

As Introduced

**134th General Assembly
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S. B. No. 147

Senator Hottinger

Cosponsors: Senators Antani, Cirino, Fedor, Maharath, O'Brien



A BILL

To amend section 5739.01 of the Revised Code to
exempt from sales tax memberships to gyms or
other recreational facilities operated by
nonprofit 501(c)(3) organizations.

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

Section 1. That section 5739.01 of the Revised Code be
amended to read as follows:

Sec. 5739.01. As used in this chapter:

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

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

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

both, of tangible personal property, is or is to be transferred, 18
or a license to use or consume tangible personal property is or 19
is to be granted; 20

(2) All transactions by which lodging by a hotel is or is 21
to be furnished to transient guests; 22

(3) All transactions by which: 23

(a) An item of tangible personal property is or is to be 24
repaired, except property, the purchase of which would not be 25
subject to the tax imposed by section 5739.02 of the Revised 26
Code; 27

(b) An item of tangible personal property is or is to be 28
installed, except property, the purchase of which would not be 29
subject to the tax imposed by section 5739.02 of the Revised 30
Code or property that is or is to be incorporated into and will 31
become a part of a production, transmission, transportation, or 32
distribution system for the delivery of a public utility 33
service; 34

(c) The service of washing, cleaning, waxing, polishing, 35
or painting a motor vehicle is or is to be furnished; 36

(d) Laundry and dry cleaning services are or are to be 37
provided; 38

(e) Automatic data processing, computer services, or 39
electronic information services are or are to be provided for 40
use in business when the true object of the transaction is the 41
receipt by the consumer of automatic data processing, computer 42
services, or electronic information services rather than the 43
receipt of personal or professional services to which automatic 44
data processing, computer services, or electronic information 45
services are incidental or supplemental. Notwithstanding any 46

other provision of this chapter, such transactions that occur 47
between members of an affiliated group are not sales. An 48
"affiliated group" means two or more persons related in such a 49
way that one person owns or controls the business operation of 50
another member of the group. In the case of corporations with 51
stock, one corporation owns or controls another if it owns more 52
than fifty per cent of the other corporation's common stock with 53
voting rights. 54

(f) Telecommunications service, including prepaid calling 55
service, prepaid wireless calling service, or ancillary service, 56
is or is to be provided, but not including coin-operated 57
telephone service; 58

(g) Landscaping and lawn care service is or is to be 59
provided; 60

(h) Private investigation and security service is or is to 61
be provided; 62

(i) Information services or tangible personal property is 63
provided or ordered by means of a nine hundred telephone call; 64

(j) Building maintenance and janitorial service is or is 65
to be provided; 66

(k) Employment service is or is to be provided; 67

(l) Employment placement service is or is to be provided; 68

(m) Exterminating service is or is to be provided; 69

(n) Physical fitness facility service is or is to be 70
provided, unless such service is or is to be provided by an 71
organization described under section 501(c)(3) of the Internal 72
Revenue Code and exempt from federal income taxation under 73
section 501(a) of the Internal Revenue Code; 74

(o) Recreation and sports club service is or is to be 75
provided, unless such service is or is to be provided by an 76
organization described under section 501(c)(3) of the Internal 77
Revenue Code and exempt from federal income taxation under 78
section 501(a) of the Internal Revenue Code; 79

(p) Satellite broadcasting service is or is to be 80
provided; 81

(q) Personal care service is or is to be provided to an 82
individual. As used in this division, "personal care service" 83
includes skin care, the application of cosmetics, manicuring, 84
pedicuring, hair removal, tattooing, body piercing, tanning, 85
massage, and other similar services. "Personal care service" 86
does not include a service provided by or on the order of a 87
licensed physician or licensed chiropractor, or the cutting, 88
coloring, or styling of an individual's hair. 89

(r) The transportation of persons by motor vehicle or 90
aircraft is or is to be provided, when the transportation is 91
entirely within this state, except for transportation provided 92
by an ambulance service, by a transit bus, as defined in section 93
5735.01 of the Revised Code, and transportation provided by a 94
citizen of the United States holding a certificate of public 95
convenience and necessity issued under 49 U.S.C. 41102; 96

