

As Introduced

**135th General Assembly
Regular Session
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H. B. No. 663

Representatives Lorenz, Daniels

A BILL

To amend sections 1345.21 and 5739.01 of the
Revised Code to exclude consumer goods service
contracts from home solicitation sales
regulations and to authorize a sales tax credit
for the trade-in value of portable electronics
or home appliances for another similar item.

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

Section 1. That sections 1345.21 and 5739.01 of the
Revised Code be amended to read as follows:

Sec. 1345.21. As used in sections 1345.21 to 1345.28 of
the Revised Code:

(A) "Home solicitation sale" means a sale of consumer
goods or services in which the seller or a person acting for the
seller engages in a personal solicitation of the sale at a
residence of the buyer, including solicitations in response to
or following an invitation by the buyer, and the buyer's
agreement or offer to purchase is there given to the seller or a
person acting for the seller, or in which the buyer's agreement
or offer to purchase is made at a place other than the seller's
place of business. It does not include a transaction or

transactions in which:	20
(1) The total purchase price to be paid by the buyer,	21
whether under single or multiple contracts, is less than twenty-	22
five dollars;	23
(2) The transaction was conducted and consummated entirely	24
by mail or by telephone if initiated by the buyer, and without	25
any other contact between the seller or the seller's	26
representative prior to the delivery of goods or performance of	27
the service;	28
(3) The final agreement is made pursuant to prior	29
negotiations in the course of a visit by the buyer to a retail	30
business establishment having a fixed permanent location where	31
the goods are exhibited or the services are offered for sale on	32
a continuing basis;	33
(4) The buyer initiates the contact between the parties	34
for the purpose of negotiating a purchase and the seller has a	35
business establishment at a fixed location in this state where	36
the goods or services involved in the transaction are regularly	37
offered or exhibited for sale.	38
Advertisements by such a seller in newspapers, magazines,	39
catalogues, radio, or television do not constitute the seller	40
initiation of the contact.	41
(5) The buyer initiates the contact between the parties,	42
the goods or services are needed to meet a bona fide immediate	43
personal emergency of the buyer which will jeopardize the	44
welfare, health, or safety of natural persons, or endanger	45
property which the buyer owns or for which the buyer is	46
responsible, and the buyer furnishes the seller with a separate,	47
dated, and signed statement in the buyer's handwriting	48

describing the situation requiring immediate remedy and 49
expressly acknowledging and waiving the right to cancel the sale 50
within three business days; 51

(6) The buyer has initiated the contact between the 52
parties and specifically requested the seller to visit the 53
buyer's home for the purpose of repairing or performing 54
maintenance upon the buyer's personal property. If, in the 55
course of such a visit, the seller sells the buyer additional 56
services or goods other than replacement parts necessarily used 57
in performing the maintenance or in making the repairs, the sale 58
of those additional goods or services does not fall within this 59
exclusion. 60

(7) The buyer is accorded the right of rescission by the 61
"Consumer Credit Protection Act," (1968) 82 Stat. 152, 15 U.S.C. 62
1635, or regulations adopted pursuant to it. 63

(B) "Sale" includes a lease or rental. 64

(C) "Seller" includes a lessor or anyone offering goods 65
for rent. 66

(D) "Buyer" includes a lessee or anyone who gives a 67
consideration for the privilege of using goods. 68

(E) "Consumer goods or services" means goods or services 69
purchased, leased, or rented primarily for personal, family, or 70
household purposes, including courses or instruction or training 71
regardless of the purpose for which they are taken. 72

(F) "Consumer goods or services" does not include goods or 73
services pertaining to any of the following: 74

(1) Sales or rentals of real property by a real estate 75
broker or salesperson, or by a foreign real estate dealer or 76

salesperson, who is licensed by the Ohio real estate commission	77
under Chapter 4735. of the Revised Code;	78
(2) The sale of securities or commodities by a broker-	79
dealer registered with the securities and exchange commission;	80
(3) The sale of securities or commodities by a securities	81
dealer or salesperson licensed by the division of securities	82
under Chapter 1707. of the Revised Code;	83
(4) The sale of insurance by a person licensed by the	84
superintendent of insurance;	85
(5) Goods sold or services provided by automobile dealers	86
and salespersons licensed by the registrar of motor vehicles	87
under Chapter 4517. of the Revised Code;	88
(6) The sale of property at an auction by an auctioneer	89
licensed by the department of agriculture under Chapter 4707. of	90
the Revised Code;	91
<u>(7) The sale of consumer goods service contracts or</u>	92
<u>related goods or services subject to section 3905.423 of the</u>	93
<u>Revised Code.</u>	94
(G) "Purchase price" means the total cumulative price of	95
the consumer goods or services, including all interest and	96
service charges.	97
(H) "Place of business" means the main office, or a	98
permanent branch office or permanent local address of a seller.	99
(I) "Business day" means any calendar day except Sunday,	100
or the following business holidays: New Year's day, Martin	101
Luther King day, Presidents' day, Memorial day, Juneteenth day,	102
Independence day, Labor day, Columbus day, Veterans day,	103
Thanksgiving day, and Christmas day.	104

Sec. 5739.01. As used in this chapter:	105
(A) "Person" includes individuals, receivers, assignees,	106
trustees in bankruptcy, estates, firms, partnerships,	107
associations, joint-stock companies, joint ventures, clubs,	108
societies, corporations, the state and its political	109
subdivisions, and combinations of individuals of any form.	110
(B) "Sale" and "selling" include all of the following	111
transactions for a consideration in any manner, whether	112
absolutely or conditionally, whether for a price or rental, in	113
money or by exchange, and by any means whatsoever:	114
(1) All transactions by which title or possession, or	115
both, of tangible personal property, is or is to be transferred,	116
or a license to use or consume tangible personal property is or	117
is to be granted;	118
(2) All transactions by which lodging by a hotel is or is	119
to be furnished to transient guests;	120
(3) All transactions by which:	121
(a) An item of tangible personal property is or is to be	122
repaired, except property, the purchase of which would not be	123
subject to the tax imposed by section 5739.02 of the Revised	124
Code;	125
(b) An item of tangible personal property is or is to be	126
installed, except property, the purchase of which would not be	127
subject to the tax imposed by section 5739.02 of the Revised	128
Code or property that is or is to be incorporated into and will	129
become a part of a production, transmission, transportation, or	130
distribution system for the delivery of a public utility	131
service;	132

