciary of the estate or trust. 2754

(D) (1) (a) Except as otherwise provided in division (D) (1) 2755
(b) of this section, any pass-through entity may file a single 2756
return on behalf of one or more of the entity's investors other 2757
than an investor that is a person subject to the tax imposed 2758
under section 5733.06 of the Revised Code. The single return 2759
shall set forth the name, address, and social security number or 2760
other identifying number of each of those pass-through entity 2761
investors and shall indicate the distributive share of each of 2762
those pass-through entity investor's income taxable in this 2763
state in accordance with sections 5747.20 to 5747.231 of the 2764
Revised Code. Such pass-through entity investors for whom the 2765
pass-through entity elects to file a single return are not 2766
entitled to the exemption or credit provided for by sections 2767

5747.02 and 5747.022 of the Revised Code; shall calculate the 2768
tax before business credits at the highest rate of tax set forth 2769
in section 5747.02 of the Revised Code for the taxable year for 2770
which the return is filed; and are entitled to only their 2771
distributive share of the business credits as defined in 2772
division (D) (2) of this section. A single check drawn by the 2773
pass-through entity shall accompany the return in full payment 2774
of the tax due, as shown on the single return, for such 2775
investors, other than investors who are persons subject to the 2776
tax imposed under section 5733.06 of the Revised Code. 2777

(b) (i) A pass-through entity shall not include in such a 2778
single return any investor that is a trust to the extent that 2779
any direct or indirect current, future, or contingent 2780
beneficiary of the trust is a person subject to the tax imposed 2781
under section 5733.06 of the Revised Code. 2782

(ii) A pass-through entity shall not include in such a 2783
single return any investor that is itself a pass-through entity 2784
to the extent that any direct or indirect investor in the second 2785
pass-through entity is a person subject to the tax imposed under 2786
section 5733.06 of the Revised Code. 2787

(c) Except as provided by division (L) of this section, 2788
nothing in division (D) of this section precludes the tax 2789
commissioner from requiring such investors to file the return 2790
and make the payment of taxes and related interest, penalty, and 2791
interest penalty required by this section or section 5747.02, 2792
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 2793
of this section precludes such an investor from filing the 2794
annual return under this section, utilizing the refundable 2795
credit equal to the investor's proportionate share of the tax 2796
paid by the pass-through entity on behalf of the investor under 2797

division (I) of this section, and making the payment of taxes 2798
imposed under section 5747.02 of the Revised Code. Nothing in 2799
division (D) of this section shall be construed to provide to 2800
such an investor or pass-through entity any additional deduction 2801
or credit, other than the credit provided by division (I) of 2802
this section, solely on account of the entity's filing a return 2803
in accordance with this section. Such a pass-through entity also 2804
shall make the filing and payment of estimated taxes on behalf 2805
of the pass-through entity investors other than an investor that 2806
is a person subject to the tax imposed under section 5733.06 of 2807
the Revised Code. 2808

(2) For the purposes of this section, "business credits" 2809
means the credits listed in section 5747.98 of the Revised Code 2810
excluding the following credits: 2811

(a) The retirement income credit under division (B) of 2812
section 5747.055 of the Revised Code; 2813

(b) The senior citizen credit under division (F) of 2814
section 5747.055 of the Revised Code; 2815

(c) The lump sum distribution credit under division (G) of 2816
section 5747.055 of the Revised Code; 2817

(d) The dependent care credit under section 5747.054 of 2818
the Revised Code; 2819

(e) The lump sum retirement income credit under division 2820
(C) of section 5747.055 of the Revised Code; 2821

(f) The lump sum retirement income credit under division 2822
(D) of section 5747.055 of the Revised Code; 2823

(g) The lump sum retirement income credit under division 2824
(E) of section 5747.055 of the Revised Code; 2825

(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	2826 2827
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	2828 2829
(j) The joint filing credit under division (E) of section 5747.05 of the Revised Code;	2830 2831
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	2832 2833
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	2834 2835
(m) The earned income tax credit under section 5747.71 of the Revised Code;	2836 2837
(n) The lead abatement credit under section 5747.26 of the Revised Code;	2838 2839
(o) The credit for education expenses under section 5747.72 of the Revised Code;	2840 2841
(p) The credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;	2842 2843
<u>(q) The credit for secure gun storage or safety device purchases under section 5747.74 of the Revised Code.</u>	2844 2845
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident	2846 2847 2848 2849 2850 2851 2852

