

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**S. B. No. 98**

**Senator Antani**

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**A BILL**

To amend section 5739.02 of the Revised Code to 1  
exempt from sales and use tax things used 2  
primarily to move completed manufactured 3  
products or general merchandise. 4

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

**Section 1.** That section 5739.02 of the Revised Code be 5  
amended to read as follows: 6

**Sec. 5739.02.** For the purpose of providing revenue with 7  
which to meet the needs of the state, for the use of the general 8  
revenue fund of the state, for the purpose of securing a 9  
thorough and efficient system of common schools throughout the 10  
state, for the purpose of affording revenues, in addition to 11  
those from general property taxes, permitted under 12  
constitutional limitations, and from other sources, for the 13  
support of local governmental functions, and for the purpose of 14  
reimbursing the state for the expense of administering this 15  
chapter, an excise tax is hereby levied on each retail sale made 16  
in this state. 17

(A) (1) The tax shall be collected as provided in section 18  
5739.025 of the Revised Code. The rate of the tax shall be five 19

and three-fourths per cent. The tax applies and is collectible 20  
when the sale is made, regardless of the time when the price is 21  
paid or delivered. 22

(2) In the case of the lease or rental, with a fixed term 23  
of more than thirty days or an indefinite term with a minimum 24  
period of more than thirty days, of any motor vehicles designed 25  
by the manufacturer to carry a load of not more than one ton, 26  
watercraft, outboard motor, or aircraft, or of any tangible 27  
personal property, other than motor vehicles designed by the 28  
manufacturer to carry a load of more than one ton, to be used by 29  
the lessee or renter primarily for business purposes, the tax 30  
shall be collected by the vendor at the time the lease or rental 31  
is consummated and shall be calculated by the vendor on the 32  
basis of the total amount to be paid by the lessee or renter 33  
under the lease agreement. If the total amount of the 34  
consideration for the lease or rental includes amounts that are 35  
not calculated at the time the lease or rental is executed, the 36  
tax shall be calculated and collected by the vendor at the time 37  
such amounts are billed to the lessee or renter. In the case of 38  
an open-end lease or rental, the tax shall be calculated by the 39  
vendor on the basis of the total amount to be paid during the 40  
initial fixed term of the lease or rental, and for each 41  
subsequent renewal period as it comes due. As used in this 42  
division, "motor vehicle" has the same meaning as in section 43  
4501.01 of the Revised Code, and "watercraft" includes an 44  
outdrive unit attached to the watercraft. 45

A lease with a renewal clause and a termination penalty or 46  
similar provision that applies if the renewal clause is not 47  
exercised is presumed to be a sham transaction. In such a case, 48  
the tax shall be calculated and paid on the basis of the entire 49  
length of the lease period, including any renewal periods, until 50

the termination penalty or similar provision no longer applies. 51  
The taxpayer shall bear the burden, by a preponderance of the 52  
evidence, that the transaction or series of transactions is not 53  
a sham transaction. 54

(3) Except as provided in division (A) (2) of this section, 55  
in the case of a sale, the price of which consists in whole or 56  
in part of the lease or rental of tangible personal property, 57  
the tax shall be measured by the installments of that lease or 58  
rental. 59

(4) In the case of a sale of a physical fitness facility 60  
service or recreation and sports club service, the price of 61  
which consists in whole or in part of a membership for the 62  
receipt of the benefit of the service, the tax applicable to the 63  
sale shall be measured by the installments thereof. 64

(B) The tax does not apply to the following: 65

(1) Sales to the state or any of its political 66  
subdivisions, or to any other state or its political 67  
subdivisions if the laws of that state exempt from taxation 68  
sales made to this state and its political subdivisions; 69

(2) Sales of food for human consumption off the premises 70  
where sold; 71

(3) Sales of food sold to students only in a cafeteria, 72  
dormitory, fraternity, or sorority maintained in a private, 73  
public, or parochial school, college, or university; 74

(4) Sales of newspapers and sales or transfers of 75  
magazines distributed as controlled circulation publications; 76

(5) The furnishing, preparing, or serving of meals without 77  
charge by an employer to an employee provided the employer 78

records the meals as part compensation for services performed or 79  
work done; 80

(6) (a) Sales of motor fuel upon receipt, use, 81  
distribution, or sale of which in this state a tax is imposed by 82  
the law of this state, but this exemption shall not apply to the 83  
sale of motor fuel on which a refund of the tax is allowable 84  
under division (A) of section 5735.14 of the Revised Code; and 85  
the tax commissioner may deduct the amount of tax levied by this 86  
section applicable to the price of motor fuel when granting a 87  
refund of motor fuel tax pursuant to division (A) of section 88  
5735.14 of the Revised Code and shall cause the amount deducted 89  
to be paid into the general revenue fund of this state; 90

