

As Introduced

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

H. B. No. 595

Representative Carruthers

A BILL

To amend section 5739.01 of the Revised Code to 1
exempt from sales tax memberships to gyms or 2
other recreational facilities operated by 3
nonprofit 501(c)(3) organizations. 4

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

Section 1. That section 5739.01 of the Revised Code be 5
amended to read as follows: 6

Sec. 5739.01. As used in this chapter: 7

(A) "Person" includes individuals, receivers, assignees, 8
trustees in bankruptcy, estates, firms, partnerships, 9
associations, joint-stock companies, joint ventures, clubs, 10
societies, corporations, the state and its political 11
subdivisions, and combinations of individuals of any form. 12

(B) "Sale" and "selling" include all of the following 13
transactions for a consideration in any manner, whether 14
absolutely or conditionally, whether for a price or rental, in 15
money or by exchange, and by any means whatsoever: 16

(1) All transactions by which title or possession, or 17
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) Exterminating service is or is to be provided; 67

(l) Physical fitness facility service is or is to be 68
provided, unless such service is or is to be provided by an 69
organization described under section 501(c) (3) of the Internal 70
Revenue Code and exempt from federal income taxation under 71
section 501(a) of the Internal Revenue Code; 72

(m) Recreation and sports club service is or is to be 73
provided, unless such service is or is to be provided by an 74
organization described under section 501(c) (3) of the Internal 75

<u>Revenue Code and exempt from federal income taxation under</u>	76
<u>section 501(a) of the Internal Revenue Code;</u>	77
(n) Satellite broadcasting service is or is to be provided;	78 79
(o) Personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	80 81 82 83 84 85 86 87
(p) The transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;	88 89 90 91 92 93 94
(q) Motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.	95 96 97 98
(r) Snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.	99 100 101 102 103
(s) Electronic publishing service is or is to be provided	104

to a consumer for use in business, except that such transactions 105
occurring between members of an affiliated group, as defined in 106
division (B) (3) (e) of this section, are not sales. 107

(4) All transactions by which printed, imprinted, 108
overprinted, lithographic, multilithic, blueprinted, 109
photostatic, or other productions or reproductions of written or 110
graphic matter are or are to be furnished or transferred; 111

(5) The production or fabrication of tangible personal 112
property for a consideration for consumers who furnish either 113
directly or indirectly the materials used in the production of 114
fabrication work; and include the furnishing, preparing, or 115
serving for a consideration of any tangible personal property 116
consumed on the premises of the person furnishing, preparing, or 117
serving such tangible personal property. Except as provided in 118
section 5739.03 of the Revised Code, a construction contract 119
pursuant to which tangible personal property is or is to be 120
incorporated into a structure or improvement on and becoming a 121
part of real property is not a sale of such tangible personal 122
property. The construction contractor is the consumer of such 123
tangible personal property, provided that the sale and 124
installation of carpeting, the sale and installation of 125
agricultural land tile, the sale and erection or installation of 126
portable grain bins, or the provision of landscaping and lawn 127
care service and the transfer of property as part of such 128
service is never a construction contract. 129

As used in division (B) (5) of this section: 130

(a) "Agricultural land tile" means fired clay or concrete 131
tile, or flexible or rigid perforated plastic pipe or tubing, 132
incorporated or to be incorporated into a subsurface drainage 133
system appurtenant to land used or to be used primarily in 134

production by farming, agriculture, horticulture, or 135
floriculture. The term does not include such materials when they 136
are or are to be incorporated into a drainage system appurtenant 137
to a building or structure even if the building or structure is 138
used or to be used in such production. 139

(b) "Portable grain bin" means a structure that is used or 140
to be used by a person engaged in farming or agriculture to 141
shelter the person's grain and that is designed to be 142
disassembled without significant damage to its component parts. 143

(6) All transactions in which all of the shares of stock 144
of a closely held corporation are transferred, or an ownership 145
interest in a pass-through entity, as defined in section 5733.04 146
of the Revised Code, is transferred, if the corporation or pass- 147
through entity is not engaging in business and its entire assets 148
consist of boats, planes, motor vehicles, or other tangible 149
personal property operated primarily for the use and enjoyment 150
of the shareholders or owners; 151

(7) All transactions in which a warranty, maintenance or 152
service contract, or similar agreement by which the vendor of 153
the warranty, contract, or agreement agrees to repair or 154
maintain the tangible personal property of the consumer is or is 155
to be provided; 156

(8) The transfer of copyrighted motion picture films used 157
solely for advertising purposes, except that the transfer of 158
such films for exhibition purposes is not a sale; 159

(9) All transactions by which tangible personal property 160
is or is to be stored, except such property that the consumer of 161
the storage holds for sale in the regular course of business; 162

(10) All transactions in which "guaranteed auto 163

protection" is provided whereby a person promises to pay to the 164
consumer the difference between the amount the consumer receives 165
from motor vehicle insurance and the amount the consumer owes to 166
a person holding title to or a lien on the consumer's motor 167
vehicle in the event the consumer's motor vehicle suffers a 168
total loss under the terms of the motor vehicle insurance policy 169
or is stolen and not recovered, if the protection and its price 170
are included in the purchase or lease agreement; 171

(11) (a) Except as provided in division (B) (11) (b) of this 172
section, all transactions by which health care services are paid 173
for, reimbursed, provided, delivered, arranged for, or otherwise 174
made available by a medicaid health insuring corporation 175
pursuant to the corporation's contract with the state. 176