(s) Motor vehicle towing service is or is to be provided. 97
As used in this division, "motor vehicle towing service" means 98
the towing or conveyance of a wrecked, disabled, or illegally 99
parked motor vehicle. 100

(t) Snow removal service is or is to be provided. As used 101
in this division, "snow removal service" means the removal of 102
snow by any mechanized means, but does not include the providing 103

of such service by a person that has less than five thousand 104
dollars in sales of such service during the calendar year. 105

(u) Electronic publishing service is or is to be provided 106
to a consumer for use in business, except that such transactions 107
occurring between members of an affiliated group, as defined in 108
division (B) (3) (e) of this section, are not sales. 109

(4) All transactions by which printed, imprinted, 110
overprinted, lithographic, multilithic, blueprinted, 111
photostatic, or other productions or reproductions of written or 112
graphic matter are or are to be furnished or transferred; 113

(5) The production or fabrication of tangible personal 114
property for a consideration for consumers who furnish either 115
directly or indirectly the materials used in the production of 116
fabrication work; and include the furnishing, preparing, or 117
serving for a consideration of any tangible personal property 118
consumed on the premises of the person furnishing, preparing, or 119
serving such tangible personal property. Except as provided in 120
section 5739.03 of the Revised Code, a construction contract 121
pursuant to which tangible personal property is or is to be 122
incorporated into a structure or improvement on and becoming a 123
part of real property is not a sale of such tangible personal 124
property. The construction contractor is the consumer of such 125
tangible personal property, provided that the sale and 126
installation of carpeting, the sale and installation of 127
agricultural land tile, the sale and erection or installation of 128
portable grain bins, or the provision of landscaping and lawn 129
care service and the transfer of property as part of such 130
service is never a construction contract. 131

As used in division (B) (5) of this section: 132

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

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

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

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

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

(9) All transactions by which tangible personal property 162
is or is to be stored, except such property that the consumer of 163
the storage holds for sale in the regular course of business; 164

(10) All transactions in which "guaranteed auto 165
protection" is provided whereby a person promises to pay to the 166
consumer the difference between the amount the consumer receives 167
from motor vehicle insurance and the amount the consumer owes to 168
a person holding title to or a lien on the consumer's motor 169
vehicle in the event the consumer's motor vehicle suffers a 170
total loss under the terms of the motor vehicle insurance policy 171
or is stolen and not recovered, if the protection and its price 172
are included in the purchase or lease agreement; 173

(11) (a) Except as provided in division (B) (11) (b) of this 174
section, all transactions by which health care services are paid 175
for, reimbursed, provided, delivered, arranged for, or otherwise 176
made available by a medicaid health insuring corporation 177
pursuant to the corporation's contract with the state. 178

(b) If the centers for medicare and medicaid services of 179
the United States department of health and human services 180
determines that the taxation of transactions described in 181
division (B) (11) (a) of this section constitutes an impermissible 182
health care-related tax under the "Social Security Act," section 183
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 184
the medicaid director shall notify the tax commissioner of that 185
determination. Beginning with the first day of the month 186
following that notification, the transactions described in 187
division (B) (11) (a) of this section are not sales for the 188
purposes of this chapter or Chapter 5741. of the Revised Code. 189
The tax commissioner shall order that the collection of taxes 190
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 191

5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 192
for transactions occurring on or after that date. 193

(12) All transactions by which a specified digital product 194
is provided for permanent use or less than permanent use, 195
regardless of whether continued payment is required. 196

Except as provided in this section, "sale" and "selling" 197
do not include transfers of interest in leased property where 198
the original lessee and the terms of the original lease 199
agreement remain unchanged, or professional, insurance, or 200
personal service transactions that involve the transfer of 201
tangible personal property as an inconsequential element, for 202
which no separate charges are made. 203

(C) "Vendor" means the person providing the service or by 204
whom the transfer effected or license given by a sale is or is 205
to be made or given and, for sales described in division (B)(3) 206
(i) of this section, the telecommunications service vendor that 207
provides the nine hundred telephone service; if two or more 208
persons are engaged in business at the same place of business 209
under a single trade name in which all collections on account of 210
sales by each are made, such persons shall constitute a single 211
vendor. 212