(b) Sales of motor fuel other than that described in 91  
division (B) (6) (a) of this section and used for powering a 92  
refrigeration unit on a vehicle other than one used primarily to 93  
provide comfort to the operator or occupants of the vehicle. 94

(7) Sales of natural gas by a natural gas company or 95  
municipal gas utility, of water by a water-works company, or of 96  
steam by a heating company, if in each case the thing sold is 97  
delivered to consumers through pipes or conduits, and all sales 98  
of communications services by a telegraph company, all terms as 99  
defined in section 5727.01 of the Revised Code, and sales of 100  
electricity delivered through wires; 101

(8) Casual sales by a person, or auctioneer employed 102  
directly by the person to conduct such sales, except as to such 103  
sales of motor vehicles, watercraft or outboard motors required 104  
to be titled under section 1548.06 of the Revised Code, 105  
watercraft documented with the United States coast guard, 106  
snowmobiles, and all-purpose vehicles as defined in section 107  
4519.01 of the Revised Code; 108

(9) (a) Sales of services or tangible personal property, 109  
other than motor vehicles, mobile homes, and manufactured homes, 110  
by churches, organizations exempt from taxation under section 111  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 112  
organizations operated exclusively for charitable purposes as 113  
defined in division (B) (12) of this section, provided that the 114  
number of days on which such tangible personal property or 115  
services, other than items never subject to the tax, are sold 116  
does not exceed six in any calendar year, except as otherwise 117  
provided in division (B) (9) (b) of this section. If the number of 118  
days on which such sales are made exceeds six in any calendar 119  
year, the church or organization shall be considered to be 120  
engaged in business and all subsequent sales by it shall be 121  
subject to the tax. In counting the number of days, all sales by 122  
groups within a church or within an organization shall be 123  
considered to be sales of that church or organization. 124

(b) The limitation on the number of days on which tax- 125  
exempt sales may be made by a church or organization under 126  
division (B) (9) (a) of this section does not apply to sales made 127  
by student clubs and other groups of students of a primary or 128  
secondary school, or a parent-teacher association, booster 129  
group, or similar organization that raises money to support or 130  
fund curricular or extracurricular activities of a primary or 131  
secondary school. 132

(c) Divisions (B) (9) (a) and (b) of this section do not 133  
apply to sales by a noncommercial educational radio or 134  
television broadcasting station. 135

(10) Sales not within the taxing power of this state under 136  
the Constitution or laws of the United States or the 137  
Constitution of this state; 138

(11) Except for transactions that are sales under division 139  
(B) (3) (r) of section 5739.01 of the Revised Code, the 140  
transportation of persons or property, unless the transportation 141  
is by a private investigation and security service; 142

(12) Sales of tangible personal property or services to 143  
churches, to organizations exempt from taxation under section 144  
501(c) (3) of the Internal Revenue Code of 1986, and to any other 145  
nonprofit organizations operated exclusively for charitable 146  
purposes in this state, no part of the net income of which 147  
inures to the benefit of any private shareholder or individual, 148  
and no substantial part of the activities of which consists of 149  
carrying on propaganda or otherwise attempting to influence 150  
legislation; sales to offices administering one or more homes 151  
for the aged or one or more hospital facilities exempt under 152  
section 140.08 of the Revised Code; and sales to organizations 153  
described in division (D) of section 5709.12 of the Revised 154  
Code. 155

"Charitable purposes" means the relief of poverty; the 156  
improvement of health through the alleviation of illness, 157  
disease, or injury; the operation of an organization exclusively 158  
for the provision of professional, laundry, printing, and 159  
purchasing services to hospitals or charitable institutions; the 160  
operation of a home for the aged, as defined in section 5701.13 161  
of the Revised Code; the operation of a radio or television 162  
broadcasting station that is licensed by the federal 163  
communications commission as a noncommercial educational radio 164  
or television station; the operation of a nonprofit animal 165  
adoption service or a county humane society; the promotion of 166  
education by an institution of learning that maintains a faculty 167  
of qualified instructors, teaches regular continuous courses of 168  
study, and confers a recognized diploma upon completion of a 169

specific curriculum; the operation of a parent-teacher 170  
association, booster group, or similar organization primarily 171  
engaged in the promotion and support of the curricular or 172  
extracurricular activities of a primary or secondary school; the 173  
operation of a community or area center in which presentations 174  
in music, dramatics, the arts, and related fields are made in 175  
order to foster public interest and education therein; the 176  
production of performances in music, dramatics, and the arts; or 177  
the promotion of education by an organization engaged in 178  
carrying on research in, or the dissemination of, scientific and 179  
technological knowledge and information primarily for the 180  
public. 181

Nothing in this division shall be deemed to exempt sales 182  
to any organization for use in the operation or carrying on of a 183  
trade or business, or sales to a home for the aged for use in 184  
the operation of independent living facilities as defined in 185  
division (A) of section 5709.12 of the Revised Code. 186