(b) If the centers for medicare and medicaid services of 177
the United States department of health and human services 178
determines that the taxation of transactions described in 179
division (B) (11) (a) of this section constitutes an impermissible 180
health care-related tax under the "Social Security Act," section 181
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 182
the medicaid director shall notify the tax commissioner of that 183
determination. Beginning with the first day of the month 184
following that notification, the transactions described in 185
division (B) (11) (a) of this section are not sales for the 186
purposes of this chapter or Chapter 5741. of the Revised Code. 187
The tax commissioner shall order that the collection of taxes 188
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 189
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 190
for transactions occurring on or after that date. 191

(12) All transactions by which a specified digital product 192
is provided for permanent use or less than permanent use, 193

regardless of whether continued payment is required. 194

Except as provided in this section, "sale" and "selling" 195
do not include transfers of interest in leased property where 196
the original lessee and the terms of the original lease 197
agreement remain unchanged, or professional, insurance, or 198
personal service transactions that involve the transfer of 199
tangible personal property as an inconsequential element, for 200
which no separate charges are made. 201

(C) "Vendor" means the person providing the service or by 202
whom the transfer effected or license given by a sale is or is 203
to be made or given and, for sales described in division (B)(3) 204
(i) of this section, the telecommunications service vendor that 205
provides the nine hundred telephone service; if two or more 206
persons are engaged in business at the same place of business 207
under a single trade name in which all collections on account of 208
sales by each are made, such persons shall constitute a single 209
vendor. 210

Physicians, dentists, hospitals, and veterinarians who are 211
engaged in selling tangible personal property as received from 212
others, such as eyeglasses, mouthwashes, dentifrices, or similar 213
articles, are vendors. Veterinarians who are engaged in 214
transferring to others for a consideration drugs, the dispensing 215
of which does not require an order of a licensed veterinarian or 216
physician under federal law, are vendors. 217

The operator of any peer-to-peer car sharing program shall 218
be considered to be the vendor. 219

(D)(1) "Consumer" means the person for whom the service is 220
provided, to whom the transfer effected or license given by a 221
sale is or is to be made or given, to whom the service described 222

in division (B) (3) (f) or (i) of this section is charged, or to 223
whom the admission is granted. 224

(2) Physicians, dentists, hospitals, and blood banks 225
operated by nonprofit institutions and persons licensed to 226
practice veterinary medicine, surgery, and dentistry are 227
consumers of all tangible personal property and services 228
purchased by them in connection with the practice of medicine, 229
dentistry, the rendition of hospital or blood bank service, or 230
the practice of veterinary medicine, surgery, and dentistry. In 231
addition to being consumers of drugs administered by them or by 232
their assistants according to their direction, veterinarians 233
also are consumers of drugs that under federal law may be 234
dispensed only by or upon the order of a licensed veterinarian 235
or physician, when transferred by them to others for a 236
consideration to provide treatment to animals as directed by the 237
veterinarian. 238

(3) A person who performs a facility management, or 239
similar service contract for a contractee is a consumer of all 240
tangible personal property and services purchased for use in 241
connection with the performance of such contract, regardless of 242
whether title to any such property vests in the contractee. The 243
purchase of such property and services is not subject to the 244
exception for resale under division (E) of this section. 245

(4) (a) In the case of a person who purchases printed 246
matter for the purpose of distributing it or having it 247
distributed to the public or to a designated segment of the 248
public, free of charge, that person is the consumer of that 249
printed matter, and the purchase of that printed matter for that 250
purpose is a sale. 251

(b) In the case of a person who produces, rather than 252

purchases, printed matter for the purpose of distributing it or 253
having it distributed to the public or to a designated segment 254
of the public, free of charge, that person is the consumer of 255
all tangible personal property and services purchased for use or 256
consumption in the production of that printed matter. That 257
person is not entitled to claim exemption under division (B) (42) 258
(f) of section 5739.02 of the Revised Code for any material 259
incorporated into the printed matter or any equipment, supplies, 260
or services primarily used to produce the printed matter. 261

(c) The distribution of printed matter to the public or to 262
a designated segment of the public, free of charge, is not a 263
sale to the members of the public to whom the printed matter is 264
distributed or to any persons who purchase space in the printed 265
matter for advertising or other purposes. 266

(5) A person who makes sales of any of the services listed 267
in division (B) (3) of this section is the consumer of any 268
tangible personal property used in performing the service. The 269
purchase of that property is not subject to the resale exception 270
under division (E) of this section. 271

(6) A person who engages in highway transportation for 272
hire is the consumer of all packaging materials purchased by 273
that person and used in performing the service, except for 274
packaging materials sold by such person in a transaction 275
separate from the service. 276

(7) In the case of a transaction for health care services 277
under division (B) (11) of this section, a medicaid health 278
insuring corporation is the consumer of such services. The 279
purchase of such services by a medicaid health insuring 280
corporation is not subject to the exception for resale under 281
division (E) of this section or to the exemptions provided under 282

divisions (B) (12), (18), (19), and (22) of section 5739.02 of 283
the Revised Code. 284

(E) "Retail sale" and "sales at retail" include all sales, 285
except those in which the purpose of the consumer is to resell 286
the thing transferred or benefit of the service provided, by a 287
person engaging in business, in the form in which the same is, 288
or is to be, received by the person. 289