(c) The service of washing, cleaning, waxing, polishing,	133
or painting a motor vehicle is or is to be furnished;	134
(d) Laundry and dry cleaning services are or are to be	135
provided;	136
(e) Automatic data processing, computer services, or	137
electronic information services are or are to be provided for	138
use in business when the true object of the transaction is the	139
receipt by the consumer of automatic data processing, computer	140
services, or electronic information services rather than the	141
receipt of personal or professional services to which automatic	142
data processing, computer services, or electronic information	143
services are incidental or supplemental. Notwithstanding any	144
other provision of this chapter, such transactions that occur	145
between members of an affiliated group are not sales. An	146
"affiliated group" means two or more persons related in such a	147
way that one person owns or controls the business operation of	148
another member of the group. In the case of corporations with	149
stock, one corporation owns or controls another if it owns more	150
than fifty per cent of the other corporation's common stock with	151
voting rights.	152
(f) Telecommunications service, including prepaid calling	153
service, prepaid wireless calling service, or ancillary service,	154
is or is to be provided, but not including coin-operated	155
telephone service;	156
(g) Landscaping and lawn care service is or is to be	157
provided;	158
(h) Private investigation and security service is or is to	159
be provided;	160
(i) Information services or tangible personal property is	161

provided or ordered by means of a nine hundred telephone call;	162
(j) Building maintenance and janitorial service is or is to be provided;	163 164
(k) Exterminating service is or is to be provided;	165
(l) Physical fitness facility service is or is to be provided;	166 167
(m) Recreation and sports club service is or is to be provided;	168 169
(n) Satellite broadcasting service is or is to be provided;	170 171
(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.	172 173 174 175 176 177 178 179
(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;	180 181 182 183 184 185 186
(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	187 188 189

parked motor vehicle.	190
(r) Snow removal service is or is to be provided. As used	191
in this division, "snow removal service" means the removal of	192
snow by any mechanized means, but does not include the providing	193
of such service by a person that has less than five thousand	194
dollars in sales of such service during the calendar year.	195
(s) Electronic publishing service is or is to be provided	196
to a consumer for use in business, except that such transactions	197
occurring between members of an affiliated group, as defined in	198
division (B) (3) (e) of this section, are not sales.	199
(4) All transactions by which printed, imprinted,	200
overprinted, lithographic, multilithic, blueprinted,	201
photostatic, or other productions or reproductions of written or	202
graphic matter are or are to be furnished or transferred;	203
(5) The production or fabrication of tangible personal	204
property for a consideration for consumers who furnish either	205
directly or indirectly the materials used in the production of	206
fabrication work; and include the furnishing, preparing, or	207
serving for a consideration of any tangible personal property	208
consumed on the premises of the person furnishing, preparing, or	209
serving such tangible personal property. Except as provided in	210
section 5739.03 of the Revised Code, a construction contract	211
pursuant to which tangible personal property is or is to be	212
incorporated into a structure or improvement on and becoming a	213
part of real property is not a sale of such tangible personal	214
property. The construction contractor is the consumer of such	215
tangible personal property, provided that the sale and	216
installation of carpeting, the sale and installation of	217
agricultural land tile, the sale and erection or installation of	218
portable grain bins, or the provision of landscaping and lawn	219

care service and the transfer of property as part of such 220
service is never a construction contract. 221

As used in division (B) (5) of this section: 222

(a) "Agricultural land tile" means fired clay or concrete 223
tile, or flexible or rigid perforated plastic pipe or tubing, 224
incorporated or to be incorporated into a subsurface drainage 225
system appurtenant to land used or to be used primarily in 226
production by farming, agriculture, horticulture, or 227
floriculture. The term does not include such materials when they 228
are or are to be incorporated into a drainage system appurtenant 229
to a building or structure even if the building or structure is 230
used or to be used in such production. 231

(b) "Portable grain bin" means a structure that is used or 232
to be used by a person engaged in farming or agriculture to 233
shelter the person's grain and that is designed to be 234
disassembled without significant damage to its component parts. 235

(6) All transactions in which all of the shares of stock 236
of a closely held corporation are transferred, or an ownership 237
interest in a pass-through entity, as defined in section 5733.04 238
of the Revised Code, is transferred, if the corporation or pass- 239
through entity is not engaging in business and its entire assets 240
consist of boats, planes, motor vehicles, or other tangible 241
personal property operated primarily for the use and enjoyment 242
of the shareholders or owners; 243

(7) All transactions in which a warranty, maintenance or 244
service contract, or similar agreement by which the vendor of 245
the warranty, contract, or agreement agrees to repair or 246
maintain the tangible personal property of the consumer is or is 247
to be provided; 248

(8) The transfer of copyrighted motion picture films used 249
solely for advertising purposes, except that the transfer of 250
such films for exhibition purposes is not a sale; 251

(9) All transactions by which tangible personal property 252
is or is to be stored, except such property that the consumer of 253
the storage holds for sale in the regular course of business; 254

(10) All transactions in which "guaranteed auto 255
protection" is provided whereby a person promises to pay to the 256
consumer the difference between the amount the consumer receives 257
from motor vehicle insurance and the amount the consumer owes to 258
a person holding title to or a lien on the consumer's motor 259
vehicle in the event the consumer's motor vehicle suffers a 260
total loss under the terms of the motor vehicle insurance policy 261
or is stolen and not recovered, if the protection and its price 262
are included in the purchase or lease agreement; 263

(11) (a) Except as provided in division (B) (11) (b) of this 264
section, all transactions by which health care services are paid 265
for, reimbursed, provided, delivered, arranged for, or otherwise 266
made available by a medicaid health insuring corporation 267
pursuant to the corporation's contract with the state. 268

