

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 172

Senator Brenner

A BILL

To amend section 5739.02 of the Revised Code to 1
exempt from sales and use tax sales of manned 2
aircraft. 3

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

Section 1. That section 5739.02 of the Revised Code be 4
amended to read as follows: 5

Sec. 5739.02. For the purpose of providing revenue with 6
which to meet the needs of the state, for the use of the general 7
revenue fund of the state, for the purpose of securing a 8
thorough and efficient system of common schools throughout the 9
state, for the purpose of affording revenues, in addition to 10
those from general property taxes, permitted under 11
constitutional limitations, and from other sources, for the 12
support of local governmental functions, and for the purpose of 13
reimbursing the state for the expense of administering this 14
chapter, an excise tax is hereby levied on each retail sale made 15
in this state. 16

(A) (1) The tax shall be collected as provided in section 17
5739.025 of the Revised Code. The rate of the tax shall be five 18
and three-fourths per cent. The tax applies and is collectible 19

when the sale is made, regardless of the time when the price is 20
paid or delivered. 21

(2) In the case of the lease or rental, with a fixed term 22
of more than thirty days or an indefinite term with a minimum 23
period of more than thirty days, of any motor vehicles designed 24
by the manufacturer to carry a load of not more than one ton, 25
watercraft, outboard motor, or aircraft, or of any tangible 26
personal property, other than motor vehicles designed by the 27
manufacturer to carry a load of more than one ton, to be used by 28
the lessee or renter primarily for business purposes, the tax 29
shall be collected by the vendor at the time the lease or rental 30
is consummated and shall be calculated by the vendor on the 31
basis of the total amount to be paid by the lessee or renter 32
under the lease agreement. If the total amount of the 33
consideration for the lease or rental includes amounts that are 34
not calculated at the time the lease or rental is executed, the 35
tax shall be calculated and collected by the vendor at the time 36
such amounts are billed to the lessee or renter. In the case of 37
an open-end lease or rental, the tax shall be calculated by the 38
vendor on the basis of the total amount to be paid during the 39
initial fixed term of the lease or rental, and for each 40
subsequent renewal period as it comes due. As used in this 41
division, "motor vehicle" has the same meaning as in section 42
4501.01 of the Revised Code, and "watercraft" includes an 43
outdrive unit attached to the watercraft. 44

A lease with a renewal clause and a termination penalty or 45
similar provision that applies if the renewal clause is not 46
exercised is presumed to be a sham transaction. In such a case, 47
the tax shall be calculated and paid on the basis of the entire 48
length of the lease period, including any renewal periods, until 49
the termination penalty or similar provision no longer applies. 50

The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

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

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

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

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

(a) Sales or rentals of tangible personal property by construction contractors or subcontractors to provide temporary traffic control or temporary structures, including material and equipment used to comply with the Ohio manual of uniform traffic control devices adopted pursuant to section 4511.09 of the Revised Code, whereby the state or any of its political subdivisions take title to, or permanent or temporary possession of, such tangible personal property for use by the state or any of its political subdivisions, including for use by the general public thereof;

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

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

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

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

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

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

(6) (a) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section

5735.14 of the Revised Code and shall cause the amount deducted	109
to be paid into the general revenue fund of this state;	110
(b) Sales of motor fuel other than that described in	111
division (B) (6) (a) of this section and used for powering a	112
refrigeration unit on a vehicle other than one used primarily to	113
provide comfort to the operator or occupants of the vehicle.	114
(7) Sales of natural gas by a natural gas company or	115
municipal gas utility, of water by a water-works company, or of	116
steam by a heating company, if in each case the thing sold is	117
delivered to consumers through pipes or conduits, and all sales	118
of communications services by a telegraph company, all terms as	119
defined in section 5727.01 of the Revised Code, and sales of	120
electricity delivered through wires;	121
(8) Casual sales by a person, or auctioneer employed	122
directly by the person to conduct such sales, except as to such	123
sales of motor vehicles, watercraft or outboard motors required	124
to be titled under section 1548.06 of the Revised Code,	125
watercraft documented with the United States coast guard,	126
snowmobiles, and all-purpose vehicles as defined in section	127
4519.01 of the Revised Code;	128
(9) (a) Sales of services or tangible personal property,	129
other than motor vehicles, mobile homes, and manufactured homes,	130
by churches, organizations exempt from taxation under section	131
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit	132
organizations operated exclusively for charitable purposes as	133
defined in division (B) (12) of this section, provided that the	134
number of days on which such tangible personal property or	135
services, other than items never subject to the tax, are sold	136
does not exceed six in any calendar year, except as otherwise	137
provided in division (B) (9) (b) of this section. If the number of	138

days on which such sales are made exceeds six in any calendar 139
year, the church or organization shall be considered to be 140
engaged in business and all subsequent sales by it shall be 141
subject to the tax. In counting the number of days, all sales by 142
groups within a church or within an organization shall be 143
considered to be sales of that church or organization. 144