(13) Building and construction materials and services sold 187  
to construction contractors for incorporation into a structure 188  
or improvement to real property under a construction contract 189  
with this state or a political subdivision of this state, or 190  
with the United States government or any of its agencies; 191  
building and construction materials and services sold to 192  
construction contractors for incorporation into a structure or 193  
improvement to real property that are accepted for ownership by 194  
this state or any of its political subdivisions, or by the 195  
United States government or any of its agencies at the time of 196  
completion of the structures or improvements; building and 197  
construction materials sold to construction contractors for 198  
incorporation into a horticulture structure or livestock 199  
structure for a person engaged in the business of horticulture 200

or producing livestock; building materials and services sold to 201  
a construction contractor for incorporation into a house of 202  
public worship or religious education, or a building used 203  
exclusively for charitable purposes under a construction 204  
contract with an organization whose purpose is as described in 205  
division (B) (12) of this section; building materials and 206  
services sold to a construction contractor for incorporation 207  
into a building under a construction contract with an 208  
organization exempt from taxation under section 501(c) (3) of the 209  
Internal Revenue Code of 1986 when the building is to be used 210  
exclusively for the organization's exempt purposes; building and 211  
construction materials sold for incorporation into the original 212  
construction of a sports facility under section 307.696 of the 213  
Revised Code; building and construction materials and services 214  
sold to a construction contractor for incorporation into real 215  
property outside this state if such materials and services, when 216  
sold to a construction contractor in the state in which the real 217  
property is located for incorporation into real property in that 218  
state, would be exempt from a tax on sales levied by that state; 219  
building and construction materials for incorporation into a 220  
transportation facility pursuant to a public-private agreement 221  
entered into under sections 5501.70 to 5501.83 of the Revised 222  
Code; and, until one calendar year after the construction of a 223  
convention center that qualifies for property tax exemption 224  
under section 5709.084 of the Revised Code is completed, 225  
building and construction materials and services sold to a 226  
construction contractor for incorporation into the real property 227  
comprising that convention center; 228

(14) Sales of ships or vessels or rail rolling stock used 229  
or to be used principally in interstate or foreign commerce, and 230  
repairs, alterations, fuel, and lubricants for such ships or 231

vessels or rail rolling stock;	232
(15) Sales to persons primarily engaged in any of the	233
activities mentioned in division (B) (42) (a), (g), or (h) of this	234
section, to persons engaged in making retail sales, or to	235
persons who purchase for sale from a manufacturer tangible	236
personal property that was produced by the manufacturer in	237
accordance with specific designs provided by the purchaser, of	238
packages, including material, labels, and parts for packages,	239
and of machinery, equipment, and material for use primarily in	240
packaging tangible personal property produced for sale,	241
including any machinery, equipment, and supplies used to make	242
labels or packages, to prepare packages or products for	243
labeling, or to label packages or products, by or on the order	244
of the person doing the packaging, or sold at retail. "Packages"	245
includes bags, baskets, cartons, crates, boxes, cans, bottles,	246
bindings, wrappings, and other similar devices and containers,	247
but does not include motor vehicles or bulk tanks, trailers, or	248
similar devices attached to motor vehicles. "Packaging" means	249
placing in a package. Division (B) (15) of this section does not	250
apply to persons engaged in highway transportation for hire.	251
(16) Sales of food to persons using supplemental nutrition	252
assistance program benefits to purchase the food. As used in	253
this division, "food" has the same meaning as in 7 U.S.C. 2012	254
and federal regulations adopted pursuant to the Food and	255
Nutrition Act of 2008.	256
(17) Sales to persons engaged in farming, agriculture,	257
horticulture, or floriculture, of tangible personal property for	258
use or consumption primarily in the production by farming,	259
agriculture, horticulture, or floriculture of other tangible	260
personal property for use or consumption primarily in the	261

production of tangible personal property for sale by farming, 262  
agriculture, horticulture, or floriculture; or material and 263  
parts for incorporation into any such tangible personal property 264  
for use or consumption in production; and of tangible personal 265  
property for such use or consumption in the conditioning or 266  
holding of products produced by and for such use, consumption, 267  
or sale by persons engaged in farming, agriculture, 268  
horticulture, or floriculture, except where such property is 269  
incorporated into real property; 270

(18) Sales of drugs for a human being that may be 271  
dispensed only pursuant to a prescription; insulin as recognized 272  
in the official United States pharmacopoeia; urine and blood 273  
testing materials when used by diabetics or persons with 274  
hypoglycemia to test for glucose or acetone; hypodermic syringes 275  
and needles when used by diabetics for insulin injections; 276  
epoetin alfa when purchased for use in the treatment of persons 277  
with medical disease; hospital beds when purchased by hospitals, 278  
nursing homes, or other medical facilities; and medical oxygen 279  
and medical oxygen-dispensing equipment when purchased by 280  
hospitals, nursing homes, or other medical facilities; 281