Physicians, dentists, hospitals, and veterinarians who are 213
engaged in selling tangible personal property as received from 214
others, such as eyeglasses, mouthwashes, dentifrices, or similar 215
articles, are vendors. Veterinarians who are engaged in 216
transferring to others for a consideration drugs, the dispensing 217
of which does not require an order of a licensed veterinarian or 218
physician under federal law, are vendors. 219

The operator of any peer-to-peer car sharing program shall 220

be considered to be the vendor. 221

(D) (1) "Consumer" means the person for whom the service is 222
provided, to whom the transfer effected or license given by a 223
sale is or is to be made or given, to whom the service described 224
in division (B) (3) (f) or (i) of this section is charged, or to 225
whom the admission is granted. 226

(2) Physicians, dentists, hospitals, and blood banks 227
operated by nonprofit institutions and persons licensed to 228
practice veterinary medicine, surgery, and dentistry are 229
consumers of all tangible personal property and services 230
purchased by them in connection with the practice of medicine, 231
dentistry, the rendition of hospital or blood bank service, or 232
the practice of veterinary medicine, surgery, and dentistry. In 233
addition to being consumers of drugs administered by them or by 234
their assistants according to their direction, veterinarians 235
also are consumers of drugs that under federal law may be 236
dispensed only by or upon the order of a licensed veterinarian 237
or physician, when transferred by them to others for a 238
consideration to provide treatment to animals as directed by the 239
veterinarian. 240

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

(4) (a) In the case of a person who purchases printed 248
matter for the purpose of distributing it or having it 249
distributed to the public or to a designated segment of the 250

public, free of charge, that person is the consumer of that 251
printed matter, and the purchase of that printed matter for that 252
purpose is a sale. 253

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

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

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

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

(7) In the case of a transaction for health care services 279

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

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

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

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

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

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

(ii) The cost of materials used, labor or service costs, 307
interest, losses, all costs of transportation to the vendor, all 308

taxes imposed on the vendor, including the tax imposed under	309
Chapter 5751. of the Revised Code, and any other expense of the	310
vendor;	311
(iii) Charges by the vendor for any services necessary to	312
complete the sale;	313
(iv) Delivery charges. As used in this division, "delivery	314
charges" means charges by the vendor for preparation and	315
delivery to a location designated by the consumer of tangible	316
personal property or a service, including transportation,	317
shipping, postage, handling, crating, and packing.	318
(v) Installation charges;	319
(vi) Credit for any trade-in.	320
(b) "Price" includes consideration received by the vendor	321
from a third party, if the vendor actually receives the	322
consideration from a party other than the consumer, and the	323
consideration is directly related to a price reduction or	324
discount on the sale; the vendor has an obligation to pass the	325
price reduction or discount through to the consumer; the amount	326
of the consideration attributable to the sale is fixed and	327
determinable by the vendor at the time of the sale of the item	328
to the consumer; and one of the following criteria is met:	329
(i) The consumer presents a coupon, certificate, or other	330
document to the vendor to claim a price reduction or discount	331
where the coupon, certificate, or document is authorized,	332
distributed, or granted by a third party with the understanding	333
that the third party will reimburse any vendor to whom the	334
coupon, certificate, or document is presented;	335
(ii) The consumer identifies the consumer's self to the	336
seller as a member of a group or organization entitled to a	337

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

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

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

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

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

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

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

(v) The dollar value of a gift card that is not sold by a 364
vendor or purchased by a consumer and that is redeemed by the 365
consumer in purchasing tangible personal property or services if 366

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

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

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

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

(I) "Receipts" means the total amount of the prices of the 396

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

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

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

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

(M) "Hotel" means every establishment kept, used, 425
maintained, advertised, or held out to the public to be a place 426

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

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

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

(P) "Used directly in the rendition of a public utility 445
service" means that property that is to be incorporated into and 446
will become a part of the consumer's production, transmission, 447
transportation, or distribution system and that retains its 448
classification as tangible personal property after such 449
incorporation; fuel or power used in the production, 450
transmission, transportation, or distribution system; and 451
tangible personal property used in the repair and maintenance of 452
the production, transmission, transportation, or distribution 453
system, including only such motor vehicles as are specially 454
designed and equipped for such use. Tangible personal property 455
and services used primarily in providing highway transportation 456