(b) The limitation on the number of days on which tax- 145
exempt sales may be made by a church or organization under 146
division (B) (9) (a) of this section does not apply to sales made 147
by student clubs and other groups of students of a primary or 148
secondary school, or a parent-teacher association, booster 149
group, or similar organization that raises money to support or 150
fund curricular or extracurricular activities of a primary or 151
secondary school. 152

(c) Divisions (B) (9) (a) and (b) of this section do not 153
apply to sales by a noncommercial educational radio or 154
television broadcasting station. 155

(10) Sales not within the taxing power of this state under 156
the Constitution or laws of the United States or the 157
Constitution of this state including either of the following: 158

(a) Sales or rentals of tangible personal property by 159
construction contractors or subcontractors to provide temporary 160
traffic control or temporary structures, including material and 161
equipment used to comply with the Ohio manual of uniform traffic 162
control devices adopted pursuant to section 4511.09 of the 163
Revised Code, whereby the United States takes title to, or 164
permanent or temporary possession of, such tangible personal 165
property for use by the United States including for use by the 166
general public thereof; 167

(b) Sales of services by construction contractors or 168
subcontractors to provide temporary traffic control or 169
structures, including labor used to comply with the Ohio manual 170
of uniform traffic control devices adopted pursuant to section 171
4511.09 of the Revised Code, whereby the United States, 172
including the general public thereof, receives the benefit of 173
such services. 174

As used in divisions (B) (10) (a) and (b) of this section, 175
"temporary structures" include temporary roads, bridges, drains, 176
and pavement. 177

(11) Except for transactions that are sales under division 178
(B) (3) (p) of section 5739.01 of the Revised Code, the 179
transportation of persons or property, unless the transportation 180
is by a private investigation and security service; 181

(12) Sales of tangible personal property or services to 182
churches, to organizations exempt from taxation under section 183
501(c) (3) of the Internal Revenue Code of 1986, and to any other 184
nonprofit organizations operated exclusively for charitable 185
purposes in this state, no part of the net income of which 186
inures to the benefit of any private shareholder or individual, 187
and no substantial part of the activities of which consists of 188
carrying on propaganda or otherwise attempting to influence 189
legislation; sales to offices administering one or more homes 190
for the aged or one or more hospital facilities exempt under 191
section 140.08 of the Revised Code; and sales to organizations 192
described in division (D) of section 5709.12 of the Revised 193
Code. 194

"Charitable purposes" means the relief of poverty; the 195
improvement of health through the alleviation of illness, 196
disease, or injury; the operation of an organization exclusively 197

for the provision of professional, laundry, printing, and 198
purchasing services to hospitals or charitable institutions; the 199
operation of a home for the aged, as defined in section 5701.13 200
of the Revised Code; the operation of a radio or television 201
broadcasting station that is licensed by the federal 202
communications commission as a noncommercial educational radio 203
or television station; the operation of a nonprofit animal 204
adoption service or a county humane society; the promotion of 205
education by an institution of learning that maintains a faculty 206
of qualified instructors, teaches regular continuous courses of 207
study, and confers a recognized diploma upon completion of a 208
specific curriculum; the operation of a parent-teacher 209
association, booster group, or similar organization primarily 210
engaged in the promotion and support of the curricular or 211
extracurricular activities of a primary or secondary school; the 212
operation of a community or area center in which presentations 213
in music, dramatics, the arts, and related fields are made in 214
order to foster public interest and education therein; the 215
production of performances in music, dramatics, and the arts; or 216
the promotion of education by an organization engaged in 217
carrying on research in, or the dissemination of, scientific and 218
technological knowledge and information primarily for the 219
public. 220

Nothing in this division shall be deemed to exempt sales 221
to any organization for use in the operation or carrying on of a 222
trade or business, or sales to a home for the aged for use in 223
the operation of independent living facilities as defined in 224
division (A) of section 5709.12 of the Revised Code. 225