(19) Sales of prosthetic devices, durable medical 282  
equipment for home use, or mobility enhancing equipment, when 283  
made pursuant to a prescription and when such devices or 284  
equipment are for use by a human being. 285

(20) Sales of emergency and fire protection vehicles and 286  
equipment to nonprofit organizations for use solely in providing 287  
fire protection and emergency services, including trauma care 288  
and emergency medical services, for political subdivisions of 289  
the state; 290

(21) Sales of tangible personal property manufactured in 291

this state, if sold by the manufacturer in this state to a 292  
retailer for use in the retail business of the retailer outside 293  
of this state and if possession is taken from the manufacturer 294  
by the purchaser within this state for the sole purpose of 295  
immediately removing the same from this state in a vehicle owned 296  
by the purchaser; 297

(22) Sales of services provided by the state or any of its 298  
political subdivisions, agencies, instrumentalities, 299  
institutions, or authorities, or by governmental entities of the 300  
state or any of its political subdivisions, agencies, 301  
instrumentalities, institutions, or authorities; 302

(23) Sales of motor vehicles to nonresidents of this state 303  
under the circumstances described in division (B) of section 304  
5739.029 of the Revised Code; 305

(24) Sales to persons engaged in the preparation of eggs 306  
for sale of tangible personal property used or consumed directly 307  
in such preparation, including such tangible personal property 308  
used for cleaning, sanitizing, preserving, grading, sorting, and 309  
classifying by size; packages, including material and parts for 310  
packages, and machinery, equipment, and material for use in 311  
packaging eggs for sale; and handling and transportation 312  
equipment and parts therefor, except motor vehicles licensed to 313  
operate on public highways, used in intraplant or interplant 314  
transfers or shipment of eggs in the process of preparation for 315  
sale, when the plant or plants within or between which such 316  
transfers or shipments occur are operated by the same person. 317  
"Packages" includes containers, cases, baskets, flats, fillers, 318  
filler flats, cartons, closure materials, labels, and labeling 319  
materials, and "packaging" means placing therein. 320

(25) (a) Sales of water to a consumer for residential use; 321

(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.	322 323 324 325
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	326 327
(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:	328 329 330 331
(a) To prepare food for human consumption for sale;	332
(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;	333 334 335 336
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	337 338
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	339 340
(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;	341 342 343 344
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	345 346 347
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the	348 349

Revised Code;	350
(32) The sale, lease, repair, and maintenance of, parts	351
for, or items attached to or incorporated in, motor vehicles	352
that are primarily used for transporting tangible personal	353
property belonging to others by a person engaged in highway	354
transportation for hire, except for packages and packaging used	355
for the transportation of tangible personal property;	356
(33) Sales to the state headquarters of any veterans'	357
organization in this state that is either incorporated and	358
issued a charter by the congress of the United States or is	359
recognized by the United States veterans administration, for use	360
by the headquarters;	361
(34) Sales to a telecommunications service vendor, mobile	362
telecommunications service vendor, or satellite broadcasting	363
service vendor of tangible personal property and services used	364
directly and primarily in transmitting, receiving, switching, or	365
recording any interactive, one- or two-way electromagnetic	366
communications, including voice, image, data, and information,	367
through the use of any medium, including, but not limited to,	368
poles, wires, cables, switching equipment, computers, and record	369
storage devices and media, and component parts for the tangible	370
personal property. The exemption provided in this division shall	371
be in lieu of all other exemptions under division (B) (42) (a) or	372
(n) of this section to which the vendor may otherwise be	373
entitled, based upon the use of the thing purchased in providing	374
the telecommunications, mobile telecommunications, or satellite	375
broadcasting service.	376
(35) (a) Sales where the purpose of the consumer is to use	377
or consume the things transferred in making retail sales and	378
consisting of newspaper inserts, catalogues, coupons, flyers,	379

gift certificates, or other advertising material that prices and	380
describes tangible personal property offered for retail sale.	381
(b) Sales to direct marketing vendors of preliminary	382
materials such as photographs, artwork, and typesetting that	383
will be used in printing advertising material; and of printed	384
matter that offers free merchandise or chances to win sweepstake	385
prizes and that is mailed to potential customers with	386
advertising material described in division (B) (35) (a) of this	387
section;	388
(c) Sales of equipment such as telephones, computers,	389
facsimile machines, and similar tangible personal property	390
primarily used to accept orders for direct marketing retail	391
sales.	392
(d) Sales of automatic food vending machines that preserve	393
food with a shelf life of forty-five days or less by	394
refrigeration and dispense it to the consumer.	395
For purposes of division (B) (35) of this section, "direct	396
marketing" means the method of selling where consumers order	397
tangible personal property by United States mail, delivery	398
service, or telecommunication and the vendor delivers or ships	399
the tangible personal property sold to the consumer from a	400
warehouse, catalogue distribution center, or similar fulfillment	401
facility by means of the United States mail, delivery service,	402
or common carrier.	403
(36) Sales to a person engaged in the business of	404
horticulture or producing livestock of materials to be	405
incorporated into a horticulture structure or livestock	406
structure;	407
(37) Sales of personal computers, computer monitors,	408