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

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

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

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

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

(U) "Transit authority" means a regional transit authority 482
created pursuant to section 306.31 of the Revised Code or a 483
county in which a county transit system is created pursuant to 484
section 306.01 of the Revised Code. For the purposes of this 485

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

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

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

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

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

(b) "Computer services" means providing services 511
consisting of specifying computer hardware configurations and 512
evaluating technical processing characteristics, computer 513
programming, and training of computer programmers and operators, 514

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

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

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

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

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

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

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

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

(b) Analyzing business policies and procedures; 539

(c) Identifying management information needs; 540

(d) Feasibility studies, including economic and technical 541

analysis of existing or potential computer hardware or software needs and alternatives;	542 543
(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;	544 545 546 547 548
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	549 550 551
(g) Testing of business procedures;	552
(h) Training personnel in business procedure applications;	553
(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;	554 555 556 557 558 559 560
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	561 562
(k) Providing digital advertising services.	563
The services listed in divisions (Y) (2) (a) to (k) of this section are not automatic data processing or computer services.	564 565
(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:	566 567 568

(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 highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

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

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

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where

the consumer's primary purpose for the underlying transaction is	599
the processed data or information;	600
(b) Installation or maintenance of wiring or equipment on	601
a customer's premises;	602
(c) Tangible personal property;	603
(d) Advertising, including directory advertising;	604
(e) Billing and collection services provided to third	605
parties;	606
(f) Internet access service;	607
(g) Radio and television audio and video programming	608
services, regardless of the medium, including the furnishing of	609
transmission, conveyance, and routing of such services by the	610
programming service provider. Radio and television audio and	611
video programming services include, but are not limited to,	612
cable service, as defined in 47 U.S.C. 522(6), and audio and	613
video programming services delivered by commercial mobile radio	614
service providers, as defined in 47 C.F.R. 20.3;	615
(h) Ancillary service;	616
(i) Digital products delivered electronically, including	617
software, music, video, reading materials, or ring tones.	618
(2) "Ancillary service" means a service that is associated	619
with or incidental to the provision of telecommunications	620
service, including conference bridging service, detailed	621
telecommunications billing service, directory assistance,	622
vertical service, and voice mail service. As used in this	623
division:	624
(a) "Conference bridging service" means an ancillary	625

service that links two or more participants of an audio or video conference call, including providing a telephone number. 626
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"Conference bridging service" does not include 628
telecommunications services used to reach the conference bridge. 629

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. 630
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(c) "Directory assistance" means an ancillary service of providing telephone number or address information. 633
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(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. 635
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(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. 640
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(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. 645
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(4) "Prepaid calling service" means the right to access 655
exclusively telecommunications services, which must be paid for 656
in advance and which enables the origination of calls using an 657
access number or authorization code, whether manually or 658
electronically dialed, and that is sold in predetermined units 659
or dollars of which the number declines with use in a known 660
amount. 661

(5) "Prepaid wireless calling service" means a 662
telecommunications service that provides the right to utilize 663
mobile telecommunications service as well as other non- 664
telecommunications services, including the download of digital 665
products delivered electronically, and content and ancillary 666
services, that must be paid for in advance and that is sold in 667
predetermined units or dollars of which the number declines with 668
use in a known amount. 669

(6) "Value-added non-voice data service" means a 670
telecommunications service in which computer processing 671
applications are used to act on the form, content, code, or 672
protocol of the information or data primarily for a purpose 673
other than transmission, conveyance, or routing. 674

(7) "Coin-operated telephone service" means a 675
telecommunications service paid for by inserting money into a 676
telephone accepting direct deposits of money to operate. 677

(8) "Customer" has the same meaning as in section 5739.034 678
of the Revised Code. 679

(BB) "Laundry and dry cleaning services" means removing 680
soil or dirt from towels, linens, articles of clothing, or other 681
fabric items that belong to others and supplying towels, linens, 682
articles of clothing, or other fabric items. "Laundry and dry 683

cleaning services" does not include the provision of self- 684
service facilities for use by consumers to remove soil or dirt 685
from towels, linens, articles of clothing, or other fabric 686
items. 687

(CC) "Magazines distributed as controlled circulation 688
publications" means magazines containing at least twenty-four 689
pages, at least twenty-five per cent editorial content, issued 690
at regular intervals four or more times a year, and circulated 691
without charge to the recipient, provided that such magazines 692
are not owned or controlled by individuals or business concerns 693
which conduct such publications as an auxiliary to, and 694
essentially for the advancement of the main business or calling 695
of, those who own or control them. 696