(13) Building and construction materials and services sold 226
to construction contractors for incorporation into a structure 227
or improvement to real property under a construction contract 228

with this state or a political subdivision of this state, or 229
with the United States government or any of its agencies; 230
building and construction materials and services sold to 231
construction contractors for incorporation into a structure or 232
improvement to real property that are accepted for ownership by 233
this state or any of its political subdivisions, or by the 234
United States government or any of its agencies at the time of 235
completion of the structures or improvements; building and 236
construction materials sold to construction contractors for 237
incorporation into a horticulture structure or livestock 238
structure for a person engaged in the business of horticulture 239
or producing livestock; building materials and services sold to 240
a construction contractor for incorporation into a house of 241
public worship or religious education, or a building used 242
exclusively for charitable purposes under a construction 243
contract with an organization whose purpose is as described in 244
division (B) (12) of this section; building materials and 245
services sold to a construction contractor for incorporation 246
into a building under a construction contract with an 247
organization exempt from taxation under section 501(c) (3) of the 248
Internal Revenue Code of 1986 when the building is to be used 249
exclusively for the organization's exempt purposes; building and 250
construction materials sold for incorporation into the original 251
construction of a sports facility under section 307.696 of the 252
Revised Code; building and construction materials and services 253
sold to a construction contractor for incorporation into real 254
property outside this state if such materials and services, when 255
sold to a construction contractor in the state in which the real 256
property is located for incorporation into real property in that 257
state, would be exempt from a tax on sales levied by that state; 258
building and construction materials for incorporation into a 259
transportation facility pursuant to a public-private agreement 260

entered into under sections 5501.70 to 5501.83 of the Revised Code; until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center; and building and construction materials sold for incorporation into a structure or improvement to real property that is used primarily as, or primarily in support of, a manufacturing facility or research and development facility and that is to be owned by a megaproject operator upon completion and located at the site of a megaproject that satisfies the criteria described in division (A) (11) (a) (ii) of section 122.17 of the Revised Code, provided that the sale occurs during the period that the megaproject operator has an agreement for such megaproject with the tax credit authority under division (D) of section 122.17 of the Revised Code that remains in effect and has not expired or been terminated.

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

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B) (42) (a), (g), or (h) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale,

including any machinery, equipment, and supplies used to make 292
labels or packages, to prepare packages or products for 293
labeling, or to label packages or products, by or on the order 294
of the person doing the packaging, or sold at retail. "Packages" 295
includes bags, baskets, cartons, crates, boxes, cans, bottles, 296
bindings, wrappings, and other similar devices and containers, 297
but does not include motor vehicles or bulk tanks, trailers, or 298
similar devices attached to motor vehicles. "Packaging" means 299
placing in a package. Division (B) (15) of this section does not 300
apply to persons engaged in highway transportation for hire. 301

(16) Sales of food to persons using supplemental nutrition 302
assistance program benefits to purchase the food. As used in 303
this division, "food" has the same meaning as in 7 U.S.C. 2012 304
and federal regulations adopted pursuant to the Food and 305
Nutrition Act of 2008. 306

(17) Sales to persons engaged in farming, agriculture, 307
horticulture, or floriculture, of tangible personal property for 308
use or consumption primarily in the production by farming, 309
agriculture, horticulture, or floriculture of other tangible 310
personal property for use or consumption primarily in the 311
production of tangible personal property for sale by farming, 312
agriculture, horticulture, or floriculture; or material and 313
parts for incorporation into any such tangible personal property 314
for use or consumption in production; and of tangible personal 315
property for such use or consumption in the conditioning or 316
holding of products produced by and for such use, consumption, 317
or sale by persons engaged in farming, agriculture, 318
horticulture, or floriculture, except where such property is 319
incorporated into real property; 320

(18) Sales of drugs for a human being that may be 321

dispensed only pursuant to a prescription; insulin as recognized	322
in the official United States pharmacopoeia; urine and blood	323
testing materials when used by diabetics or persons with	324
hypoglycemia to test for glucose or acetone; hypodermic syringes	325
and needles when used by diabetics for insulin injections;	326
epoetin alfa when purchased for use in the treatment of persons	327
with medical disease; hospital beds when purchased by hospitals,	328
nursing homes, or other medical facilities; and medical oxygen	329
and medical oxygen-dispensing equipment when purchased by	330
hospitals, nursing homes, or other medical facilities;	331
(19) Sales of prosthetic devices, durable medical	332
equipment for home use, or mobility enhancing equipment, when	333
made pursuant to a prescription and when such devices or	334
equipment are for use by a human being.	335
(20) Sales of emergency and fire protection vehicles and	336
equipment to nonprofit organizations for use solely in providing	337
fire protection and emergency services, including trauma care	338
and emergency medical services, for political subdivisions of	339
the state;	340
(21) Sales of tangible personal property manufactured in	341
this state, if sold by the manufacturer in this state to a	342
retailer for use in the retail business of the retailer outside	343
of this state and if possession is taken from the manufacturer	344
by the purchaser within this state for the sole purpose of	345
immediately removing the same from this state in a vehicle owned	346
by the purchaser;	347
(22) Sales of services provided by the state or any of its	348
political subdivisions, agencies, instrumentalities,	349
institutions, or authorities, or by governmental entities of the	350
state or any of its political subdivisions, agencies,	351