computer keyboards, modems, and other peripheral computer 409  
equipment to an individual who is licensed or certified to teach 410  
in an elementary or a secondary school in this state for use by 411  
that individual in preparation for teaching elementary or 412  
secondary school students; 413

(38) Sales of tangible personal property that is not 414  
required to be registered or licensed under the laws of this 415  
state to a citizen of a foreign nation that is not a citizen of 416  
the United States, provided the property is delivered to a 417  
person in this state that is not a related member of the 418  
purchaser, is physically present in this state for the sole 419  
purpose of temporary storage and package consolidation, and is 420  
subsequently delivered to the purchaser at a delivery address in 421  
a foreign nation. As used in division (B)(38) of this section, 422  
"related member" has the same meaning as in section 5733.042 of 423  
the Revised Code, and "temporary storage" means the storage of 424  
tangible personal property for a period of not more than sixty 425  
days. 426

(39) Sales of used manufactured homes and used mobile 427  
homes, as defined in section 5739.0210 of the Revised Code, made 428  
on or after January 1, 2000; 429

(40) Sales of tangible personal property and services to a 430  
provider of electricity used or consumed directly and primarily 431  
in generating, transmitting, or distributing electricity for use 432  
by others, including property that is or is to be incorporated 433  
into and will become a part of the consumer's production, 434  
transmission, or distribution system and that retains its 435  
classification as tangible personal property after 436  
incorporation; fuel or power used in the production, 437  
transmission, or distribution of electricity; energy conversion 438

equipment as defined in section 5727.01 of the Revised Code; and 439  
tangible personal property and services used in the repair and 440  
maintenance of the production, transmission, or distribution 441  
system, including only those motor vehicles as are specially 442  
designed and equipped for such use. The exemption provided in 443  
this division shall be in lieu of all other exemptions in 444  
division (B) (42) (a) or (n) of this section to which a provider 445  
of electricity may otherwise be entitled based on the use of the 446  
tangible personal property or service purchased in generating, 447  
transmitting, or distributing electricity. 448

(41) Sales to a person providing services under division 449  
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 450  
personal property and services used directly and primarily in 451  
providing taxable services under that section. 452

(42) Sales where the purpose of the purchaser is to do any 453  
of the following: 454

(a) To incorporate the thing transferred as a material or 455  
a part into tangible personal property to be produced for sale 456  
by manufacturing, assembling, processing, or refining; or to use 457  
or consume the thing transferred directly in producing tangible 458  
personal property for sale by mining, including, without 459  
limitation, the extraction from the earth of all substances that 460  
are classed geologically as minerals, or directly in the 461  
rendition of a public utility service, except that the sales tax 462  
levied by this section shall be collected upon all meals, 463  
drinks, and food for human consumption sold when transporting 464  
persons. This paragraph does not exempt from "retail sale" or 465  
"sales at retail" the sale of tangible personal property that is 466  
to be incorporated into a structure or improvement to real 467  
property. 468

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;	469 470
(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;	471 472
(d) To use or consume the thing directly in commercial fishing;	473 474
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	475 476 477 478
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	479 480 481 482 483
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	484 485 486
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B) (7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	487 488 489 490 491 492
(i) To use the thing transferred as qualified research and development equipment;	493 494
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased	495 496

sales inventory in a warehouse, distribution center, or similar 497  
facility when the inventory is primarily distributed outside 498  
this state to retail stores of the person who owns or controls 499  
the warehouse, distribution center, or similar facility, to 500  
retail stores of an affiliated group of which that person is a 501  
member, or by means of direct marketing. This division does not 502  
apply to motor vehicles registered for operation on the public 503  
highways. As used in this division, "affiliated group" has the 504  
same meaning as in division (B) (3) (e) of section 5739.01 of the 505  
Revised Code and "direct marketing" has the same meaning as in 506  
division (B) (35) of this section. 507

(k) To use or consume the thing transferred to fulfill a 508  
contractual obligation incurred by a warrantor pursuant to a 509  
warranty provided as a part of the price of the tangible 510  
personal property sold or by a vendor of a warranty, maintenance 511  
or service contract, or similar agreement the provision of which 512  
is defined as a sale under division (B) (7) of section 5739.01 of 513  
the Revised Code; 514