pass-through entity investor were to file an annual return. 2853

(4) If a pass-through entity makes the election provided 2854
for under division (D) of this section, the pass-through entity 2855
shall be liable for any additional taxes, interest, interest 2856
penalty, or penalties imposed by this chapter if the tax 2857
commissioner finds that the single return does not reflect the 2858
correct tax due by the pass-through entity investors covered by 2859
that return. Nothing in this division shall be construed to 2860
limit or alter the liability, if any, imposed on pass-through 2861
entity investors for unpaid or underpaid taxes, interest, 2862
interest penalty, or penalties as a result of the pass-through 2863
entity's making the election provided for under division (D) of 2864
this section. For the purposes of division (D) of this section, 2865
"correct tax due" means the tax that would have been paid by the 2866
pass-through entity had the single return been filed in a manner 2867
reflecting the commissioner's findings. Nothing in division (D) 2868
of this section shall be construed to make or hold a pass- 2869
through entity liable for tax attributable to a pass-through 2870
entity investor's income from a source other than the pass- 2871
through entity electing to file the single return. 2872

(E) If a husband and wife file a joint federal income tax 2873
return for a taxable year, they shall file a joint return under 2874
this section for that taxable year, and their liabilities are 2875
joint and several, but, if the federal income tax liability of 2876
either spouse is determined on a separate federal income tax 2877
return, they shall file separate returns under this section. 2878

If either spouse is not required to file a federal income 2879
tax return and either or both are required to file a return 2880
pursuant to this chapter, they may elect to file separate or 2881
joint returns, and, pursuant to that election, their liabilities 2882

are separate or joint and several. If a husband and wife file 2883
separate returns pursuant to this chapter, each must claim the 2884
taxpayer's own exemption, but not both, as authorized under 2885
section 5747.02 of the Revised Code on the taxpayer's own 2886
return. 2887

(F) Each return or notice required to be filed under this 2888
section shall contain the signature of the taxpayer or the 2889
taxpayer's duly authorized agent and of the person who prepared 2890
the return for the taxpayer, and shall include the taxpayer's 2891
social security number. Each return shall be verified by a 2892
declaration under the penalties of perjury. The tax commissioner 2893
shall prescribe the form that the signature and declaration 2894
shall take. 2895

(G) Each return or notice required to be filed under this 2896
section shall be made and filed as required by section 5747.04 2897
of the Revised Code, on or before the fifteenth day of April of 2898
each year, on forms that the tax commissioner shall prescribe, 2899
together with remittance made payable to the treasurer of state 2900
in the combined amount of the state and all school district 2901
income taxes shown to be due on the form. 2902

Upon good cause shown, the commissioner may extend the 2903
period for filing any notice or return required to be filed 2904
under this section and may adopt rules relating to extensions. 2905
If the extension results in an extension of time for the payment 2906
of any state or school district income tax liability with 2907
respect to which the return is filed, the taxpayer shall pay at 2908
the time the tax liability is paid an amount of interest 2909
computed at the rate per annum prescribed by section 5703.47 of 2910
the Revised Code on that liability from the time that payment is 2911
due without extension to the time of actual payment. Except as 2912

provided in section 5747.132 of the Revised Code, in addition to 2913
all other interest charges and penalties, all taxes imposed 2914
under this chapter or Chapter 5748. of the Revised Code and 2915
remaining unpaid after they become due, except combined amounts 2916
due of one dollar or less, bear interest at the rate per annum 2917
prescribed by section 5703.47 of the Revised Code until paid or 2918
until the day an assessment is issued under section 5747.13 of 2919
the Revised Code, whichever occurs first. 2920

If the commissioner considers it necessary in order to 2921
ensure the payment of the tax imposed by section 5747.02 of the 2922
Revised Code or any tax imposed under Chapter 5748. of the 2923
Revised Code, the commissioner may require returns and payments 2924
to be made otherwise than as provided in this section. 2925

To the extent that any provision in this division 2926
conflicts with any provision in section 5747.026 of the Revised 2927
Code, the provision in that section prevails. 2928

(H) The amounts withheld pursuant to section 5747.06, 2929
5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of the 2930
Revised Code shall be allowed to the ultimate recipient of the 2931
income as credits against payment of the appropriate taxes 2932
imposed on the ultimate recipient by section 5747.02 and under 2933
Chapter 5748. of the Revised Code. As used in this division, 2934
"ultimate recipient" means the person who is required to report 2935
income from which amounts are withheld pursuant to section 2936
5747.06, 5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of 2937
the Revised Code on the annual return required to be filed under 2938
this section. 2939