(DD) "Landscaping and lawn care service" means the 697
services of planting, seeding, sodding, removing, cutting, 698
trimming, pruning, mulching, aerating, applying chemicals, 699
watering, fertilizing, and providing similar services to 700
establish, promote, or control the growth of trees, shrubs, 701
flowers, grass, ground cover, and other flora, or otherwise 702
maintaining a lawn or landscape grown or maintained by the owner 703
for ornamentation or other nonagricultural purpose. However, 704
"landscaping and lawn care service" does not include the 705
providing of such services by a person who has less than five 706
thousand dollars in sales of such services during the calendar 707
year. 708

(EE) "Private investigation and security service" means 709
the performance of any activity for which the provider of such 710
service is required to be licensed pursuant to Chapter 4749. of 711
the Revised Code, or would be required to be so licensed in 712
performing such services in this state, and also includes the 713

services of conducting polygraph examinations and of monitoring 714
or overseeing the activities on or in, or the condition of, the 715
consumer's home, business, or other facility by means of 716
electronic or similar monitoring devices. "Private investigation 717
and security service" does not include special duty services 718
provided by off-duty police officers, deputy sheriffs, and other 719
peace officers regularly employed by the state or a political 720
subdivision. 721

(FF) "Information services" means providing conversation, 722
giving consultation or advice, playing or making a voice or 723
other recording, making or keeping a record of the number of 724
callers, and any other service provided to a consumer by means 725
of a nine hundred telephone call, except when the nine hundred 726
telephone call is the means by which the consumer makes a 727
contribution to a recognized charity. 728

(GG) "Research and development" means designing, creating, 729
or formulating new or enhanced products, equipment, or 730
manufacturing processes, and also means conducting scientific or 731
technological inquiry and experimentation in the physical 732
sciences with the goal of increasing scientific knowledge which 733
may reveal the bases for new or enhanced products, equipment, or 734
manufacturing processes. 735

(HH) "Qualified research and development equipment" means 736
capitalized tangible personal property, and leased personal 737
property that would be capitalized if purchased, used by a 738
person primarily to perform research and development. Tangible 739
personal property primarily used in testing, as defined in 740
division (A)(4) of section 5739.011 of the Revised Code, or used 741
for recording or storing test results, is not qualified research 742
and development equipment unless such property is primarily used 743

by the consumer in testing the product, equipment, or 744
manufacturing process being created, designed, or formulated by 745
the consumer in the research and development activity or in 746
recording or storing such test results. 747

(II) "Building maintenance and janitorial service" means 748
cleaning the interior or exterior of a building and any tangible 749
personal property located therein or thereon, including any 750
services incidental to such cleaning for which no separate 751
charge is made. However, "building maintenance and janitorial 752
service" does not include the providing of such service by a 753
person who has less than five thousand dollars in sales of such 754
service during the calendar year. As used in this division, 755
"cleaning" does not include sanitation services necessary for an 756
establishment described in 21 U.S.C. 608 to comply with rules 757
and regulations adopted pursuant to that section. 758

(JJ) "Employment service" means providing or supplying 759
personnel, on a temporary or long-term basis, to perform work or 760
labor under the supervision or control of another, when the 761
personnel so provided or supplied receive their wages, salary, 762
or other compensation from the provider or supplier of the 763
employment service or from a third party that provided or 764
supplied the personnel to the provider or supplier. "Employment 765
service" does not include: 766

(1) Acting as a contractor or subcontractor, where the 767
personnel performing the work are not under the direct control 768
of the purchaser. 769

(2) Medical and health care services. 770

(3) Supplying personnel to a purchaser pursuant to a 771
contract of at least one year between the service provider and 772

the purchaser that specifies that each employee covered under 773
the contract is assigned to the purchaser on a permanent basis. 774

(4) Transactions between members of an affiliated group, 775
as defined in division (B)(3)(e) of this section. 776

(5) Transactions where the personnel so provided or 777
supplied by a provider or supplier to a purchaser of an 778
employment service are then provided or supplied by that 779
purchaser to a third party as an employment service, except 780
"employment service" does include the transaction between that 781
purchaser and the third party. 782