(l) To use or consume the thing transferred in the 515  
production of a newspaper for distribution to the public; 516

(m) To use tangible personal property to perform a service 517  
listed in division (B) (3) of section 5739.01 of the Revised 518  
Code, if the property is or is to be permanently transferred to 519  
the consumer of the service as an integral part of the 520  
performance of the service; 521

(n) To use or consume the thing transferred primarily in 522  
producing tangible personal property for sale by farming, 523  
agriculture, horticulture, or floriculture. Persons engaged in 524  
rendering farming, agriculture, horticulture, or floriculture 525  
services for others are deemed engaged primarily in farming, 526

agriculture, horticulture, or floriculture. This paragraph does 527  
not exempt from "retail sale" or "sales at retail" the sale of 528  
tangible personal property that is to be incorporated into a 529  
structure or improvement to real property. 530

(o) To use or consume the thing transferred in acquiring, 531  
formatting, editing, storing, and disseminating data or 532  
information by electronic publishing; 533

(p) To provide the thing transferred to the owner or 534  
lessee of a motor vehicle that is being repaired or serviced, if 535  
the thing transferred is a rented motor vehicle and the 536  
purchaser is reimbursed for the cost of the rented motor vehicle 537  
by a manufacturer, warrantor, or provider of a maintenance, 538  
service, or other similar contract or agreement, with respect to 539  
the motor vehicle that is being repaired or serviced; 540

(q) To use or consume the thing transferred directly in 541  
production of crude oil and natural gas for sale. Persons 542  
engaged in rendering production services for others are deemed 543  
engaged in production. 544

As used in division (B) (42) (q) of this section, 545  
"production" means operations and tangible personal property 546  
directly used to expose and evaluate an underground reservoir 547  
that may contain hydrocarbon resources, prepare the wellbore for 548  
production, and lift and control all substances yielded by the 549  
reservoir to the surface of the earth. 550

(i) For the purposes of division (B) (42) (q) of this 551  
section, the "thing transferred" includes, but is not limited 552  
to, any of the following: 553

(I) Services provided in the construction of permanent 554  
access roads, services provided in the construction of the well 555

site, and services provided in the construction of temporary impoundments;	556 557
(II) Equipment and rigging used for the specific purpose of creating with integrity a wellbore pathway to underground reservoirs;	558 559 560
(III) Drilling and workover services used to work within a subsurface wellbore, and tangible personal property directly used in providing such services;	561 562 563
(IV) Casing, tubulars, and float and centralizing equipment;	564 565
(V) Trailers to which production equipment is attached;	566
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	567 568 569
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	570 571 572
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	573 574 575 576
(IX) Pressure pumping equipment;	577
(X) Artificial lift systems equipment;	578
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	579 580 581
(XII) Tangible personal property directly used to control	582

production equipment.	583
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	584 585 586
(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;	587 588 589
(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;	590 591 592
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	593 594 595
(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;	596 597 598 599
(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;	600 601 602 603
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	604 605
(VII) Well site fencing, lighting, or security systems;	606
(VIII) Communication devices or services;	607
(IX) Office supplies;	608
(X) Trailers used as offices or lodging;	609

(XI) Motor vehicles of any kind;	610
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	611 612
(XIII) Tangible personal property used primarily as a safety device;	613 614
(XIV) Data collection or monitoring devices;	615
(XV) Access ladders, stairs, or platforms attached to storage tanks.	616 617
The enumeration of tangible personal property in division (B) (42) (q) (ii) 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) of this section.	618 619 620 621 622
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) of this section.	623 624 625 626
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.	627 628 629
(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 of the transaction.	630 631 632 633 634 635 636
(44) Sales of replacement and modification parts for	637

engines, airframes, instruments, and interiors in, and paint 638  
for, aircraft used primarily in a fractional aircraft ownership 639  
program, and sales of services for the repair, modification, and 640  
maintenance of such aircraft, and machinery, equipment, and 641  
supplies primarily used to provide those services. 642

(45) Sales of telecommunications service that is used 643  
directly and primarily to perform the functions of a call 644  
center. As used in this division, "call center" means any 645  
physical location where telephone calls are placed or received 646  
in high volume for the purpose of making sales, marketing, 647  
customer service, technical support, or other specialized 648  
business activity, and that employs at least fifty individuals 649  
that engage in call center activities on a full-time basis, or 650  
sufficient individuals to fill fifty full-time equivalent 651  
positions. 652

(46) Sales by a telecommunications service vendor of 900 653  
service to a subscriber. This division does not apply to 654  
information services. 655

(47) Sales of value-added non-voice data service. This 656  
division does not apply to any similar service that is not 657  
otherwise a telecommunications service. 658