instrumentalities, institutions, or authorities;	352
(23) Sales of motor vehicles to nonresidents of this state	353
under the circumstances described in division (B) of section	354
5739.029 of the Revised Code;	355
(24) Sales to persons engaged in the preparation of eggs	356
for sale of tangible personal property used or consumed directly	357
in such preparation, including such tangible personal property	358
used for cleaning, sanitizing, preserving, grading, sorting, and	359
classifying by size; packages, including material and parts for	360
packages, and machinery, equipment, and material for use in	361
packaging eggs for sale; and handling and transportation	362
equipment and parts therefor, except motor vehicles licensed to	363
operate on public highways, used in intraplant or interplant	364
transfers or shipment of eggs in the process of preparation for	365
sale, when the plant or plants within or between which such	366
transfers or shipments occur are operated by the same person.	367
"Packages" includes containers, cases, baskets, flats, fillers,	368
filler flats, cartons, closure materials, labels, and labeling	369
materials, and "packaging" means placing therein.	370
(25) (a) Sales of water to a consumer for residential use;	371
(b) Sales of water by a nonprofit corporation engaged	372
exclusively in the treatment, distribution, and sale of water to	373
consumers, if such water is delivered to consumers through pipes	374
or tubing.	375
(26) Fees charged for inspection or reinspection of motor	376
vehicles under section 3704.14 of the Revised Code;	377
(27) Sales to persons licensed to conduct a food service	378
operation pursuant to section 3717.43 of the Revised Code, of	379
tangible personal property primarily used directly for the	380

following:	381
(a) To prepare food for human consumption for sale;	382
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	383 384 385 386
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	387 388
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	389 390
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	391 392 393 394
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	395 396 397
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	398 399 400
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	401 402 403 404 405 406
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and	407 408

issued a charter by the congress of the United States or is 409
recognized by the United States veterans administration, for use 410
by the headquarters; 411

(34) Sales to a telecommunications service vendor, mobile 412
telecommunications service vendor, or satellite broadcasting 413
service vendor of tangible personal property and services used 414
directly and primarily in transmitting, receiving, switching, or 415
recording any interactive, one- or two-way electromagnetic 416
communications, including voice, image, data, and information, 417
through the use of any medium, including, but not limited to, 418
poles, wires, cables, switching equipment, computers, and record 419
storage devices and media, and component parts for the tangible 420
personal property. The exemption provided in this division shall 421
be in lieu of all other exemptions under division (B) (42) (a) or 422
(n) of this section to which the vendor may otherwise be 423
entitled, based upon the use of the thing purchased in providing 424
the telecommunications, mobile telecommunications, or satellite 425
broadcasting service. 426

(35) (a) Sales where the purpose of the consumer is to use 427
or consume the things transferred in making retail sales and 428
consisting of newspaper inserts, catalogues, coupons, flyers, 429
gift certificates, or other advertising material that prices and 430
describes tangible personal property offered for retail sale. 431

(b) Sales to direct marketing vendors of preliminary 432
materials such as photographs, artwork, and typesetting that 433
will be used in printing advertising material; and of printed 434
matter that offers free merchandise or chances to win sweepstake 435
prizes and that is mailed to potential customers with 436
advertising material described in division (B) (35) (a) of this 437
section; 438

(c) Sales of equipment such as telephones, computers, 439
facsimile machines, and similar tangible personal property 440
primarily used to accept orders for direct marketing retail 441
sales. 442

(d) Sales of automatic food vending machines that preserve 443
food with a shelf life of forty-five days or less by 444
refrigeration and dispense it to the consumer. 445

For purposes of division (B) (35) of this section, "direct 446
marketing" means the method of selling where consumers order 447
tangible personal property by United States mail, delivery 448
service, or telecommunication and the vendor delivers or ships 449
the tangible personal property sold to the consumer from a 450
warehouse, catalogue distribution center, or similar fulfillment 451
facility by means of the United States mail, delivery service, 452
or common carrier. 453

(36) Sales to a person engaged in the business of 454
horticulture or producing livestock of materials to be 455
incorporated into a horticulture structure or livestock 456
structure; 457

(37) Sales of personal computers, computer monitors, 458
computer keyboards, modems, and other peripheral computer 459
equipment to an individual who is licensed or certified to teach 460
in an elementary or a secondary school in this state for use by 461
that individual in preparation for teaching elementary or 462
secondary school students; 463

(38) Sales of tangible personal property that is not 464
required to be registered or licensed under the laws of this 465
state to a citizen of a foreign nation that is not a citizen of 466
the United States, provided the property is delivered to a 467

person in this state that is not a related member of the 468
purchaser, is physically present in this state for the sole 469
purpose of temporary storage and package consolidation, and is 470
subsequently delivered to the purchaser at a delivery address in 471
a foreign nation. As used in division (B)(38) of this section, 472
"related member" has the same meaning as in section 5733.042 of 473
the Revised Code, and "temporary storage" means the storage of 474
tangible personal property for a period of not more than sixty 475
days. 476