(b) If the centers for medicare and medicaid services of 269
the United States department of health and human services 270
determines that the taxation of transactions described in 271
division (B) (11) (a) of this section constitutes an impermissible 272
health care-related tax under the "Social Security Act," section 273
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 274
the medicaid director shall notify the tax commissioner of that 275
determination. Beginning with the first day of the month 276
following that notification, the transactions described in 277
division (B) (11) (a) of this section are not sales for the 278

purposes of this chapter or Chapter 5741. of the Revised Code. 279
The tax commissioner shall order that the collection of taxes 280
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 281
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 282
for transactions occurring on or after that date. 283

(12) All transactions by which a specified digital product 284
is provided for permanent use or less than permanent use, 285
regardless of whether continued payment is required. 286

Except as provided in this section, "sale" and "selling" 287
do not include transfers of interest in leased property where 288
the original lessee and the terms of the original lease 289
agreement remain unchanged, or professional, insurance, or 290
personal service transactions that involve the transfer of 291
tangible personal property as an inconsequential element, for 292
which no separate charges are made. 293

(C) "Vendor" means the person providing the service or by 294
whom the transfer effected or license given by a sale is or is 295
to be made or given and, for sales described in division (B) (3) 296
(i) of this section, the telecommunications service vendor that 297
provides the nine hundred telephone service; if two or more 298
persons are engaged in business at the same place of business 299
under a single trade name in which all collections on account of 300
sales by each are made, such persons shall constitute a single 301
vendor. 302

Physicians, dentists, hospitals, and veterinarians who are 303
engaged in selling tangible personal property as received from 304
others, such as eyeglasses, mouthwashes, dentifrices, or similar 305
articles, are vendors. Veterinarians who are engaged in 306
transferring to others for a consideration drugs, the dispensing 307
of which does not require an order of a licensed veterinarian or 308

physician under federal law, are vendors. 309

The operator of any peer-to-peer car sharing program shall 310
be considered to be the vendor. 311

(D) (1) "Consumer" means the person for whom the service is 312
provided, to whom the transfer effected or license given by a 313
sale is or is to be made or given, to whom the service described 314
in division (B) (3) (f) or (i) of this section is charged, or to 315
whom the admission is granted. 316

(2) Physicians, dentists, hospitals, and blood banks 317
operated by nonprofit institutions and persons licensed to 318
practice veterinary medicine, surgery, and dentistry are 319
consumers of all tangible personal property and services 320
purchased by them in connection with the practice of medicine, 321
dentistry, the rendition of hospital or blood bank service, or 322
the practice of veterinary medicine, surgery, and dentistry. In 323
addition to being consumers of drugs administered by them or by 324
their assistants according to their direction, veterinarians 325
also are consumers of drugs that under federal law may be 326
dispensed only by or upon the order of a licensed veterinarian 327
or physician, when transferred by them to others for a 328
consideration to provide treatment to animals as directed by the 329
veterinarian. 330

(3) A person who performs a facility management, or 331
similar service contract for a contractee is a consumer of all 332
tangible personal property and services purchased for use in 333
connection with the performance of such contract, regardless of 334
whether title to any such property vests in the contractee. The 335
purchase of such property and services is not subject to the 336
exception for resale under division (E) of this section. 337

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

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

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

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

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

separate from the service. 368

(7) In the case of a transaction for health care services 369
under division (B) (11) of this section, a medicaid health 370
insuring corporation is the consumer of such services. The 371
purchase of such services by a medicaid health insuring 372
corporation is not subject to the exception for resale under 373
division (E) of this section or to the exemptions provided under 374
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 375
the Revised Code. 376

(E) "Retail sale" and "sales at retail" include all sales, 377
except those in which the purpose of the consumer is to resell 378
the thing transferred or benefit of the service provided, by a 379
person engaging in business, in the form in which the same is, 380
or is to be, received by the person. 381

(F) "Business" includes any activity engaged in by any 382
person with the object of gain, benefit, or advantage, either 383
direct or indirect. "Business" does not include the activity of 384
a person in managing and investing the person's own funds. 385

(G) "Engaging in business" means commencing, conducting, 386
or continuing in business, and liquidating a business when the 387
liquidator thereof holds itself out to the public as conducting 388
such business. Making a casual sale is not engaging in business. 389

(H) (1) (a) "Price," except as provided in divisions (H) (2) ~~3~~ 390
~~(3), and (4)~~ to (6) of this section, means the total amount of 391
consideration, including cash, credit, property, and services, 392
for which tangible personal property or services are sold, 393
leased, or rented, valued in money, whether received in money or 394
otherwise, without any deduction for any of the following: 395

(i) The vendor's cost of the property sold; 396

(ii) The cost of materials used, labor or service costs,	397
interest, losses, all costs of transportation to the vendor, all	398
taxes imposed on the vendor, including the tax imposed under	399
Chapter 5751. of the Revised Code, and any other expense of the	400
vendor;	401
(iii) Charges by the vendor for any services necessary to	402
complete the sale;	403
(iv) Delivery charges. As used in this division, "delivery	404
charges" means charges by the vendor for preparation and	405
delivery to a location designated by the consumer of tangible	406
personal property or a service, including transportation,	407
shipping, postage, handling, crating, and packing.	408
(v) Installation charges;	409
(vi) Credit for any trade-in.	410
(b) "Price" includes consideration received by the vendor	411
from a third party, if the vendor actually receives the	412
consideration from a party other than the consumer, and the	413
consideration is directly related to a price reduction or	414
discount on the sale; the vendor has an obligation to pass the	415
price reduction or discount through to the consumer; the amount	416
of the consideration attributable to the sale is fixed and	417
determinable by the vendor at the time of the sale of the item	418
to the consumer; and one of the following criteria is met:	419
(i) The consumer presents a coupon, certificate, or other	420
document to the vendor to claim a price reduction or discount	421
where the coupon, certificate, or document is authorized,	422
distributed, or granted by a third party with the understanding	423
that the third party will reimburse any vendor to whom the	424
coupon, certificate, or document is presented;	425

(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.