(KK) "Employment placement service" means locating or 783
finding employment for a person or finding or locating an 784
employee to fill an available position. 785

(LL) "Exterminating service" means eradicating or 786
attempting to eradicate vermin infestations from a building or 787
structure, or the area surrounding a building or structure, and 788
includes activities to inspect, detect, or prevent vermin 789
infestation of a building or structure. 790

(MM) "Physical fitness facility service" means all 791
transactions by which a membership is granted, maintained, or 792
renewed, including initiation fees, membership dues, renewal 793
fees, monthly minimum fees, and other similar fees and dues, by 794
a physical fitness facility such as an athletic club, health 795
spa, or gymnasium, which entitles the member to use the facility 796
for physical exercise. 797

(NN) "Recreation and sports club service" means all 798
transactions by which a membership is granted, maintained, or 799
renewed, including initiation fees, membership dues, renewal 800
fees, monthly minimum fees, and other similar fees and dues, by 801

a recreation and sports club, which entitles the member to use 802
the facilities of the organization. "Recreation and sports club" 803
means an organization that has ownership of, or controls or 804
leases on a continuing, long-term basis, the facilities used by 805
its members and includes an aviation club, gun or shooting club, 806
yacht club, card club, swimming club, tennis club, golf club, 807
country club, riding club, amateur sports club, or similar 808
organization. 809

(OO) "Livestock" means farm animals commonly raised for 810
food, food production, or other agricultural purposes, 811
including, but not limited to, cattle, sheep, goats, swine, 812
poultry, and captive deer. "Livestock" does not include 813
invertebrates, amphibians, reptiles, domestic pets, animals for 814
use in laboratories or for exhibition, or other animals not 815
commonly raised for food or food production. 816

(PP) "Livestock structure" means a building or structure 817
used exclusively for the housing, raising, feeding, or 818
sheltering of livestock, and includes feed storage or handling 819
structures and structures for livestock waste handling. 820

(QQ) "Horticulture" means the growing, cultivation, and 821
production of flowers, fruits, herbs, vegetables, sod, 822
mushrooms, and nursery stock. As used in this division, "nursery 823
stock" has the same meaning as in section 927.51 of the Revised 824
Code. 825

(RR) "Horticulture structure" means a building or 826
structure used exclusively for the commercial growing, raising, 827
or overwintering of horticultural products, and includes the 828
area used for stocking, storing, and packing horticultural 829
products when done in conjunction with the production of those 830
products. 831

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

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

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

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

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

(a) A transfer of possession or control of tangible 862
personal property under a security agreement or a deferred 863
payment plan that requires the transfer of title upon completion 864
of the required payments; 865

(b) A transfer of possession or control of tangible 866
personal property under an agreement that requires the transfer 867
of title upon completion of required payments and payment of an 868
option price that does not exceed the greater of one hundred 869
dollars or one per cent of the total required payments; 870

(c) Providing tangible personal property along with an 871
operator for a fixed or indefinite period of time, if the 872
operator is necessary for the property to perform as designed. 873
For purposes of this division, the operator must do more than 874
maintain, inspect, or set up the tangible personal property. 875

(2) "Lease" and "rental," as defined in division (UU) of 876
this section, shall not apply to leases or rentals that exist 877
before June 26, 2003. 878

(3) "Lease" and "rental" have the same meaning as in 879
division (UU) (1) of this section regardless of whether a 880
transaction is characterized as a lease or rental under 881
generally accepted accounting principles, the Internal Revenue 882
Code, Title XIII of the Revised Code, or other federal, state, 883
or local laws. 884

(VV) "Mobile telecommunications service" has the same 885
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 886
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 887
amended, and, on and after August 1, 2003, includes related fees 888
and ancillary services, including universal service fees, 889
detailed billing service, directory assistance, service 890

initiation, voice mail service, and vertical services, such as 891
caller ID and three-way calling. 892

(WW) "Certified service provider" has the same meaning as 893
in section 5740.01 of the Revised Code. 894