(F) "Business" includes any activity engaged in by any 290
person with the object of gain, benefit, or advantage, either 291
direct or indirect. "Business" does not include the activity of 292
a person in managing and investing the person's own funds. 293

(G) "Engaging in business" means commencing, conducting, 294
or continuing in business, and liquidating a business when the 295
liquidator thereof holds itself out to the public as conducting 296
such business. Making a casual sale is not engaging in business. 297

(H) (1) (a) "Price," except as provided in divisions (H) (2), 298
(3), and (4) of this section, means the total amount of 299
consideration, including cash, credit, property, and services, 300
for which tangible personal property or services are sold, 301
leased, or rented, valued in money, whether received in money or 302
otherwise, without any deduction for any of the following: 303

(i) The vendor's cost of the property sold; 304

(ii) The cost of materials used, labor or service costs, 305
interest, losses, all costs of transportation to the vendor, all 306
taxes imposed on the vendor, including the tax imposed under 307
Chapter 5751. of the Revised Code, and any other expense of the 308
vendor; 309

(iii) Charges by the vendor for any services necessary to 310
complete the sale; 311

(iv) Delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.	312 313 314 315 316
(v) Installation charges;	317
(vi) Credit for any trade-in.	318
(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:	319 320 321 322 323 324 325 326 327
(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;	328 329 330 331 332 333
(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.	334 335 336 337 338
(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received	339 340

by the consumer, or on a coupon, certificate, or other document 341
presented by the consumer. 342

(c) "Price" does not include any of the following: 343

(i) Discounts, including cash, term, or coupons that are 344
not reimbursed by a third party that are allowed by a vendor and 345
taken by a consumer on a sale; 346

(ii) Interest, financing, and carrying charges from credit 347
extended on the sale of tangible personal property or services, 348
if the amount is separately stated on the invoice, bill of sale, 349
or similar document given to the purchaser; 350

(iii) Any taxes legally imposed directly on the consumer 351
that are separately stated on the invoice, bill of sale, or 352
similar document given to the consumer. For the purpose of this 353
division, the tax imposed under Chapter 5751. of the Revised 354
Code is not a tax directly on the consumer, even if the tax or a 355
portion thereof is separately stated. 356

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 357
this section, any discount allowed by an automobile manufacturer 358
to its employee, or to the employee of a supplier, on the 359
purchase of a new motor vehicle from a new motor vehicle dealer 360
in this state. 361

(v) The dollar value of a gift card that is not sold by a 362
vendor or purchased by a consumer and that is redeemed by the 363
consumer in purchasing tangible personal property or services if 364
the vendor is not reimbursed and does not receive compensation 365
from a third party to cover all or part of the gift card value. 366
For the purposes of this division, a gift card is not sold by a 367
vendor or purchased by a consumer if it is distributed pursuant 368
to an awards, loyalty, or promotional program. Past and present 369

purchases of tangible personal property or services by the 370
consumer shall not be treated as consideration exchanged for a 371
gift card. 372

(2) In the case of a sale of any new motor vehicle by a 373
new motor vehicle dealer, as defined in section 4517.01 of the 374
Revised Code, in which another motor vehicle is accepted by the 375
dealer as part of the consideration received, "price" has the 376
same meaning as in division (H) (1) of this section, reduced by 377
the credit afforded the consumer by the dealer for the motor 378
vehicle received in trade. 379

(3) In the case of a sale of any watercraft or outboard 380
motor by a watercraft dealer licensed in accordance with section 381
1547.543 of the Revised Code, in which another watercraft, 382
watercraft and trailer, or outboard motor is accepted by the 383
dealer as part of the consideration received, "price" has the 384
same meaning as in division (H) (1) of this section, reduced by 385
the credit afforded the consumer by the dealer for the 386
watercraft, watercraft and trailer, or outboard motor received 387
in trade. As used in this division, "watercraft" includes an 388
outdrive unit attached to the watercraft. 389

(4) In the case of transactions for health care services 390
under division (B) (11) of this section, "price" means the amount 391
of managed care premiums received each month by a medicaid 392
health insuring corporation. 393

(I) "Receipts" means the total amount of the prices of the 394
sales of vendors, provided that the dollar value of gift cards 395
distributed pursuant to an awards, loyalty, or promotional 396
program, and cash discounts allowed and taken on sales at the 397
time they are consummated are not included, minus any amount 398
deducted as a bad debt pursuant to section 5739.121 of the 399

Revised Code. "Receipts" does not include the sale price of 400
property returned or services rejected by consumers when the 401
full sale price and tax are refunded either in cash or by 402
credit. 403

(J) "Place of business" means any location at which a 404
person engages in business. 405

(K) "Premises" includes any real property or portion 406
thereof upon which any person engages in selling tangible 407
personal property at retail or making retail sales and also 408
includes any real property or portion thereof designated for, or 409
devoted to, use in conjunction with the business engaged in by 410
such person. 411

(L) "Casual sale" means a sale of an item of tangible 412
personal property that was obtained by the person making the 413
sale, through purchase or otherwise, for the person's own use 414
and was previously subject to any state's taxing jurisdiction on 415
its sale or use, and includes such items acquired for the 416
seller's use that are sold by an auctioneer employed directly by 417
the person for such purpose, provided the location of such sales 418
is not the auctioneer's permanent place of business. As used in 419
this division, "permanent place of business" includes any 420
location where such auctioneer has conducted more than two 421
auctions during the year. 422