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

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

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

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

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

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

(v) The dollar value of a gift card that is not sold by a

vendor or purchased by a consumer and that is redeemed by the 455
consumer in purchasing tangible personal property or services if 456
the vendor is not reimbursed and does not receive compensation 457
from a third party to cover all or part of the gift card value. 458
For the purposes of this division, a gift card is not sold by a 459
vendor or purchased by a consumer if it is distributed pursuant 460
to an awards, loyalty, or promotional program. Past and present 461
purchases of tangible personal property or services by the 462
consumer shall not be treated as consideration exchanged for a 463
gift card. 464

(2) In the case of a sale of any new motor vehicle by a 465
new motor vehicle dealer, as defined in section 4517.01 of the 466
Revised Code, in which another motor vehicle is accepted by the 467
dealer as part of the consideration received, "price" has the 468
same meaning as in division (H)(1) of this section, reduced by 469
the credit afforded the consumer by the dealer for the motor 470
vehicle received in trade. 471

(3) In the case of a sale of any watercraft or outboard 472
motor by a watercraft dealer licensed in accordance with section 473
1547.543 of the Revised Code, in which another watercraft, 474
watercraft and trailer, or outboard motor is accepted by the 475
dealer as part of the consideration received, "price" has the 476
same meaning as in division (H)(1) of this section, reduced by 477
the credit afforded the consumer by the dealer for the 478
watercraft, watercraft and trailer, or outboard motor received 479
in trade. As used in this division, "watercraft" includes an 480
outdrive unit attached to the watercraft. 481

(4) In the case of transactions for health care services 482
under division (B)(11) of this section, "price" means the amount 483
of managed care premiums received each month by a medicaid 484

health insuring corporation. 485

(5) In the case of a sale of any new or used portable 486
electronics, as defined in section 3905.062 of the Revised Code, 487
in which other portable electronics are accepted by the seller 488
as part of the consideration received, "price" has the same 489
meaning as in division (H) (1) of this section, reduced by the 490
credit afforded the consumer by the seller for the portable 491
electronics received in trade, or in a series of trades, as a 492
credit on the sale of the new or used portable electronics, 493
provided the credit is separately stated on the invoice, bill of 494
sale, or similar document given to the purchaser. 495

(6) In the case of a sale of any new or used home 496
appliance, in which another home appliance is accepted by the 497
seller as part of the consideration received, "price" has the 498
same meaning as in division (H) (1) of this section, reduced by 499
the credit afforded the consumer by the seller for the home 500
appliance received in trade, or in a series of trades, as a 501
credit on the sale of the new or used home appliance, provided 502
the credit is separately stated on the invoice, bill of sale, or 503
similar document given to the purchaser. As used in division (H) 504
(6) of this section, "home appliance" means tangible personal 505
property used in the home for performance of domestic chores or 506
other domestic tasks, including a refrigerator, stove, washing 507
machine, or vacuum cleaner. 508

(I) "Receipts" means the total amount of the prices of the 509
sales of vendors, provided that the dollar value of gift cards 510
distributed pursuant to an awards, loyalty, or promotional 511
program, and cash discounts allowed and taken on sales at the 512
time they are consummated are not included, minus any amount 513
deducted as a bad debt pursuant to section 5739.121 of the 514

Revised Code. "Receipts" does not include the sale price of 515
property returned or services rejected by consumers when the 516
full sale price and tax are refunded either in cash or by 517
credit. 518

(J) "Place of business" means any location at which a 519
person engages in business. 520

(K) "Premises" includes any real property or portion 521
thereof upon which any person engages in selling tangible 522
personal property at retail or making retail sales and also 523
includes any real property or portion thereof designated for, or 524
devoted to, use in conjunction with the business engaged in by 525
such person. 526

(L) "Casual sale" means a sale of an item of tangible 527
personal property that was obtained by the person making the 528
sale, through purchase or otherwise, for the person's own use 529
and was previously subject to any state's taxing jurisdiction on 530
its sale or use, and includes such items acquired for the 531
seller's use that are sold by an auctioneer employed directly by 532
the person for such purpose, provided the location of such sales 533
is not the auctioneer's permanent place of business. As used in 534
this division, "permanent place of business" includes any 535
location where such auctioneer has conducted more than two 536
auctions during the year. 537

(M) "Hotel" means every establishment kept, used, 538
maintained, advertised, or held out to the public to be a place 539
where sleeping accommodations are offered to guests, in which 540
five or more rooms are used for the accommodation of such 541
guests, whether the rooms are in one or several structures, 542
except as otherwise provided in section 5739.091 of the Revised 543
Code. 544

(N) "Transient guests" means persons occupying a room or 545
rooms for sleeping accommodations for less than thirty 546
consecutive days. 547

(O) "Making retail sales" means the effecting of 548
transactions wherein one party is obligated to pay the price and 549
the other party is obligated to provide a service or to transfer 550
title to or possession of the item sold. "Making retail sales" 551
does not include the preliminary acts of promoting or soliciting 552
the retail sales, other than the distribution of printed matter 553
which displays or describes and prices the item offered for 554
sale, nor does it include delivery of a predetermined quantity 555
of tangible personal property or transportation of property or 556
personnel to or from a place where a service is performed. 557

(P) "Used directly in the rendition of a public utility 558
service" means that property that is to be incorporated into and 559
will become a part of the consumer's production, transmission, 560
transportation, or distribution system and that retains its 561
classification as tangible personal property after such 562
incorporation; fuel or power used in the production, 563
transmission, transportation, or distribution system; and 564
tangible personal property used in the repair and maintenance of 565
the production, transmission, transportation, or distribution 566
system, including only such motor vehicles as are specially 567
designed and equipped for such use. Tangible personal property 568
and services used primarily in providing highway transportation 569
for hire are not used directly in the rendition of a public 570
utility service. In this definition, "public utility" includes a 571
citizen of the United States holding, and required to hold, a 572
certificate of public convenience and necessity issued under 49 573
U.S.C. 41102. 574

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

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

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

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

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

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

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

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

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

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

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

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

the computer equipment; 634

(ii) Placing data into the computer equipment to be 635
retrieved by designated recipients with access to the computer 636
equipment. 637

"Electronic information services" does not include 638
electronic publishing. 639