(XX) "Satellite broadcasting service" means the 895
distribution or broadcasting of programming or services by 896
satellite directly to the subscriber's receiving equipment 897
without the use of ground receiving or distribution equipment, 898
except the subscriber's receiving equipment or equipment used in 899
the uplink process to the satellite, and includes all service 900
and rental charges, premium channels or other special services, 901
installation and repair service charges, and any other charges 902
having any connection with the provision of the satellite 903
broadcasting service. 904

(YY) "Tangible personal property" means personal property 905
that can be seen, weighed, measured, felt, or touched, or that 906
is in any other manner perceptible to the senses. For purposes 907
of this chapter and Chapter 5741. of the Revised Code, "tangible 908
personal property" includes motor vehicles, electricity, water, 909
gas, steam, and prewritten computer software. 910

(ZZ) "Municipal gas utility" means a municipal corporation 911
that owns or operates a system for the distribution of natural 912
gas. 913

(AAA) "Computer" means an electronic device that accepts 914
information in digital or similar form and manipulates it for a 915
result based on a sequence of instructions. 916

(BBB) "Computer software" means a set of coded 917
instructions designed to cause a computer or automatic data 918
processing equipment to perform a task. 919

(CCC) "Delivered electronically" means delivery of 920
computer software from the seller to the purchaser by means 921
other than tangible storage media. 922

(DDD) "Prewritten computer software" means computer 923
software, including prewritten upgrades, that is not designed 924
and developed by the author or other creator to the 925
specifications of a specific purchaser. The combining of two or 926
more prewritten computer software programs or prewritten 927
portions thereof does not cause the combination to be other than 928
prewritten computer software. "Prewritten computer software" 929
includes software designed and developed by the author or other 930
creator to the specifications of a specific purchaser when it is 931
sold to a person other than the purchaser. If a person modifies 932
or enhances computer software of which the person is not the 933
author or creator, the person shall be deemed to be the author 934
or creator only of such person's modifications or enhancements. 935
Prewritten computer software or a prewritten portion thereof 936
that is modified or enhanced to any degree, where such 937
modification or enhancement is designed and developed to the 938
specifications of a specific purchaser, remains prewritten 939
computer software; provided, however, that where there is a 940
reasonable, separately stated charge or an invoice or other 941
statement of the price given to the purchaser for the 942
modification or enhancement, the modification or enhancement 943
shall not constitute prewritten computer software. 944

(EEE) (1) "Food" means substances, whether in liquid, 945
concentrated, solid, frozen, dried, or dehydrated form, that are 946
sold for ingestion or chewing by humans and are consumed for 947
their taste or nutritional value. "Food" does not include 948
alcoholic beverages, dietary supplements, soft drinks, or 949
tobacco. 950

(2) As used in division (EEE) (1) of this section:	951
(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.	952 953 954
(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:	955 956 957 958 959 960 961 962 963 964
(i) A vitamin;	965
(ii) A mineral;	966
(iii) An herb or other botanical;	967
(iv) An amino acid;	968
(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;	969 970
(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE) (2) (b) (i) to (v) of this section.	971 972 973
(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.	974 975 976 977 978

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.	979 980
(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.	981 982 983 984 985 986 987 988 989
(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.	990 991 992 993
(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment.	994 995 996 997 998 999 1000
(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. "Mobility enhancing	1001 1002 1003 1004 1005 1006 1007 1008

equipment" does not include durable medical equipment. 1009

(JJJ) "Prosthetic device" means a replacement, corrective, 1010
or supportive device, including repair and replacement parts for 1011
the device, worn on or in the human body to artificially replace 1012
a missing portion of the body, prevent or correct physical 1013
deformity or malfunction, or support a weak or deformed portion 1014
of the body. As used in this division, before July 1, 2019, 1015
"prosthetic device" does not include corrective eyeglasses, 1016
contact lenses, or dental prosthesis. On or after July 1, 2019, 1017
"prosthetic device" does not include dental prosthesis but does 1018
include corrective eyeglasses or contact lenses. 1019

(KKK) (1) "Fractional aircraft ownership program" means a 1020
program in which persons within an affiliated group sell and 1021
manage fractional ownership program aircraft, provided that at 1022
least one hundred airworthy aircraft are operated in the program 1023
and the program meets all of the following criteria: 1024

(a) Management services are provided by at least one 1025
program manager within an affiliated group on behalf of the 1026
fractional owners. 1027