(M) "Hotel" means every establishment kept, used, 423
maintained, advertised, or held out to the public to be a place 424
where sleeping accommodations are offered to guests, in which 425
five or more rooms are used for the accommodation of such 426
guests, whether the rooms are in one or several structures, 427
except as otherwise provided in section 5739.091 of the Revised 428
Code. 429

(N) "Transient guests" means persons occupying a room or 430
rooms for sleeping accommodations for less than thirty 431
consecutive days. 432

(O) "Making retail sales" means the effecting of 433
transactions wherein one party is obligated to pay the price and 434
the other party is obligated to provide a service or to transfer 435
title to or possession of the item sold. "Making retail sales" 436
does not include the preliminary acts of promoting or soliciting 437
the retail sales, other than the distribution of printed matter 438
which displays or describes and prices the item offered for 439
sale, nor does it include delivery of a predetermined quantity 440
of tangible personal property or transportation of property or 441
personnel to or from a place where a service is performed. 442

(P) "Used directly in the rendition of a public utility 443
service" means that property that is to be incorporated into and 444
will become a part of the consumer's production, transmission, 445
transportation, or distribution system and that retains its 446
classification as tangible personal property after such 447
incorporation; fuel or power used in the production, 448
transmission, transportation, or distribution system; and 449
tangible personal property used in the repair and maintenance of 450
the production, transmission, transportation, or distribution 451
system, including only such motor vehicles as are specially 452
designed and equipped for such use. Tangible personal property 453
and services used primarily in providing highway transportation 454
for hire are not used directly in the rendition of a public 455
utility service. In this definition, "public utility" includes a 456
citizen of the United States holding, and required to hold, a 457
certificate of public convenience and necessity issued under 49 458
U.S.C. 41102. 459

(Q) "Refining" means removing or separating a desirable 460
product from raw or contaminated materials by distillation or 461
physical, mechanical, or chemical processes. 462

(R) "Assembly" and "assembling" mean attaching or fitting 463
together parts to form a product, but do not include packaging a 464
product. 465

(S) "Manufacturing operation" means a process in which 466
materials are changed, converted, or transformed into a 467
different state or form from which they previously existed and 468
includes refining materials, assembling parts, and preparing raw 469
materials and parts by mixing, measuring, blending, or otherwise 470
committing such materials or parts to the manufacturing process. 471
"Manufacturing operation" does not include packaging. 472

(T) "Fiscal officer" means, with respect to a regional 473
transit authority, the secretary-treasurer thereof, and with 474
respect to a county that is a transit authority, the fiscal 475
officer of the county transit board if one is appointed pursuant 476
to section 306.03 of the Revised Code or the county auditor if 477
the board of county commissioners operates the county transit 478
system. 479

(U) "Transit authority" means a regional transit authority 480
created pursuant to section 306.31 of the Revised Code or a 481
county in which a county transit system is created pursuant to 482
section 306.01 of the Revised Code. For the purposes of this 483
chapter, a transit authority must extend to at least the entire 484
area of a single county. A transit authority that includes 485
territory in more than one county must include all the area of 486
the most populous county that is a part of such transit 487
authority. County population shall be measured by the most 488
recent census taken by the United States census bureau. 489

(V) "Legislative authority" means, with respect to a 490
regional transit authority, the board of trustees thereof, and 491
with respect to a county that is a transit authority, the board 492
of county commissioners. 493

(W) "Territory of the transit authority" means all of the 494
area included within the territorial boundaries of a transit 495
authority as they from time to time exist. Such territorial 496
boundaries must at all times include all the area of a single 497
county or all the area of the most populous county that is a 498
part of such transit authority. County population shall be 499
measured by the most recent census taken by the United States 500
census bureau. 501

(X) "Providing a service" means providing or furnishing 502
anything described in division (B) (3) of this section for 503
consideration. 504

(Y) (1) (a) "Automatic data processing" means processing of 505
others' data, including keypunching or similar data entry 506
services together with verification thereof, or providing access 507
to computer equipment for the purpose of processing data. 508

(b) "Computer services" means providing services 509
consisting of specifying computer hardware configurations and 510
evaluating technical processing characteristics, computer 511
programming, and training of computer programmers and operators, 512
provided in conjunction with and to support the sale, lease, or 513
operation of taxable computer equipment or systems. 514

(c) "Electronic information services" means providing 515
access to computer equipment by means of telecommunications 516
equipment for the purpose of either of the following: 517

(i) Examining or acquiring data stored in or accessible to 518

the computer equipment;	519
(ii) Placing data into the computer equipment to be	520
retrieved by designated recipients with access to the computer	521
equipment.	522
"Electronic information services" does not include	523
electronic publishing.	524
(d) "Automatic data processing, computer services, or	525
electronic information services" shall not include personal or	526
professional services.	527
(2) As used in divisions (B) (3) (e) and (Y) (1) of this	528
section, "personal and professional services" means all services	529
other than automatic data processing, computer services, or	530
electronic information services, including but not limited to:	531
(a) Accounting and legal services such as advice on tax	532
matters, asset management, budgetary matters, quality control,	533
information security, and auditing and any other situation where	534
the service provider receives data or information and studies,	535
alters, analyzes, interprets, or adjusts such material;	536
(b) Analyzing business policies and procedures;	537
(c) Identifying management information needs;	538
(d) Feasibility studies, including economic and technical	539
analysis of existing or potential computer hardware or software	540
needs and alternatives;	541
(e) Designing policies, procedures, and custom software	542
for collecting business information, and determining how data	543
should be summarized, sequenced, formatted, processed,	544
controlled, and reported so that it will be meaningful to	545
management;	546