(39) Sales of used manufactured homes and used mobile 477
homes, as defined in section 5739.0210 of the Revised Code, made 478
on or after January 1, 2000; 479

(40) Sales of tangible personal property and services to a 480
provider of electricity used or consumed directly and primarily 481
in generating, transmitting, or distributing electricity for use 482
by others, including property that is or is to be incorporated 483
into and will become a part of the consumer's production, 484
transmission, or distribution system and that retains its 485
classification as tangible personal property after 486
incorporation; fuel or power used in the production, 487
transmission, or distribution of electricity; energy conversion 488
equipment as defined in section 5727.01 of the Revised Code; and 489
tangible personal property and services used in the repair and 490
maintenance of the production, transmission, or distribution 491
system, including only those motor vehicles as are specially 492
designed and equipped for such use. The exemption provided in 493
this division shall be in lieu of all other exemptions in 494
division (B)(42)(a) or (n) of this section to which a provider 495
of electricity may otherwise be entitled based on the use of the 496
tangible personal property or service purchased in generating, 497
transmitting, or distributing electricity. 498

(41) Sales to a person providing services under division	499
(B) (3) (p) of section 5739.01 of the Revised Code of tangible	500
personal property and services used directly and primarily in	501
providing taxable services under that section.	502
(42) Sales where the purpose of the purchaser is to do any	503
of the following:	504
(a) To incorporate the thing transferred as a material or	505
a part into tangible personal property to be produced for sale	506
by manufacturing, assembling, processing, or refining; or to use	507
or consume the thing transferred directly in producing tangible	508
personal property for sale by mining, including, without	509
limitation, the extraction from the earth of all substances that	510
are classed geologically as minerals, or directly in the	511
rendition of a public utility service, except that the sales tax	512
levied by this section shall be collected upon all meals,	513
drinks, and food for human consumption sold when transporting	514
persons. This paragraph does not exempt from "retail sale" or	515
"sales at retail" the sale of tangible personal property that is	516
to be incorporated into a structure or improvement to real	517
property.	518
(b) To hold the thing transferred as security for the	519
performance of an obligation of the vendor;	520
(c) To resell, hold, use, or consume the thing transferred	521
as evidence of a contract of insurance;	522
(d) To use or consume the thing directly in commercial	523
fishing;	524
(e) To incorporate the thing transferred as a material or	525
a part into, or to use or consume the thing transferred directly	526
in the production of, magazines distributed as controlled	527

circulation publications;	528
(f) To use or consume the thing transferred in the	529
production and preparation in suitable condition for market and	530
sale of printed, imprinted, overprinted, lithographic,	531
multilithic, blueprinted, photostatic, or other productions or	532
reproductions of written or graphic matter;	533
(g) To use the thing transferred, as described in section	534
5739.011 of the Revised Code, primarily in a manufacturing	535
operation to produce tangible personal property for sale;	536
(h) To use the benefit of a warranty, maintenance or	537
service contract, or similar agreement, as described in division	538
(B) (7) of section 5739.01 of the Revised Code, to repair or	539
maintain tangible personal property, if all of the property that	540
is the subject of the warranty, contract, or agreement would not	541
be subject to the tax imposed by this section;	542
(i) To use the thing transferred as qualified research and	543
development equipment;	544
(j) To use or consume the thing transferred primarily in	545
storing, transporting, mailing, or otherwise handling purchased	546
sales inventory in a warehouse, distribution center, or similar	547
facility when the inventory is primarily distributed outside	548
this state to retail stores of the person who owns or controls	549
the warehouse, distribution center, or similar facility, to	550
retail stores of an affiliated group of which that person is a	551
member, or by means of direct marketing. This division does not	552
apply to motor vehicles registered for operation on the public	553
highways. As used in this division, "affiliated group" has the	554
same meaning as in division (B) (3) (e) of section 5739.01 of the	555
Revised Code and "direct marketing" has the same meaning as in	556

division (B) (35) of this section.	557
(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B) (7) of section 5739.01 of the Revised Code;	558 559 560 561 562 563 564
(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;	565 566
(m) To use tangible personal property to perform a service listed in division (B) (3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;	567 568 569 570 571
(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.	572 573 574 575 576 577 578 579 580
(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing;	581 582 583
(p) To provide the thing transferred to the owner or lessee of a motor vehicle that is being repaired or serviced, if	584 585

the thing transferred is a rented motor vehicle and the 586
purchaser is reimbursed for the cost of the rented motor vehicle 587
by a manufacturer, warrantor, or provider of a maintenance, 588
service, or other similar contract or agreement, with respect to 589
the motor vehicle that is being repaired or serviced; 590