(48) Sales of feminine hygiene products. 659

(49) Sales of materials, parts, equipment, or engines used 660  
in the repair or maintenance of aircraft or avionics systems of 661  
such aircraft, and sales of repair, remodeling, replacement, or 662  
maintenance services in this state performed on aircraft or on 663  
an aircraft's avionics, engine, or component materials or parts. 664  
As used in division (B) (49) of this section, "aircraft" means 665  
aircraft of more than six thousand pounds maximum certified 666

takeoff weight or used exclusively in general aviation. 667

(50) Sales of full flight simulators that are used for 668  
pilot or flight-crew training, sales of repair or replacement 669  
parts or components, and sales of repair or maintenance services 670  
for such full flight simulators. "Full flight simulator" means a 671  
replica of a specific type, or make, model, and series of 672  
aircraft cockpit. It includes the assemblage of equipment and 673  
computer programs necessary to represent aircraft operations in 674  
ground and flight conditions, a visual system providing an out- 675  
of-the-cockpit view, and a system that provides cues at least 676  
equivalent to those of a three-degree-of-freedom motion system, 677  
and has the full range of capabilities of the systems installed 678  
in the device as described in appendices A and B of part 60 of 679  
chapter 1 of title 14 of the Code of Federal Regulations. 680

(51) Any transfer or lease of tangible personal property 681  
between the state and JobsOhio in accordance with section 682  
4313.02 of the Revised Code. 683

(52) (a) Sales to a qualifying corporation. 684

(b) As used in division (B) (52) of this section: 685

(i) "Qualifying corporation" means a nonprofit corporation 686  
organized in this state that leases from an eligible county 687  
land, buildings, structures, fixtures, and improvements to the 688  
land that are part of or used in a public recreational facility 689  
used by a major league professional athletic team or a class A 690  
to class AAA minor league affiliate of a major league 691  
professional athletic team for a significant portion of the 692  
team's home schedule, provided the following apply: 693

(I) The facility is leased from the eligible county 694  
pursuant to a lease that requires substantially all of the 695

revenue from the operation of the business or activity conducted 696  
by the nonprofit corporation at the facility in excess of 697  
operating costs, capital expenditures, and reserves to be paid 698  
to the eligible county at least once per calendar year. 699

(II) Upon dissolution and liquidation of the nonprofit 700  
corporation, all of its net assets are distributable to the 701  
board of commissioners of the eligible county from which the 702  
corporation leases the facility. 703

(ii) "Eligible county" has the same meaning as in section 704  
307.695 of the Revised Code. 705

(53) Sales to or by a cable service provider, video 706  
service provider, or radio or television broadcast station 707  
regulated by the federal government of cable service or 708  
programming, video service or programming, audio service or 709  
programming, or electronically transferred digital audiovisual 710  
or audio work. As used in division (B) (53) of this section, 711  
"cable service" and "cable service provider" have the same 712  
meanings as in section 1332.01 of the Revised Code, and "video 713  
service," "video service provider," and "video programming" have 714  
the same meanings as in section 1332.21 of the Revised Code. 715

(54) Sales of a digital audio work electronically 716  
transferred for delivery through use of a machine, such as a 717  
juke box, that does all of the following: 718

(a) Accepts direct payments to operate; 719

(b) Automatically plays a selected digital audio work for 720  
a single play upon receipt of a payment described in division 721  
(B) (54) (a) of this section; 722

(c) Operates exclusively for the purpose of playing 723  
digital audio works in a commercial establishment. 724

(55) (a) Sales of the following occurring on the first	725
Friday of August and the following Saturday and Sunday of each	726
year, beginning in 2018:	727
(i) An item of clothing, the price of which is seventy-	728
five dollars or less;	729
(ii) An item of school supplies, the price of which is	730
twenty dollars or less;	731
(iii) An item of school instructional material, the price	732
of which is twenty dollars or less.	733
(b) As used in division (B) (55) of this section:	734
(i) "Clothing" means all human wearing apparel suitable	735
for general use. "Clothing" includes, but is not limited to,	736
aprons, household and shop; athletic supporters; baby receiving	737
blankets; bathing suits and caps; beach capes and coats; belts	738
and suspenders; boots; coats and jackets; costumes; diapers,	739
children and adult, including disposable diapers; earmuffs;	740
footlets; formal wear; garters and garter belts; girdles; gloves	741
and mittens for general use; hats and caps; hosiery; insoles for	742
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	743
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	744
sneakers; socks and stockings; steel-toed shoes; underwear;	745
uniforms, athletic and nonathletic; and wedding apparel.	746
"Clothing" does not include items purchased for use in a trade	747
or business; clothing accessories or equipment; protective	748
equipment; sports or recreational equipment; belt buckles sold	749
separately; costume masks sold separately; patches and emblems	750
sold separately; sewing equipment and supplies including, but	751
not limited to, knitting needles, patterns, pins, scissors,	752
sewing machines, sewing needles, tape measures, and thimbles;	753

and sewing materials that become part of "clothing" including, 754  
but not limited to, buttons, fabric, lace, thread, yarn, and 755  
zippers. 756