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	547 548 549
(g) Testing of business procedures;	550
(h) Training personnel in business procedure applications;	551
(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;	552 553 554 555 556 557 558
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	559 560
(k) Providing digital advertising services.	561
The services listed in divisions (Y) (2) (a) to (k) of this section are not automatic data processing or computer services.	562 563
(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:	564 565 566
(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;	567 568 569 570 571
(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	572 573 574

but who could not have engaged in such transportation on 575
December 11, 1985, unless the person was the holder of a permit 576
or certificate of the types described in division (Z) (1) of this 577
section; 578

(3) A person who leases a motor vehicle to and operates it 579
for a person described by division (Z) (1) or (2) of this 580
section. 581

(AA) (1) "Telecommunications service" means the electronic 582
transmission, conveyance, or routing of voice, data, audio, 583
video, or any other information or signals to a point, or 584
between or among points. "Telecommunications service" includes 585
such transmission, conveyance, or routing in which computer 586
processing applications are used to act on the form, code, or 587
protocol of the content for purposes of transmission, 588
conveyance, or routing without regard to whether the service is 589
referred to as voice-over internet protocol service or is 590
classified by the federal communications commission as enhanced 591
or value-added. "Telecommunications service" does not include 592
any of the following: 593

(a) Data processing and information services that allow 594
data to be generated, acquired, stored, processed, or retrieved 595
and delivered by an electronic transmission to a consumer where 596
the consumer's primary purpose for the underlying transaction is 597
the processed data or information; 598

(b) Installation or maintenance of wiring or equipment on 599
a customer's premises; 600

(c) Tangible personal property; 601

(d) Advertising, including directory advertising; 602

(e) Billing and collection services provided to third 603

parties;	604
(f) Internet access service;	605
(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;	606 607 608 609 610 611 612 613
(h) Ancillary service;	614
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	615 616
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	617 618 619 620 621 622
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	623 624 625 626 627
(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.	628 629 630
(c) "Directory assistance" means an ancillary service of	631

providing telephone number or address information. 632

(d) "Vertical service" means an ancillary service that is 633
offered in connection with one or more telecommunications 634
services, which offers advanced calling features that allow 635
customers to identify callers and manage multiple calls and call 636
connections, including conference bridging service. 637

(e) "Voice mail service" means an ancillary service that 638
enables the customer to store, send, or receive recorded 639
messages. "Voice mail service" does not include any vertical 640
services that the customer may be required to have in order to 641
utilize the voice mail service. 642

(3) "900 service" means an inbound toll telecommunications 643
service purchased by a subscriber that allows the subscriber's 644
customers to call in to the subscriber's prerecorded 645
announcement or live service, and which is typically marketed 646
under the name "900 service" and any subsequent numbers 647
designated by the federal communications commission. "900 648
service" does not include the charge for collection services 649
provided by the seller of the telecommunications service to the 650
subscriber, or services or products sold by the subscriber to 651
the subscriber's customer. 652

(4) "Prepaid calling service" means the right to access 653
exclusively telecommunications services, which must be paid for 654
in advance and which enables the origination of calls using an 655
access number or authorization code, whether manually or 656
electronically dialed, and that is sold in predetermined units 657
or dollars of which the number declines with use in a known 658
amount. 659

(5) "Prepaid wireless calling service" means a 660

telecommunications service that provides the right to utilize 661
mobile telecommunications service as well as other non- 662
telecommunications services, including the download of digital 663
products delivered electronically, and content and ancillary 664
services, that must be paid for in advance and that is sold in 665
predetermined units or dollars of which the number declines with 666
use in a known amount. 667

(6) "Value-added non-voice data service" means a 668
telecommunications service in which computer processing 669
applications are used to act on the form, content, code, or 670
protocol of the information or data primarily for a purpose 671
other than transmission, conveyance, or routing. 672

(7) "Coin-operated telephone service" means a 673
telecommunications service paid for by inserting money into a 674
telephone accepting direct deposits of money to operate. 675

(8) "Customer" has the same meaning as in section 5739.034 676
of the Revised Code. 677

(BB) "Laundry and dry cleaning services" means removing 678
soil or dirt from towels, linens, articles of clothing, or other 679
fabric items that belong to others and supplying towels, linens, 680
articles of clothing, or other fabric items. "Laundry and dry 681
cleaning services" does not include the provision of self- 682
service facilities for use by consumers to remove soil or dirt 683
from towels, linens, articles of clothing, or other fabric 684
items. 685

(CC) "Magazines distributed as controlled circulation 686
publications" means magazines containing at least twenty-four 687
pages, at least twenty-five per cent editorial content, issued 688
at regular intervals four or more times a year, and circulated 689

without charge to the recipient, provided that such magazines 690
are not owned or controlled by individuals or business concerns 691
which conduct such publications as an auxiliary to, and 692
essentially for the advancement of the main business or calling 693
of, those who own or control them. 694

(DD) "Landscaping and lawn care service" means the 695
services of planting, seeding, sodding, removing, cutting, 696
trimming, pruning, mulching, aerating, applying chemicals, 697
watering, fertilizing, and providing similar services to 698
establish, promote, or control the growth of trees, shrubs, 699
flowers, grass, ground cover, and other flora, or otherwise 700
maintaining a lawn or landscape grown or maintained by the owner 701
for ornamentation or other nonagricultural purpose. However, 702
"landscaping and lawn care service" does not include the 703
providing of such services by a person who has less than five 704
thousand dollars in sales of such services during the calendar 705
year. 706