(q) To use or consume the thing transferred directly in 591
production of crude oil and natural gas for sale. Persons 592
engaged in rendering production services for others are deemed 593
engaged in production. 594

As used in division (B) (42) (q) of this section, 595
"production" means operations and tangible personal property 596
directly used to expose and evaluate an underground reservoir 597
that may contain hydrocarbon resources, prepare the wellbore for 598
production, and lift and control all substances yielded by the 599
reservoir to the surface of the earth. 600

(i) For the purposes of division (B) (42) (q) of this 601
section, the "thing transferred" includes, but is not limited 602
to, any of the following: 603

(I) Services provided in the construction of permanent 604
access roads, services provided in the construction of the well 605
site, and services provided in the construction of temporary 606
impoundments; 607

(II) Equipment and rigging used for the specific purpose 608
of creating with integrity a wellbore pathway to underground 609
reservoirs; 610

(III) Drilling and workover services used to work within a 611
subsurface wellbore, and tangible personal property directly 612
used in providing such services; 613

(IV) Casing, tubulars, and float and centralizing 614

equipment;	615
(V) Trailers to which production equipment is attached;	616
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	617 618 619
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	620 621 622
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	623 624 625 626
(IX) Pressure pumping equipment;	627
(X) Artificial lift systems equipment;	628
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	629 630 631
(XII) Tangible personal property directly used to control production equipment.	632 633
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	634 635 636
(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	637 638 639
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well	640 641

stimulation as defined in section 1509.01 of the Revised Code;	642
(III) Tangible personal property used primarily in	643
preparing, installing, or reclaiming foundations for drilling or	644
pumping equipment or well stimulation material tanks;	645
(IV) Tangible personal property used primarily in	646
transporting, delivering, or removing equipment to or from the	647
well site or storing such equipment before its use at the well	648
site;	649
(V) Tangible personal property used primarily in gathering	650
operations occurring off the well site, including gathering	651
pipelines transporting hydrocarbon gas or liquids away from a	652
crude oil or natural gas production facility;	653
(VI) Tangible personal property that is to be incorporated	654
into a structure or improvement to real property;	655
(VII) Well site fencing, lighting, or security systems;	656
(VIII) Communication devices or services;	657
(IX) Office supplies;	658
(X) Trailers used as offices or lodging;	659
(XI) Motor vehicles of any kind;	660
(XII) Tangible personal property used primarily for the	661
storage of drilling byproducts and fuel not used for production;	662
(XIII) Tangible personal property used primarily as a	663
safety device;	664
(XIV) Data collection or monitoring devices;	665
(XV) Access ladders, stairs, or platforms attached to	666
storage tanks.	667

The enumeration of tangible personal property in division 668
(B) (42) (q) (ii) of this section is not intended to be exhaustive, 669
and any tangible personal property not so enumerated shall not 670
necessarily be construed to be a "thing transferred" for the 671
purposes of division (B) (42) (q) of this section. 672

The commissioner shall adopt and promulgate rules under 673
sections 119.01 to 119.13 of the Revised Code that the 674
commissioner deems necessary to administer division (B) (42) (q) 675
of this section. 676

As used in division (B) (42) of this section, "thing" 677
includes all transactions included in divisions (B) (3) (a), (b), 678
and (e) of section 5739.01 of the Revised Code. 679

(43) Sales conducted through a coin operated device that 680
activates vacuum equipment or equipment that dispenses water, 681
whether or not in combination with soap or other cleaning agents 682
or wax, to the consumer for the consumer's use on the premises 683
in washing, cleaning, or waxing a motor vehicle, provided no 684
other personal property or personal service is provided as part 685
of the transaction. 686

(44) Sales of replacement and modification parts for 687
engines, airframes, instruments, and interiors in, and paint 688
for, aircraft used primarily in a fractional aircraft ownership 689
program, and sales of services for the repair, modification, and 690
maintenance of such aircraft, and machinery, equipment, and 691
supplies primarily used to provide those services. 692

(45) Sales of telecommunications service that is used 693
directly and primarily to perform the functions of a call 694
center. As used in this division, "call center" means any 695
physical location where telephone calls are placed or received 696

in high volume for the purpose of making sales, marketing, 697
customer service, technical support, or other specialized 698
business activity, and that employs at least fifty individuals 699
that engage in call center activities on a full-time basis, or 700
sufficient individuals to fill fifty full-time equivalent 701
positions. 702

(46) Sales by a telecommunications service vendor of 900 703
service to a subscriber. This division does not apply to 704
information services. 705

(47) Sales of value-added non-voice data service. This 706
division does not apply to any similar service that is not 707
otherwise a telecommunications service. 708