(ii) "School supplies" means items commonly used by a 757  
student in a course of study. "School supplies" includes only 758  
the following items: binders; book bags; calculators; cellophane 759  
tape; blackboard chalk; compasses; composition books; crayons; 760  
erasers; folders, expandable, pocket, plastic, and manila; glue, 761  
paste, and paste sticks; highlighters; index cards; index card 762  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 763  
loose-leaf ruled notebook paper, copy paper, graph paper, 764  
tracing paper, manila paper, colored paper, poster board, and 765  
construction paper; pencil boxes and other school supply boxes; 766  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 767  
and writing tablets. "School supplies" does not include any item 768  
purchased for use in a trade or business. 769

(iii) "School instructional material" means written 770  
material commonly used by a student in a course of study as a 771  
reference and to learn the subject being taught. "School 772  
instructional material" includes only the following items: 773  
reference books, reference maps and globes, textbooks, and 774  
workbooks. "School instructional material" does not include any 775  
material purchased for use in a trade or business. 776

(56) (a) Sales of diapers or incontinence underpads sold 777  
pursuant to a prescription, for the benefit of a medicaid 778  
recipient with a diagnosis of incontinence, and by a medicaid 779  
provider that maintains a valid provider agreement under section 780  
5164.30 of the Revised Code with the department of medicaid, 781  
provided that the medicaid program covers diapers or 782  
incontinence underpads as an incontinence garment. 783

(b) As used in division (B) (56) (a) of this section:	784
(i) "Diaper" means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements.	785 786 787
(ii) "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 incontinence.	788 789 790 791
<u>(57) (a) Sales of tangible personal property to a qualifying business used primarily by that business for any of the following:</u>	792 793 794
<u>(i) Transporting completed products from the manufacturing facility in which those products were manufactured to a destination from which the product will be sold at retail or a destination designated by the consumer to which those products were sold at retail;</u>	795 796 797 798 799
<u>(ii) Transporting general merchandise or grocery products from one location within a distribution facility to another location from which the merchandise or products will be transported from that facility.</u>	800 801 802 803
<u>(iii) Powering or charging tangible personal property used as described in division (B) (57) (a) (i) or (ii) of this section.</u>	804 805
<u>(b) As used in division (B) (57) of this section:</u>	806
<u>(i) "Qualifying business" means a person that is classified as being in the transportation and warehousing sector or the warehouse club and supercenter sector by the north American industrial classification system, or a person in that person's affiliated group, and that person or affiliate is</u>	807 808 809 810 811

engaged in transporting tangible personal property in trucks 812  
operated and either owned or leased by the person or affiliate 813  
to destinations outside this state. 814

(ii) "Truck" means any motor vehicle that has motor power 815  
and is designed and used for carrying merchandise or freight, or 816  
that is used as a commercial tractor. "Truck" includes a motor 817  
vehicle powered by one or more alternative fuels provided it is 818  
designed and used as described in this division. 819

(iii) "Completed product" and "manufacturing facility" 820  
have the same meanings as in section 5739.011 of the Revised 821  
Code. 822

(iv) "Alternative fuel" has the same meaning as in section 823  
125.831 of the Revised Code. 824

(v) "Motor vehicle" and "commercial tractor" have the same 825  
meanings as in section 4501.01 of the Revised Code. 826

(vi) "Affiliated group" has the same meaning as in 827  
division (B) (3) (e) of section 5739.01 of the Revised Code. 828

(C) For the purpose of the proper administration of this 829  
chapter, and to prevent the evasion of the tax, it is presumed 830  
that all sales made in this state are subject to the tax until 831  
the contrary is established. 832

(D) The tax collected by the vendor from the consumer 833  
under this chapter is not part of the price, but is a tax 834  
collection for the benefit of the state, and of counties levying 835  
an additional sales tax pursuant to section 5739.021 or 5739.026 836  
of the Revised Code and of transit authorities levying an 837  
additional sales tax pursuant to section 5739.023 of the Revised 838  
Code. Except for the discount authorized under section 5739.12 839  
of the Revised Code and the effects of any rounding pursuant to 840

section 5703.055 of the Revised Code, no person other than the 841  
state or such a county or transit authority shall derive any 842  
benefit from the collection or payment of the tax levied by this 843  
section or section 5739.021, 5739.023, or 5739.026 of the 844  
Revised Code. 845

**Section 2.** That existing section 5739.02 of the Revised 846  
Code is hereby repealed. 847

**Section 3.** The amendment by this act of section 5739.02 of 848  
the Revised Code applies on and after the first day of the first 849  
month that begins at least thirty days after the effective date 850  
of this section. 851