(EE) "Private investigation and security service" means 707
the performance of any activity for which the provider of such 708
service is required to be licensed pursuant to Chapter 4749. of 709
the Revised Code, or would be required to be so licensed in 710
performing such services in this state, and also includes the 711
services of conducting polygraph examinations and of monitoring 712
or overseeing the activities on or in, or the condition of, the 713
consumer's home, business, or other facility by means of 714
electronic or similar monitoring devices. "Private investigation 715
and security service" does not include special duty services 716
provided by off-duty police officers, deputy sheriffs, and other 717
peace officers regularly employed by the state or a political 718
subdivision. 719

(FF) "Information services" means providing conversation, 720
giving consultation or advice, playing or making a voice or 721
other recording, making or keeping a record of the number of 722
callers, and any other service provided to a consumer by means 723
of a nine hundred telephone call, except when the nine hundred 724
telephone call is the means by which the consumer makes a 725
contribution to a recognized charity. 726

(GG) "Research and development" means designing, creating, 727
or formulating new or enhanced products, equipment, or 728
manufacturing processes, and also means conducting scientific or 729
technological inquiry and experimentation in the physical 730
sciences with the goal of increasing scientific knowledge which 731
may reveal the bases for new or enhanced products, equipment, or 732
manufacturing processes. 733

(HH) "Qualified research and development equipment" means 734
capitalized tangible personal property, and leased personal 735
property that would be capitalized if purchased, used by a 736
person primarily to perform research and development. Tangible 737
personal property primarily used in testing, as defined in 738
division (A)(4) of section 5739.011 of the Revised Code, or used 739
for recording or storing test results, is not qualified research 740
and development equipment unless such property is primarily used 741
by the consumer in testing the product, equipment, or 742
manufacturing process being created, designed, or formulated by 743
the consumer in the research and development activity or in 744
recording or storing such test results. 745

(II) "Building maintenance and janitorial service" means 746
cleaning the interior or exterior of a building and any tangible 747
personal property located therein or thereon, including any 748
services incidental to such cleaning for which no separate 749

charge is made. However, "building maintenance and janitorial 750
service" does not include the providing of such service by a 751
person who has less than five thousand dollars in sales of such 752
service during the calendar year. As used in this division, 753
"cleaning" does not include sanitation services necessary for an 754
establishment described in 21 U.S.C. 608 to comply with rules 755
and regulations adopted pursuant to that section. 756

(JJ) "Exterminating service" means eradicating or 757
attempting to eradicate vermin infestations from a building or 758
structure, or the area surrounding a building or structure, and 759
includes activities to inspect, detect, or prevent vermin 760
infestation of a building or structure. 761

(KK) "Physical fitness facility service" means all 762
transactions by which a membership is granted, maintained, or 763
renewed, including initiation fees, membership dues, renewal 764
fees, monthly minimum fees, and other similar fees and dues, by 765
a physical fitness facility such as an athletic club, health 766
spa, or gymnasium, which entitles the member to use the facility 767
for physical exercise. 768

(LL) "Recreation and sports club service" means all 769
transactions by which a membership is granted, maintained, or 770
renewed, including initiation fees, membership dues, renewal 771
fees, monthly minimum fees, and other similar fees and dues, by 772
a recreation and sports club, which entitles the member to use 773
the facilities of the organization. "Recreation and sports club" 774
means an organization that has ownership of, or controls or 775
leases on a continuing, long-term basis, the facilities used by 776
its members and includes an aviation club, gun or shooting club, 777
yacht club, card club, swimming club, tennis club, golf club, 778
country club, riding club, amateur sports club, or similar 779

organization.	780
(MM) "Livestock" means farm animals commonly raised for food, food production, or other agricultural purposes, including, but not limited to, cattle, sheep, goats, swine, poultry, and captive deer. "Livestock" does not include invertebrates, amphibians, reptiles, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.	781 782 783 784 785 786 787
(NN) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.	788 789 790 791
(OO) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.	792 793 794 795 796
(PP) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.	797 798 799 800 801 802
(QQ) "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.	803 804 805 806 807 808

(RR) (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.

(SS) (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 personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible

personal property under an agreement that requires the transfer 838
of title upon completion of required payments and payment of an 839
option price that does not exceed the greater of one hundred 840
dollars or one per cent of the total required payments; 841

(c) Providing tangible personal property along with an 842
operator for a fixed or indefinite period of time, if the 843
operator is necessary for the property to perform as designed. 844
For purposes of this division, the operator must do more than 845
maintain, inspect, or set up the tangible personal property. 846

(2) "Lease" and "rental," as defined in division (SS) of 847
this section, shall not apply to leases or rentals that exist 848
before June 26, 2003. 849

(3) "Lease" and "rental" have the same meaning as in 850
division (SS) (1) of this section regardless of whether a 851
transaction is characterized as a lease or rental under 852
generally accepted accounting principles, the Internal Revenue 853
Code, Title XIII of the Revised Code, or other federal, state, 854
or local laws. 855