(48) Sales of feminine hygiene products. 709

(49) Sales of materials, parts, equipment, or engines used 710
in the repair or maintenance of aircraft or avionics systems of 711
such aircraft, and sales of repair, remodeling, replacement, or 712
maintenance services in this state performed on aircraft or on 713
an aircraft's avionics, engine, or component materials or parts. 714
As used in division (B) (49) of this section, "aircraft" means 715
aircraft of more than six thousand pounds maximum certified 716
takeoff weight or used exclusively in general aviation. 717

(50) Sales of full flight simulators that are used for 718
pilot or flight-crew training, sales of repair or replacement 719
parts or components, and sales of repair or maintenance services 720
for such full flight simulators. "Full flight simulator" means a 721
replica of a specific type, or make, model, and series of 722
aircraft cockpit. It includes the assemblage of equipment and 723
computer programs necessary to represent aircraft operations in 724
ground and flight conditions, a visual system providing an out- 725

of-the-cockpit view, and a system that provides cues at least 726
equivalent to those of a three-degree-of-freedom motion system, 727
and has the full range of capabilities of the systems installed 728
in the device as described in appendices A and B of part 60 of 729
chapter 1 of title 14 of the Code of Federal Regulations. 730

(51) Any transfer or lease of tangible personal property 731
between the state and JobsOhio in accordance with section 732
4313.02 of the Revised Code. 733

(52) (a) Sales to a qualifying corporation. 734

(b) As used in division (B) (52) of this section: 735

(i) "Qualifying corporation" means a nonprofit corporation 736
organized in this state that leases from an eligible county 737
land, buildings, structures, fixtures, and improvements to the 738
land that are part of or used in a public recreational facility 739
used by a major league professional athletic team or a class A 740
to class AAA minor league affiliate of a major league 741
professional athletic team for a significant portion of the 742
team's home schedule, provided the following apply: 743

(I) The facility is leased from the eligible county 744
pursuant to a lease that requires substantially all of the 745
revenue from the operation of the business or activity conducted 746
by the nonprofit corporation at the facility in excess of 747
operating costs, capital expenditures, and reserves to be paid 748
to the eligible county at least once per calendar year. 749

(II) Upon dissolution and liquidation of the nonprofit 750
corporation, all of its net assets are distributable to the 751
board of commissioners of the eligible county from which the 752
corporation leases the facility. 753

(ii) "Eligible county" has the same meaning as in section 754

307.695 of the Revised Code.	755
(53) Sales to or by a cable service provider, video	756
service provider, or radio or television broadcast station	757
regulated by the federal government of cable service or	758
programming, video service or programming, audio service or	759
programming, or electronically transferred digital audiovisual	760
or audio work. As used in division (B) (53) of this section,	761
"cable service" and "cable service provider" have the same	762
meanings as in section 1332.01 of the Revised Code, and "video	763
service," "video service provider," and "video programming" have	764
the same meanings as in section 1332.21 of the Revised Code.	765
(54) Sales of a digital audio work electronically	766
transferred for delivery through use of a machine, such as a	767
juke box, that does all of the following:	768
(a) Accepts direct payments to operate;	769
(b) Automatically plays a selected digital audio work for	770
a single play upon receipt of a payment described in division	771
(B) (54) (a) of this section;	772
(c) Operates exclusively for the purpose of playing	773
digital audio works in a commercial establishment.	774
(55) (a) Sales of the following occurring on the first	775
Friday of August and the following Saturday and Sunday of any	776
year, except in 2024 or any subsequent year in which a sales tax	777
holiday is held pursuant to section 5739.41 of the Revised Code:	778
(i) An item of clothing, the price of which is seventy-	779
five dollars or less;	780
(ii) An item of school supplies, the price of which is	781
twenty dollars or less;	782

(iii) An item of school instructional material, the price of which is twenty dollars or less.	783 784
(b) As used in division (B) (55) of this section:	785
(i) "Clothing" means all human wearing apparel suitable for general use. "Clothing" includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers, children and adult, including disposable diapers; earmuffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel. "Clothing" does not include items purchased for use in a trade or business; clothing accessories or equipment; protective equipment; sports or recreational equipment; belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and sewing materials that become part of "clothing" including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.	786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807
(ii) "School supplies" means items commonly used by a student in a course of study. "School supplies" includes only the following items: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue,	808 809 810 811 812

paste, and paste sticks; highlighters; index cards; index card 813
boxes; legal pads; lunch boxes; markers; notebooks; paper, 814
loose-leaf ruled notebook paper, copy paper, graph paper, 815
tracing paper, manila paper, colored paper, poster board, and 816
construction paper; pencil boxes and other school supply boxes; 817
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 818
and writing tablets. "School supplies" does not include any item 819
purchased for use in a trade or business. 820