(I) If a pass-through entity elects to file a single 2940
return under division (D) of this section and if any investor is 2941
required to file the annual return and make the payment of taxes 2942

required by this chapter on account of the investor's other 2943
income that is not included in a single return filed by a pass- 2944
through entity or any other investor elects to file the annual 2945
return, the investor is entitled to a refundable credit equal to 2946
the investor's proportionate share of the lesser of the tax due 2947
or the tax paid by the pass-through entity on behalf of the 2948
investor. The investor shall claim the credit for the investor's 2949
taxable year in which or with which ends the taxable year of the 2950
pass-through entity. Nothing in this chapter shall be construed 2951
to allow any credit provided in this chapter to be claimed more 2952
than once. For the purpose of computing any interest, penalty, 2953
or interest penalty, the investor shall be deemed to have paid 2954
the refundable credit provided by this division on the day that 2955
the pass-through entity paid the estimated tax or the tax giving 2956
rise to the credit. 2957

(J) The tax commissioner shall ensure that each return 2958
required to be filed under this section includes a box that the 2959
taxpayer may check to authorize a paid tax preparer who prepared 2960
the return to communicate with the department of taxation about 2961
matters pertaining to the return. The return or instructions 2962
accompanying the return shall indicate that by checking the box 2963
the taxpayer authorizes the department of taxation to contact 2964
the preparer concerning questions that arise during the 2965
processing of the return and authorizes the preparer only to 2966
provide the department with information that is missing from the 2967
return, to contact the department for information about the 2968
processing of the return or the status of the taxpayer's refund 2969
or payments, and to respond to notices about mathematical 2970
errors, offsets, or return preparation that the taxpayer has 2971
received from the department and has shown to the preparer. 2972

(K) The tax commissioner shall permit individual taxpayers 2973

to instruct the department of taxation to cause any refund of 2974
overpaid taxes to be deposited directly into a checking account, 2975
savings account, or an individual retirement account or 2976
individual retirement annuity, or preexisting college savings 2977
plan or program account offered by the Ohio tuition trust 2978
authority under Chapter 3334. of the Revised Code, as designated 2979
by the taxpayer, when the taxpayer files the annual return 2980
required by this section electronically. 2981

(L) If, for the taxable year, a nonresident or trust that 2982
is the owner of an electing pass-through entity, as defined in 2983
section 5747.38 of the Revised Code, does not have Ohio adjusted 2984
gross income or, in the case of a trust, modified Ohio taxable 2985
income other than from one or more electing pass-through 2986
entities, the nonresident or trust shall not be required to file 2987
an annual return under this section. Nothing in this division 2988
precludes such an owner from filing the annual return under this 2989
section, utilizing the refundable credit under section 5747.39 2990
of the Revised Code equal to the owner's proportionate share of 2991
the tax levied under section 5747.38 of the Revised Code and 2992
paid by the electing pass-through entity, and making the payment 2993
of taxes imposed under section 5747.02 of the Revised Code. 2994

(M) The tax commissioner may adopt rules to administer 2995
this section. 2996

Sec. 5747.74. (A) As used in this section, "secure gun 2997
storage or safety device" means either of the following: 2998

(1) A device that, when installed on a firearm, is 2999
designed to prevent the firearm from being operated without 3000
first deactivating the device; 3001

(2) A safe, gun safe, gun case, lock box, or other device 3002

that is designed to be or can be used to store a firearm and 3003
that is designed to be unlocked only by means of a key, a 3004
combination, or other similar means. 3005

(B) There is allowed a nonrefundable credit against a 3006
taxpayer's aggregate tax liability under section 5747.02 of the 3007
Revised Code for amounts spent by the taxpayer during the 3008
taxable year to purchase one or more secure gun storage or 3009
safety devices. The amount of the credit shall equal the 3010
purchase price of each such secure gun storage or safety device, 3011
provided that the total credit claimed under this section by a 3012
taxpayer for any taxable year may not exceed two hundred fifty 3013
dollars. The taxpayer shall claim the credit in the order 3014
required under section 5747.98 of the Revised Code. 3015

(C) The tax commissioner shall require that a taxpayer 3016
furnish a sales receipt or any other information necessary to 3017
support a claim for credit under this section, and no credit 3018
shall be allowed unless the requested information is provided. 3019

Sec. 5747.98. (A) To provide a uniform procedure for 3020
calculating a taxpayer's aggregate tax liability under section 3021
5747.02 of the Revised Code, a taxpayer shall claim any credits 3022
to which the taxpayer is entitled in the following order: 3023

Either the retirement income credit under division (B) of 3024
section 5747.055 of the Revised Code or the lump sum retirement 3025
income credits under divisions (C), (D), and (E) of that 3026
section; 3027

Either the senior citizen credit under division (F) of 3028
section 5747.055 of the Revised Code or the lump sum 3029
distribution credit under division (G) of that section; 3030