(d) "Automatic data processing, computer services, or 640
electronic information services" shall not include personal or 641
professional services. 642

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 643
section, "personal and professional services" means all services 644
other than automatic data processing, computer services, or 645
electronic information services, including but not limited to: 646

(a) Accounting and legal services such as advice on tax 647
matters, asset management, budgetary matters, quality control, 648
information security, and auditing and any other situation where 649
the service provider receives data or information and studies, 650
alters, analyzes, interprets, or adjusts such material; 651

(b) Analyzing business policies and procedures; 652

(c) Identifying management information needs; 653

(d) Feasibility studies, including economic and technical 654
analysis of existing or potential computer hardware or software 655
needs and alternatives; 656

(e) Designing policies, procedures, and custom software 657
for collecting business information, and determining how data 658
should be summarized, sequenced, formatted, processed, 659
controlled, and reported so that it will be meaningful to 660
management; 661

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

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

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

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

(k) Providing digital advertising services;

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

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

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

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

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

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

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

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

the consumer's primary purpose for the underlying transaction is	720
the processed data or information;	721
(b) Installation or maintenance of wiring or equipment on	722
a customer's premises;	723
(c) Tangible personal property;	724
(d) Advertising, including directory advertising;	725
(e) Billing and collection services provided to third	726
parties;	727
(f) Internet access service;	728
(g) Radio and television audio and video programming	729
services, regardless of the medium, including the furnishing of	730
transmission, conveyance, and routing of such services by the	731
programming service provider. Radio and television audio and	732
video programming services include, but are not limited to,	733
cable service, as defined in 47 U.S.C. 522(6), and audio and	734
video programming services delivered by commercial mobile radio	735
service providers, as defined in 47 C.F.R. 20.3;	736
(h) Ancillary service;	737
(i) Digital products delivered electronically, including	738
software, music, video, reading materials, or ring tones.	739
(2) "Ancillary service" means a service that is associated	740
with or incidental to the provision of telecommunications	741
service, including conference bridging service, detailed	742
telecommunications billing service, directory assistance,	743
vertical service, and voice mail service. As used in this	744
division:	745
(a) "Conference bridging service" means an ancillary	746

service that links two or more participants of an audio or video conference call, including providing a telephone number. 747
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"Conference bridging service" does not include 749
telecommunications services used to reach the conference bridge. 750

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. 751
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(c) "Directory assistance" means an ancillary service of providing telephone number or address information. 754
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(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service. 756
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(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service. 761
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(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900 service" and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer. 766
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(4) "Prepaid calling service" means the right to access 776
exclusively telecommunications services, which must be paid for 777
in advance and which enables the origination of calls using an 778
access number or authorization code, whether manually or 779
electronically dialed, and that is sold in predetermined units 780
or dollars of which the number declines with use in a known 781
amount. 782

(5) "Prepaid wireless calling service" means a 783
telecommunications service that provides the right to utilize 784
mobile telecommunications service as well as other non- 785
telecommunications services, including the download of digital 786
products delivered electronically, and content and ancillary 787
services, that must be paid for in advance and that is sold in 788
predetermined units or dollars of which the number declines with 789
use in a known amount. 790

(6) "Value-added non-voice data service" means a 791
telecommunications service in which computer processing 792
applications are used to act on the form, content, code, or 793
protocol of the information or data primarily for a purpose 794
other than transmission, conveyance, or routing. 795

(7) "Coin-operated telephone service" means a 796
telecommunications service paid for by inserting money into a 797
telephone accepting direct deposits of money to operate. 798

(8) "Customer" has the same meaning as in section 5739.034 799
of the Revised Code. 800

(BB) "Laundry and dry cleaning services" means removing 801
soil or dirt from towels, linens, articles of clothing, or other 802
fabric items that belong to others and supplying towels, linens, 803
articles of clothing, or other fabric items. "Laundry and dry 804

cleaning services" does not include the provision of self- 805
service facilities for use by consumers to remove soil or dirt 806
from towels, linens, articles of clothing, or other fabric 807
items. 808

(CC) "Magazines distributed as controlled circulation 809
publications" means magazines containing at least twenty-four 810
pages, at least twenty-five per cent editorial content, issued 811
at regular intervals four or more times a year, and circulated 812
without charge to the recipient, provided that such magazines 813
are not owned or controlled by individuals or business concerns 814
which conduct such publications as an auxiliary to, and 815
essentially for the advancement of the main business or calling 816
of, those who own or control them. 817

(DD) "Landscaping and lawn care service" means the 818
services of planting, seeding, sodding, removing, cutting, 819
trimming, pruning, mulching, aerating, applying chemicals, 820
watering, fertilizing, and providing similar services to 821
establish, promote, or control the growth of trees, shrubs, 822
flowers, grass, ground cover, and other flora, or otherwise 823
maintaining a lawn or landscape grown or maintained by the owner 824
for ornamentation or other nonagricultural purpose. However, 825
"landscaping and lawn care service" does not include the 826
providing of such services by a person who has less than five 827
thousand dollars in sales of such services during the calendar 828
year. 829

(EE) "Private investigation and security service" means 830
the performance of any activity for which the provider of such 831
service is required to be licensed pursuant to Chapter 4749. of 832
the Revised Code, or would be required to be so licensed in 833
performing such services in this state, and also includes the 834

services of conducting polygraph examinations and of monitoring 835
or overseeing the activities on or in, or the condition of, the 836
consumer's home, business, or other facility by means of 837
electronic or similar monitoring devices. "Private investigation 838
and security service" does not include special duty services 839
provided by off-duty police officers, deputy sheriffs, and other 840
peace officers regularly employed by the state or a political 841
subdivision. 842

(FF) "Information services" means providing conversation, 843
giving consultation or advice, playing or making a voice or 844
other recording, making or keeping a record of the number of 845
callers, and any other service provided to a consumer by means 846
of a nine hundred telephone call, except when the nine hundred 847
telephone call is the means by which the consumer makes a 848
contribution to a recognized charity. 849