(iii) "School instructional material" means written 821
material commonly used by a student in a course of study as a 822
reference and to learn the subject being taught. "School 823
instructional material" includes only the following items: 824
reference books, reference maps and globes, textbooks, and 825
workbooks. "School instructional material" does not include any 826
material purchased for use in a trade or business. 827

(56) (a) Sales of adult diapers or incontinence underpads 828
sold pursuant to a prescription, for the benefit of a medicaid 829
recipient with a diagnosis of incontinence, and by a medicaid 830
provider that maintains a valid provider agreement under section 831
5164.30 of the Revised Code with the department of medicaid, 832
provided that the medicaid program covers diapers or 833
incontinence underpads as an incontinence garment. 834

(b) As used in division (B) (56) (a) of this section, 835
"incontinence underpad" means an absorbent product, not worn on 836
the body, designed to protect furniture or other tangible 837
personal property from soiling or damage due to human 838
incontinence. 839

(57) Sales of investment metal bullion and investment 840
coins. "Investment metal bullion" means any bullion described in 841
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 842

whether that bullion is in the physical possession of a trustee. 843
"Investment coin" means any coin composed primarily of gold, 844
silver, platinum, or palladium. 845

(58) Sales of tangible personal property used primarily 846
for any of the following purposes by a megaproject operator at 847
the site of a megaproject that satisfies the criteria described 848
in division (A) (11) (a) (ii) of section 122.17 of the Revised 849
Code, provided that the sale occurs during the period that the 850
megaproject operator has an agreement for such megaproject with 851
the tax credit authority under division (D) of section 122.17 of 852
the Revised Code that remains in effect and has not expired or 853
been terminated: 854

(a) To store, transmit, convey, distribute, recycle, 855
circulate, or clean water, steam, or other gases used in or 856
produced as a result of manufacturing activity, including items 857
that support or aid in the operation of such property; 858

(b) To clean or prepare inventory, at any stage of storage 859
or production, or equipment used in a manufacturing activity, 860
including chemicals, solvents, catalysts, soaps, and other items 861
that support or aid in the operation of property; 862

(c) To regulate, treat, filter, condition, improve, clean, 863
maintain, or monitor environmental conditions within areas where 864
manufacturing activities take place; 865

(d) To handle, transport, or convey inventory during 866
production or manufacturing. 867

(59) Documentary services charges imposed pursuant to 868
section 4517.261 or 4781.24 of the Revised Code. 869

(60) Sales of children's diapers. 870

(61) Sales of therapeutic or preventative creams and wipes marketed primarily for use on the skin of children.	871 872
(62) Sales of a child restraint device or booster seat that meets the national highway traffic safety administration standard for child restraint systems under 49 C.F.R. 571.213.	873 874 875
(63) Sales of cribs intended to provide sleeping accommodations for children that comply with the United States consumer product safety commission's safety standard for full-size baby cribs under 16 C.F.R. 1219 or the commission's safety standard for non-full-size baby cribs under 16 C.F.R. 1220.	876 877 878 879 880
(64) Sales of strollers meant for transporting children from infancy to about thirty-six months of age that meet the United States consumer product safety commission safety standard for carriages and strollers under 16 C.F.R. 1227.2.	881 882 883 884
(65) The fee imposed by section 3743.22 of the Revised Code, if it is separately stated on the invoice, bill of sale, or similar document given by the vendor to the consumer for a retail sale made in this state.	885 886 887 888
(66) Sales of eligible tangible personal property occurring during the period of a sales tax holiday held pursuant to section 5739.41 of the Revised Code.	889 890 891
<u>(67) Sales of manned aircraft. As used in division (B) (67) of this section, "manned aircraft" means a device that is manned and is used or intended to be used for flight in the air.</u>	892 893 894
(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.	895 896 897 898

(D) The tax collected by the vendor from the consumer 899
under this chapter is not part of the price, but is a tax 900
collection for the benefit of the state, and of counties levying 901
an additional sales tax pursuant to section 5739.021 or 5739.026 902
of the Revised Code and of transit authorities levying an 903
additional sales tax pursuant to section 5739.023 of the Revised 904
Code. Except for the discount authorized under section 5739.12 905
of the Revised Code and the effects of any rounding pursuant to 906
section 5703.055 of the Revised Code, no person other than the 907
state or such a county or transit authority shall derive any 908
benefit from the collection or payment of the tax levied by this 909
section or section 5739.021, 5739.023, or 5739.026 of the 910
Revised Code. 911

Section 2. That existing section 5739.02 of the Revised 912
Code is hereby repealed. 913

Section 3. The amendment by this act of section 5739.02 of 914
the Revised Code applies on and after the first day of the first 915
month beginning after the effective date of this section. 916