The dependent care credit under section 5747.054 of the 3031

Revised Code;	3032
The credit for displaced workers who pay for job training	3033
under section 5747.27 of the Revised Code;	3034
The twenty-dollar personal exemption credit under section	3035
5747.022 of the Revised Code;	3036
The joint filing credit under division (E) of section	3037
5747.05 of the Revised Code;	3038
The earned income credit under section 5747.71 of the	3039
Revised Code;	3040
The nonrefundable credit for education expenses under	3041
section 5747.72 of the Revised Code;	3042
The nonrefundable credit for donations to scholarship	3043
granting organizations under section 5747.73 of the Revised	3044
Code;	3045
The nonrefundable credit for tuition paid to a	3046
nonchartered nonpublic school under section 5747.75 of the	3047
Revised Code;	3048
The nonrefundable vocational job credit under section	3049
5747.057 of the Revised Code;	3050
<u>The nonrefundable credit for secure gun storage or safety</u>	3051
<u>device purchases under section 5747.74 of the Revised Code;</u>	3052
The nonrefundable job retention credit under division (B)	3053
of section 5747.058 of the Revised Code;	3054
The enterprise zone credit under section 5709.66 of the	3055
Revised Code;	3056
The credit for beginning farmers who participate in a	3057
financial management program under division (B) of section	3058

5747.77 of the Revised Code;	3059
The credit for commercial vehicle operator training	3060
expenses under section 5747.82 of the Revised Code;	3061
The nonrefundable welcome home Ohio (WHO) program credit	3062
under section 122.633 of the Revised Code;	3063
The nonrefundable credit for transformational mixed use	3064
development tax credit certificate holders under section 5747.87	3065
of the Revised Code;	3066
The credit for selling or renting agricultural assets to	3067
beginning farmers under division (A) of section 5747.77 of the	3068
Revised Code;	3069
The credit for purchases of qualifying grape production	3070
property under section 5747.28 of the Revised Code;	3071
The small business investment credit under section 5747.81	3072
of the Revised Code;	3073
The nonrefundable lead abatement credit under section	3074
5747.26 of the Revised Code;	3075
The opportunity zone investment credit under section	3076
5747.86 of the Revised Code;	3077
The enterprise zone credits under section 5709.65 of the	3078
Revised Code;	3079
The research and development credit under section 5747.331	3080
of the Revised Code;	3081
The credit for rehabilitating a historic building under	3082
section 5747.76 of the Revised Code;	3083
The nonrefundable Ohio low-income housing tax credit under	3084
section 5747.83 of the Revised Code;	3085

The nonrefundable affordable single-family home credit	3086
under section 5747.84 of the Revised Code;	3087
The nonresident credit under division (A) of section	3088
5747.05 of the Revised Code;	3089
The credit for a resident's out-of-state income under	3090
division (B) of section 5747.05 of the Revised Code;	3091
The refundable motion picture and Broadway theatrical	3092
production credit under section 5747.66 of the Revised Code;	3093
The refundable jobs creation credit or job retention	3094
credit under division (A) of section 5747.058 of the Revised	3095
Code;	3096
The refundable credit for taxes paid by a qualifying	3097
entity granted under section 5747.059 of the Revised Code;	3098
The refundable credits for taxes paid by a qualifying	3099
pass-through entity granted under division (I) of section	3100
5747.08 of the Revised Code;	3101
The refundable credit under section 5747.80 of the Revised	3102
Code for losses on loans made to the Ohio venture capital	3103
program under sections 150.01 to 150.10 of the Revised Code;	3104
The refundable credit for rehabilitating a historic	3105
building under section 5747.76 of the Revised Code;	3106
The refundable credit under section 5747.39 of the Revised	3107
Code for taxes levied under section 5747.38 of the Revised Code	3108
paid by an electing pass-through entity.	3109
(B) For any credit, except the refundable credits	3110
enumerated in this section and the credit granted under division	3111
(H) of section 5747.08 of the Revised Code, the amount of the	3112

credit for a taxable year shall not exceed the taxpayer's 3113
aggregate amount of tax due under section 5747.02 of the Revised 3114
Code, after allowing for any other credit that precedes it in 3115
the order required under this section. Any excess amount of a 3116
particular credit may be carried forward if authorized under the 3117
section creating that credit. Nothing in this chapter shall be 3118
construed to allow a taxpayer to claim, directly or indirectly, 3119
a credit more than once for a taxable year. 3120

Section 2. That existing sections 2923.11, 5739.01, 3121
5739.02, 5739.03, 5739.17, 5747.08, and 5747.98 of the Revised 3122
Code are hereby repealed. 3123

Section 3. The enactment by this act of section 5747.74 of 3124
the Revised Code applies to taxable years beginning on or after 3125
January 1, 2027. 3126

The amendment by this act of sections 5739.01, 5739.02, 3127
5739.03, and 5739.17 of the Revised Code applies on and after 3128
the first day of the first month beginning after the effective 3129
date of this section. 3130

Section 4. This act shall be known as Amya's Law for Child 3131
Access Prevention. 3132