(GG) "Research and development" means designing, creating, 850
or formulating new or enhanced products, equipment, or 851
manufacturing processes, and also means conducting scientific or 852
technological inquiry and experimentation in the physical 853
sciences with the goal of increasing scientific knowledge which 854
may reveal the bases for new or enhanced products, equipment, or 855
manufacturing processes. 856

(HH) "Qualified research and development equipment" means 857
either of the following: 858

(1) Capitalized tangible personal property, and leased 859
personal property that would be capitalized if purchased, used 860
by a person primarily to perform research and development; 861

(2) Any tangible personal property used by a megaproject 862
operator primarily to perform research and development at the 863

site of a megaproject that satisfies the criteria described in 864
division (A) (11) (a) (ii) of section 122.17 of the Revised Code 865
during the period that the megaproject operator has an agreement 866
for such megaproject with the tax credit authority under 867
division (D) of that section that remains in effect and has not 868
expired or been terminated. 869

"Qualified research and development equipment" does not 870
include tangible personal property primarily used in testing, as 871
defined in division (A) (4) of section 5739.011 of the Revised 872
Code, or used for recording or storing test results, unless such 873
property is primarily used by the consumer in testing the 874
product, equipment, or manufacturing process being created, 875
designed, or formulated by the consumer in the research and 876
development activity or in recording or storing such test 877
results. 878

(II) "Building maintenance and janitorial service" means 879
cleaning the interior or exterior of a building and any tangible 880
personal property located therein or thereon, including any 881
services incidental to such cleaning for which no separate 882
charge is made. However, "building maintenance and janitorial 883
service" does not include the providing of such service by a 884
person who has less than five thousand dollars in sales of such 885
service during the calendar year. As used in this division, 886
"cleaning" does not include sanitation services necessary for an 887
establishment described in 21 U.S.C. 608 to comply with rules 888
and regulations adopted pursuant to that section. 889

(JJ) "Exterminating service" means eradicating or 890
attempting to eradicate vermin infestations from a building or 891
structure, or the area surrounding a building or structure, and 892
includes activities to inspect, detect, or prevent vermin 893

infestation of a building or structure. 894

(KK) "Physical fitness facility service" means all 895
transactions by which a membership is granted, maintained, or 896
renewed, including initiation fees, membership dues, renewal 897
fees, monthly minimum fees, and other similar fees and dues, by 898
a physical fitness facility such as an athletic club, health 899
spa, or gymnasium, which entitles the member to use the facility 900
for physical exercise. 901

(LL) "Recreation and sports club service" means all 902
transactions by which a membership is granted, maintained, or 903
renewed, including initiation fees, membership dues, renewal 904
fees, monthly minimum fees, and other similar fees and dues, by 905
a recreation and sports club, which entitles the member to use 906
the facilities of the organization. "Recreation and sports club" 907
means an organization that has ownership of, or controls or 908
leases on a continuing, long-term basis, the facilities used by 909
its members and includes an aviation club, gun or shooting club, 910
yacht club, card club, swimming club, tennis club, golf club, 911
country club, riding club, amateur sports club, or similar 912
organization. 913

(MM) "Livestock" means farm animals commonly raised for 914
food, food production, or other agricultural purposes, 915
including, but not limited to, cattle, sheep, goats, swine, 916
poultry, and captive deer. "Livestock" does not include 917
invertebrates, amphibians, reptiles, domestic pets, animals for 918
use in laboratories or for exhibition, or other animals not 919
commonly raised for food or food production. 920

(NN) "Livestock structure" means a building or structure 921
used exclusively for the housing, raising, feeding, or 922
sheltering of livestock, and includes feed storage or handling 923

structures and structures for livestock waste handling.	924
(OO) "Horticulture" means the growing, cultivation, and	925
production of flowers, fruits, herbs, vegetables, sod,	926
mushrooms, and nursery stock. As used in this division, "nursery	927
stock" has the same meaning as in section 927.51 of the Revised	928
Code.	929
(PP) "Horticulture structure" means a building or	930
structure used exclusively for the commercial growing, raising,	931
or overwintering of horticultural products, and includes the	932
area used for stocking, storing, and packing horticultural	933
products when done in conjunction with the production of those	934
products.	935
(QQ) "Newspaper" means an unbound publication bearing a	936
title or name that is regularly published, at least as	937
frequently as biweekly, and distributed from a fixed place of	938
business to the public in a specific geographic area, and that	939
contains a substantial amount of news matter of international,	940
national, or local events of interest to the general public.	941
(RR) (1) "Feminine hygiene products" means tampons, panty	942
liners, menstrual cups, sanitary napkins, and other similar	943
tangible personal property designed for feminine hygiene in	944
connection with the human menstrual cycle, but does not include	945
grooming and hygiene products.	946
(2) "Grooming and hygiene products" means soaps and	947
cleaning solutions, shampoo, toothpaste, mouthwash,	948
antiperspirants, and sun tan lotions and screens, regardless of	949
whether any of these products are over-the-counter drugs.	950
(3) "Over-the-counter drugs" means a drug that contains a	951
label that identifies the product as a drug as required by 21	952

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 of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

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

(2) "Lease" and "rental," as defined in division (SS) of this section, shall not apply to leases or rentals that exist

before June 26, 2003. 982

(3) "Lease" and "rental" have the same meaning as in 983
division (SS) (1) of this section regardless of whether a 984
transaction is characterized as a lease or rental under 985
generally accepted accounting principles, the Internal Revenue 986
Code, Title XIII of the Revised Code, or other federal, state, 987
or local laws. 988

(TT) "Mobile telecommunications service" has the same 989
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 990
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 991
amended, and, on and after August 1, 2003, includes related fees 992
and ancillary services, including universal service fees, 993
detailed billing service, directory assistance, service 994
initiation, voice mail service, and vertical services, such as 995
caller ID and three-way calling. 996

(UU) "Certified service provider" has the same meaning as 997
in section 5740.01 of the Revised Code. 998

(VV) "Satellite broadcasting service" means the 999
distribution or broadcasting of programming or services by 1000
satellite directly to the subscriber's receiving equipment 1001
without the use of ground receiving or distribution equipment, 1002
except the subscriber's receiving equipment or equipment used in 1003
the uplink process to the satellite, and includes all service 1004
and rental charges, premium channels or other special services, 1005
installation and repair service charges, and any other charges 1006
having any connection with the provision of the satellite 1007
broadcasting service. 1008