(TT) "Mobile telecommunications service" has the same 856
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 857
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 858
amended, and, on and after August 1, 2003, includes related fees 859
and ancillary services, including universal service fees, 860
detailed billing service, directory assistance, service 861
initiation, voice mail service, and vertical services, such as 862
caller ID and three-way calling. 863

(UU) "Certified service provider" has the same meaning as 864
in section 5740.01 of the Revised Code. 865

(VV) "Satellite broadcasting service" means the 866

distribution or broadcasting of programming or services by 867
satellite directly to the subscriber's receiving equipment 868
without the use of ground receiving or distribution equipment, 869
except the subscriber's receiving equipment or equipment used in 870
the uplink process to the satellite, and includes all service 871
and rental charges, premium channels or other special services, 872
installation and repair service charges, and any other charges 873
having any connection with the provision of the satellite 874
broadcasting service. 875

(WW) "Tangible personal property" means personal property 876
that can be seen, weighed, measured, felt, or touched, or that 877
is in any other manner perceptible to the senses. For purposes 878
of this chapter and Chapter 5741. of the Revised Code, "tangible 879
personal property" includes motor vehicles, electricity, water, 880
gas, steam, and prewritten computer software. 881

(XX) "Municipal gas utility" means a municipal corporation 882
that owns or operates a system for the distribution of natural 883
gas. 884

(YY) "Computer" means an electronic device that accepts 885
information in digital or similar form and manipulates it for a 886
result based on a sequence of instructions. 887

(ZZ) "Computer software" means a set of coded instructions 888
designed to cause a computer or automatic data processing 889
equipment to perform a task. 890

(AAA) "Delivered electronically" means delivery of 891
computer software from the seller to the purchaser by means 892
other than tangible storage media. 893

(BBB) "Prewritten computer software" means computer 894
software, including prewritten upgrades, that is not designed 895

and developed by the author or other creator to the 896
specifications of a specific purchaser. The combining of two or 897
more prewritten computer software programs or prewritten 898
portions thereof does not cause the combination to be other than 899
prewritten computer software. "Prewritten computer software" 900
includes software designed and developed by the author or other 901
creator to the specifications of a specific purchaser when it is 902
sold to a person other than the purchaser. If a person modifies 903
or enhances computer software of which the person is not the 904
author or creator, the person shall be deemed to be the author 905
or creator only of such person's modifications or enhancements. 906
Prewritten computer software or a prewritten portion thereof 907
that is modified or enhanced to any degree, where such 908
modification or enhancement is designed and developed to the 909
specifications of a specific purchaser, remains prewritten 910
computer software; provided, however, that where there is a 911
reasonable, separately stated charge or an invoice or other 912
statement of the price given to the purchaser for the 913
modification or enhancement, the modification or enhancement 914
shall not constitute prewritten computer software. 915

(CCC) (1) "Food" means substances, whether in liquid, 916
concentrated, solid, frozen, dried, or dehydrated form, that are 917
sold for ingestion or chewing by humans and are consumed for 918
their taste or nutritional value. "Food" does not include 919
alcoholic beverages, dietary supplements, soft drinks, or 920
tobacco. 921

(2) As used in division (CCC) (1) of this section: 922

(a) "Alcoholic beverages" means beverages that are 923
suitable for human consumption and contain one-half of one per 924
cent or more of alcohol by volume. 925

(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:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

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

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (CCC) (2) (b) (i) to (v) of this section.

(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.

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

(DDD) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation,

other than food, dietary supplements, or alcoholic beverages 954
that is recognized in the official United States pharmacopoeia, 955
official homeopathic pharmacopoeia of the United States, or 956
official national formulary, and supplements to them; is 957
intended for use in the diagnosis, cure, mitigation, treatment, 958
or prevention of disease; or is intended to affect the structure 959
or any function of the body. 960

(EEE) "Prescription" means an order, formula, or recipe 961
issued in any form of oral, written, electronic, or other means 962
of transmission by a duly licensed practitioner authorized by 963
the laws of this state to issue a prescription. 964

(FFF) "Durable medical equipment" means equipment, 965
including repair and replacement parts for such equipment, that 966
can withstand repeated use, is primarily and customarily used to 967
serve a medical purpose, generally is not useful to a person in 968
the absence of illness or injury, and is not worn in or on the 969
body. "Durable medical equipment" does not include mobility 970
enhancing equipment. 971

(GGG) "Mobility enhancing equipment" means equipment, 972
including repair and replacement parts for such equipment, that 973
is primarily and customarily used to provide or increase the 974
ability to move from one place to another and is appropriate for 975
use either in a home or a motor vehicle, that is not generally 976
used by persons with normal mobility, and that does not include 977
any motor vehicle or equipment on a motor vehicle normally 978
provided by a motor vehicle manufacturer. "Mobility enhancing 979
equipment" does not include durable medical equipment. 980

(HHH) "Prosthetic device" means a replacement, corrective, 981
or supportive device, including repair and replacement parts for 982
the device, worn on or in the human body to artificially replace 983

a missing portion of the body, prevent or correct physical 984
deformity or malfunction, or support a weak or deformed portion 985
of the body. As used in this division, before July 1, 2019, 986
"prosthetic device" does not include corrective eyeglasses, 987
contact lenses, or dental prosthesis. On or after July 1, 2019, 988
"prosthetic device" does not include dental prosthesis but does 989
include corrective eyeglasses or contact lenses. 990