(b) Each program aircraft is owned or possessed by at 1028
least one fractional owner. 1029

(c) Each fractional owner owns or possesses at least a 1030
one-sixteenth interest in at least one fixed-wing program 1031
aircraft. 1032

(d) A dry-lease aircraft interchange arrangement is in 1033
effect among all of the fractional owners. 1034

(e) Multi-year program agreements are in effect regarding 1035
the fractional ownership, management services, and dry-lease 1036
aircraft interchange arrangement aspects of the program. 1037

(2) As used in division (KKK) (1) of this section:	1038
(a) "Affiliated group" has the same meaning as in division (B) (3) (e) of this section.	1039 1040
(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 (KKK) (1) (e) of this section.	1041 1042 1043 1044
(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 (KKK) (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.	1045 1046 1047 1048 1049 1050 1051
(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 (KKK) (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 fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.	1052 1053 1054 1055 1056 1057 1058 1059 1060 1061 1062 1063 1064 1065
(e) "Program manager" means the person that offers	1066

management services to fractional owners pursuant to a 1067
management services agreement under division (KKK) (1) (e) of this 1068
section. 1069

(LLL) "Electronic publishing" means providing access to 1070
one or more of the following primarily for business customers, 1071
including the federal government or a state government or a 1072
political subdivision thereof, to conduct research: news; 1073
business, financial, legal, consumer, or credit materials; 1074
editorials, columns, reader commentary, or features; photos or 1075
images; archival or research material; legal notices, identity 1076
verification, or public records; scientific, educational, 1077
instructional, technical, professional, trade, or other literary 1078
materials; or other similar information which has been gathered 1079
and made available by the provider to the consumer in an 1080
electronic format. Providing electronic publishing includes the 1081
functions necessary for the acquisition, formatting, editing, 1082
storage, and dissemination of data or information that is the 1083
subject of a sale. 1084

(MMM) "Medicaid health insuring corporation" means a 1085
health insuring corporation that holds a certificate of 1086
authority under Chapter 1751. of the Revised Code and is under 1087
contract with the department of medicaid pursuant to section 1088
5167.10 of the Revised Code. 1089

(NNN) "Managed care premium" means any premium, 1090
capitation, or other payment a medicaid health insuring 1091
corporation receives for providing or arranging for the 1092
provision of health care services to its members or enrollees 1093
residing in this state. 1094

(OOO) "Captive deer" means deer and other cervidae that 1095
have been legally acquired, or their offspring, that are 1096

privately owned for agricultural or farming purposes. 1097

(PPP) "Gift card" means a document, card, certificate, or 1098
other record, whether tangible or intangible, that may be 1099
redeemed by a consumer for a dollar value when making a purchase 1100
of tangible personal property or services. 1101

(QQQ) "Specified digital product" means an electronically 1102
transferred digital audiovisual work, digital audio work, or 1103
digital book. 1104

As used in division (QQQ) of this section: 1105

(1) "Digital audiovisual work" means a series of related 1106
images that, when shown in succession, impart an impression of 1107
motion, together with accompanying sounds, if any. 1108

(2) "Digital audio work" means a work that results from 1109
the fixation of a series of musical, spoken, or other sounds, 1110
including digitized sound files that are downloaded onto a 1111
device and that may be used to alert the customer with respect 1112
to a communication. 1113

(3) "Digital book" means a work that is generally 1114
recognized in the ordinary and usual sense as a book. 1115

(4) "Electronically transferred" means obtained by the 1116
purchaser by means other than tangible storage media. 1117

(RRR) "Digital advertising services" means providing 1118
access, by means of telecommunications equipment, to computer 1119
equipment that is used to enter, upload, download, review, 1120
manipulate, store, add, or delete data for the purpose of 1121
electronically displaying, delivering, placing, or transferring 1122
promotional advertisements to potential customers about products 1123
or services or about industry or business brands. 1124

(SSS) "Peer-to-peer car sharing program" has the same	1125
meaning as in section 4516.01 of the Revised Code.	1126
Section 2. That existing section 5739.01 of the Revised	1127
Code is hereby repealed.	1128
Section 3. The amendment by this act of section 5739.01 of	1129
the Revised Code applies on and after the first day of the first	1130
month beginning after the effective date of this section.	1131