(WW) "Tangible personal property" means personal property 1009
that can be seen, weighed, measured, felt, or touched, or that 1010

is in any other manner perceptible to the senses. For purposes 1011
of this chapter and Chapter 5741. of the Revised Code, "tangible 1012
personal property" includes motor vehicles, electricity, water, 1013
gas, steam, and prewritten computer software. 1014

(XX) "Municipal gas utility" means a municipal corporation 1015
that owns or operates a system for the distribution of natural 1016
gas. 1017

(YY) "Computer" means an electronic device that accepts 1018
information in digital or similar form and manipulates it for a 1019
result based on a sequence of instructions. 1020

(ZZ) "Computer software" means a set of coded instructions 1021
designed to cause a computer or automatic data processing 1022
equipment to perform a task. 1023

(AAA) "Delivered electronically" means delivery of 1024
computer software from the seller to the purchaser by means 1025
other than tangible storage media. 1026

(BBB) "Prewritten computer software" means computer 1027
software, including prewritten upgrades, that is not designed 1028
and developed by the author or other creator to the 1029
specifications of a specific purchaser. The combining of two or 1030
more prewritten computer software programs or prewritten 1031
portions thereof does not cause the combination to be other than 1032
prewritten computer software. "Prewritten computer software" 1033
includes software designed and developed by the author or other 1034
creator to the specifications of a specific purchaser when it is 1035
sold to a person other than the purchaser. If a person modifies 1036
or enhances computer software of which the person is not the 1037
author or creator, the person shall be deemed to be the author 1038
or creator only of such person's modifications or enhancements. 1039

Prewritten computer software or a prewritten portion thereof 1040
that is modified or enhanced to any degree, where such 1041
modification or enhancement is designed and developed to the 1042
specifications of a specific purchaser, remains prewritten 1043
computer software; provided, however, that where there is a 1044
reasonable, separately stated charge or an invoice or other 1045
statement of the price given to the purchaser for the 1046
modification or enhancement, the modification or enhancement 1047
shall not constitute prewritten computer software. 1048

(CCC) (1) "Food" means substances, whether in liquid, 1049
concentrated, solid, frozen, dried, or dehydrated form, that are 1050
sold for ingestion or chewing by humans and are consumed for 1051
their taste or nutritional value. "Food" does not include 1052
alcoholic beverages, dietary supplements, soft drinks, or 1053
tobacco. 1054

(2) As used in division (CCC) (1) of this section: 1055

(a) "Dietary supplements" means any product, other than 1056
tobacco, that is intended to supplement the diet and that is 1057
intended for ingestion in tablet, capsule, powder, softgel, 1058
gelcap, or liquid form, or, if not intended for ingestion in 1059
such a form, is not represented as conventional food for use as 1060
a sole item of a meal or of the diet; that is required to be 1061
labeled as a dietary supplement, identifiable by the "supplement 1062
facts" box found on the label, as required by 21 C.F.R. 101.36; 1063
and that contains one or more of the following dietary 1064
ingredients: 1065

(i) A vitamin; 1066

(ii) A mineral; 1067

(iii) An herb or other botanical; 1068

(iv) An amino acid; 1069

(v) A dietary substance for use by humans to supplement 1070
the diet by increasing the total dietary intake; 1071

(vi) A concentrate, metabolite, constituent, extract, or 1072
combination of any ingredient described in divisions (CCC) (2) (a) 1073
(i) to (v) of this section. 1074

(b) "Soft drinks" means nonalcoholic beverages that 1075
contain natural or artificial sweeteners. "Soft drinks" does not 1076
include beverages that contain milk or milk products, soy, rice, 1077
or similar milk substitutes, or that contains greater than fifty 1078
per cent vegetable or fruit juice by volume. 1079

(DDD) "Drug" means a compound, substance, or preparation, 1080
and any component of a compound, substance, or preparation, 1081
other than food, dietary supplements, or alcoholic beverages 1082
that is recognized in the official United States pharmacopoeia, 1083
official homeopathic pharmacopoeia of the United States, or 1084
official national formulary, and supplements to them; is 1085
intended for use in the diagnosis, cure, mitigation, treatment, 1086
or prevention of disease; or is intended to affect the structure 1087
or any function of the body. 1088

(EEE) "Prescription" means an order, formula, or recipe 1089
issued in any form of oral, written, electronic, or other means 1090
of transmission by a duly licensed practitioner authorized by 1091
the laws of this state to issue a prescription. 1092

(FFF) "Durable medical equipment" means equipment, 1093
including repair and replacement parts for such equipment, that 1094
can withstand repeated use, is primarily and customarily used to 1095
serve a medical purpose, generally is not useful to a person in 1096
the absence of illness or injury, and is not worn in or on the 1097

body. "Durable medical equipment" does not include mobility 1098
enhancing equipment. 1099

(GGG) "Mobility enhancing equipment" means equipment, 1100
including repair and replacement parts for such equipment, that 1101
is primarily and customarily used to provide or increase the 1102
ability to move from one place to another and is appropriate for 1103
use either in a home or a motor vehicle, that is not generally 1104
used by persons with normal mobility, and that does not include 1105
any motor vehicle or equipment on a motor vehicle normally 1106
provided by a motor vehicle manufacturer. "Mobility enhancing 1107
equipment" does not include durable medical equipment. 1108

(HHH) "Prosthetic device" means a replacement, corrective, 1109
or supportive device, including repair and replacement parts for 1110
the device, worn on or in the human body to artificially replace 1111
a missing portion of the body, prevent or correct physical 1112
deformity or malfunction, or support a weak or deformed portion 1113
of the body. As used in this division, before July 1, 2019, 1114
"prosthetic device" does not include corrective eyeglasses, 1115
contact lenses, or dental prosthesis. On or after July 1, 2019, 1116
"prosthetic device" does not include dental prosthesis but does 1117
include corrective eyeglasses or contact lenses. 1118