(III) (1) "Fractional aircraft ownership program" means a 991
program in which persons within an affiliated group sell and 992
manage fractional ownership program aircraft, provided that at 993
least one hundred airworthy aircraft are operated in the program 994
and the program meets all of the following criteria: 995

(a) Management services are provided by at least one 996
program manager within an affiliated group on behalf of the 997
fractional owners. 998

(b) Each program aircraft is owned or possessed by at 999
least one fractional owner. 1000

(c) Each fractional owner owns or possesses at least a 1001
one-sixteenth interest in at least one fixed-wing program 1002
aircraft. 1003

(d) A dry-lease aircraft interchange arrangement is in 1004
effect among all of the fractional owners. 1005

(e) Multi-year program agreements are in effect regarding 1006
the fractional ownership, management services, and dry-lease 1007
aircraft interchange arrangement aspects of the program. 1008

(2) As used in division (III) (1) of this section: 1009

(a) "Affiliated group" has the same meaning as in division 1010
(B) (3) (e) of this section. 1011

(b) "Fractional owner" means a person that owns or 1012
possesses at least a one-sixteenth interest in a program 1013
aircraft and has entered into the agreements described in 1014
division (III) (1) (e) of this section. 1015

(c) "Fractional ownership program aircraft" or "program 1016
aircraft" means a turbojet aircraft that is owned or possessed 1017
by a fractional owner and that has been included in a dry-lease 1018
aircraft interchange arrangement and agreement under divisions 1019
(III) (1) (d) and (e) of this section, or an aircraft a program 1020
manager owns or possesses primarily for use in a fractional 1021
aircraft ownership program. 1022

(d) "Management services" means administrative and 1023
aviation support services furnished under a fractional aircraft 1024
ownership program in accordance with a management services 1025
agreement under division (III) (1) (e) of this section, and 1026
offered by the program manager to the fractional owners, 1027
including, at a minimum, the establishment and implementation of 1028
safety guidelines; the coordination of the scheduling of the 1029
program aircraft and crews; program aircraft maintenance; 1030
program aircraft insurance; crew training for crews employed, 1031
furnished, or contracted by the program manager or the 1032
fractional owner; the satisfaction of record-keeping 1033
requirements; and the development and use of an operations 1034
manual and a maintenance manual for the fractional aircraft 1035
ownership program. 1036

(e) "Program manager" means the person that offers 1037
management services to fractional owners pursuant to a 1038
management services agreement under division (III) (1) (e) of this 1039
section. 1040

(JJJ) "Electronic publishing" means providing access to 1041

one or more of the following primarily for business customers, 1042
including the federal government or a state government or a 1043
political subdivision thereof, to conduct research: news; 1044
business, financial, legal, consumer, or credit materials; 1045
editorials, columns, reader commentary, or features; photos or 1046
images; archival or research material; legal notices, identity 1047
verification, or public records; scientific, educational, 1048
instructional, technical, professional, trade, or other literary 1049
materials; or other similar information which has been gathered 1050
and made available by the provider to the consumer in an 1051
electronic format. Providing electronic publishing includes the 1052
functions necessary for the acquisition, formatting, editing, 1053
storage, and dissemination of data or information that is the 1054
subject of a sale. 1055

(KKK) "Medicaid health insuring corporation" means a 1056
health insuring corporation that holds a certificate of 1057
authority under Chapter 1751. of the Revised Code and is under 1058
contract with the department of medicaid pursuant to section 1059
5167.10 of the Revised Code. 1060

(LLL) "Managed care premium" means any premium, 1061
capitation, or other payment a medicaid health insuring 1062
corporation receives for providing or arranging for the 1063
provision of health care services to its members or enrollees 1064
residing in this state. 1065

(MMM) "Captive deer" means deer and other cervidae that 1066
have been legally acquired, or their offspring, that are 1067
privately owned for agricultural or farming purposes. 1068

(NNN) "Gift card" means a document, card, certificate, or 1069
other record, whether tangible or intangible, that may be 1070
redeemed by a consumer for a dollar value when making a purchase 1071

of tangible personal property or services. 1072

(000) "Specified digital product" means an electronically 1073
transferred digital audiovisual work, digital audio work, or 1074
digital book. 1075

As used in division (000) of this section: 1076

(1) "Digital audiovisual work" means a series of related 1077
images that, when shown in succession, impart an impression of 1078
motion, together with accompanying sounds, if any. 1079

(2) "Digital audio work" means a work that results from 1080
the fixation of a series of musical, spoken, or other sounds, 1081
including digitized sound files that are downloaded onto a 1082
device and that may be used to alert the customer with respect 1083
to a communication. 1084

(3) "Digital book" means a work that is generally 1085
recognized in the ordinary and usual sense as a book. 1086

(4) "Electronically transferred" means obtained by the 1087
purchaser by means other than tangible storage media. 1088

(PPP) "Digital advertising services" means providing 1089
access, by means of telecommunications equipment, to computer 1090
equipment that is used to enter, upload, download, review, 1091
manipulate, store, add, or delete data for the purpose of 1092
electronically displaying, delivering, placing, or transferring 1093
promotional advertisements to potential customers about products 1094
or services or about industry or business brands. 1095

(QQQ) "Peer-to-peer car sharing program" has the same 1096
meaning as in section 4516.01 of the Revised Code. 1097

Section 2. That existing section 5739.01 of the Revised 1098
Code is hereby repealed. 1099

Section 3. The amendment by this act of section 5739.01 of	1100
the Revised Code applies on and after July 1, 2023.	1101