(III) (1) "Fractional aircraft ownership program" means a 1119
program in which persons within an affiliated group sell and 1120
manage fractional ownership program aircraft, provided that at 1121
least one hundred airworthy aircraft are operated in the program 1122
and the program meets all of the following criteria: 1123

(a) Management services are provided by at least one 1124
program manager within an affiliated group on behalf of the 1125
fractional owners. 1126

(b) Each program aircraft is owned or possessed by at least one fractional owner.	1127 1128
(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.	1129 1130 1131
(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.	1132 1133
(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.	1134 1135 1136
(2) As used in division (III)(1) of this section:	1137
(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.	1138 1139
(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (III)(1)(e) of this section.	1140 1141 1142 1143
(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (III)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.	1144 1145 1146 1147 1148 1149 1150
(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (III)(1)(e) of this section, and	1151 1152 1153 1154

offered by the program manager to the fractional owners, 1155
including, at a minimum, the establishment and implementation of 1156
safety guidelines; the coordination of the scheduling of the 1157
program aircraft and crews; program aircraft maintenance; 1158
program aircraft insurance; crew training for crews employed, 1159
furnished, or contracted by the program manager or the 1160
fractional owner; the satisfaction of record-keeping 1161
requirements; and the development and use of an operations 1162
manual and a maintenance manual for the fractional aircraft 1163
ownership program. 1164

(e) "Program manager" means the person that offers 1165
management services to fractional owners pursuant to a 1166
management services agreement under division (III) (1) (e) of this 1167
section. 1168

(JJJ) "Electronic publishing" means providing access to 1169
one or more of the following primarily for business customers, 1170
including the federal government or a state government or a 1171
political subdivision thereof, to conduct research: news; 1172
business, financial, legal, consumer, or credit materials; 1173
editorials, columns, reader commentary, or features; photos or 1174
images; archival or research material; legal notices, identity 1175
verification, or public records; scientific, educational, 1176
instructional, technical, professional, trade, or other literary 1177
materials; or other similar information which has been gathered 1178
and made available by the provider to the consumer in an 1179
electronic format. Providing electronic publishing includes the 1180
functions necessary for the acquisition, formatting, editing, 1181
storage, and dissemination of data or information that is the 1182
subject of a sale. 1183

(KKK) "Medicaid health insuring corporation" means a 1184

health insuring corporation that holds a certificate of 1185
authority under Chapter 1751. of the Revised Code and is under 1186
contract with the department of medicaid pursuant to section 1187
5167.10 of the Revised Code. 1188

(LLL) "Managed care premium" means any premium, 1189
capitation, or other payment a medicaid health insuring 1190
corporation receives for providing or arranging for the 1191
provision of health care services to its members or enrollees 1192
residing in this state. 1193

(MMM) "Captive deer" means deer and other cervidae that 1194
have been legally acquired, or their offspring, that are 1195
privately owned for agricultural or farming purposes. 1196

(NNN) "Gift card" means a document, card, certificate, or 1197
other record, whether tangible or intangible, that may be 1198
redeemed by a consumer for a dollar value when making a purchase 1199
of tangible personal property or services. 1200

(OOO) "Specified digital product" means an electronically 1201
transferred digital audiovisual work, digital audio work, or 1202
digital book. 1203

As used in division (OOO) of this section: 1204

(1) "Digital audiovisual work" means a series of related 1205
images that, when shown in succession, impart an impression of 1206
motion, together with accompanying sounds, if any. 1207

(2) "Digital audio work" means a work that results from 1208
the fixation of a series of musical, spoken, or other sounds, 1209
including digitized sound files that are downloaded onto a 1210
device and that may be used to alert the customer with respect 1211
to a communication. 1212

(3) "Digital book" means a work that is generally	1213
recognized in the ordinary and usual sense as a book.	1214
(4) "Electronically transferred" means obtained by the	1215
purchaser by means other than tangible storage media.	1216
(PPP) "Digital advertising services" means providing	1217
access, by means of telecommunications equipment, to computer	1218
equipment that is used to enter, upload, download, review,	1219
manipulate, store, add, or delete data for the purpose of	1220
electronically displaying, delivering, placing, or transferring	1221
promotional advertisements to potential customers about products	1222
or services or about industry or business brands.	1223
(QQQ) "Peer-to-peer car sharing program" has the same	1224
meaning as in section 4516.01 of the Revised Code.	1225
(RRR) "Megaproject" and "megaproject operator" have the	1226
same meanings as in section 122.17 of the Revised Code.	1227
(SSS) (1) "Diaper" means an absorbent garment worn by	1228
humans who are incapable of, or have difficulty, controlling	1229
their bladder or bowel movements.	1230
(2) "Children's diaper" means a diaper marketed to be worn	1231
by children.	1232
(3) "Adult diaper" means a diaper other than a children's	1233
diaper.	1234
(TTT) "Sales tax holiday" means three or more dates on	1235
which sales of all eligible tangible personal property are	1236
exempt from the taxes levied under sections 5739.02, 5739.021,	1237
5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of	1238
the Revised Code.	1239
(UUU) "Eligible tangible personal property" means any item	1240

of tangible personal property that meets both of the following 1241
requirements: 1242

(1) The price of the item does not exceed five hundred 1243
dollars; 1244

(2) The item is not a watercraft or outboard motor 1245
required to be titled pursuant to Chapter 1548. of the Revised 1246
Code, a motor vehicle, an alcoholic beverage, tobacco, a vapor 1247
product as defined in section 5743.01 of the Revised Code, or an 1248
item that contains marijuana as defined in section 3796.01 of 1249
the Revised Code. 1250

(VVV) "Alcoholic beverages" means beverages that are 1251
suitable for human consumption and contain one-half of one per 1252
cent or more of alcohol by volume. 1253

(WWW) "Tobacco" means cigarettes, cigars, chewing or pipe 1254
tobacco, or any other item that contains tobacco. 1255

Section 2. That existing sections 1345.21 and 5739.01 of 1256
the Revised Code are hereby repealed. 1257

Section 3. The amendment by this act of section 5739.01 of 1258
the Revised Code applies on and after the first day of the first 1259
month that begins after the effective date of this section. 1260