

As Reported by the House Ways and Means Committee

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Am. H. B. No. 196

Representative Powell

**Cosponsors: Representatives Ingram, Merrin, Stoltzfus, Riedel, Becker, O'Brien,
Miranda, Cross, Rogers**

A BILL

To amend section 5739.01 of the Revised Code to
exempt from sales tax memberships to gyms or
other recreational facilities operated by
nonprofit 501(c)(3) organizations beginning July
1, 2021.

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

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

Sec. 5739.01. As used in this chapter:

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

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

(1) All transactions by which title or possession, or 18
both, of tangible personal property, is or is to be transferred, 19
or a license to use or consume tangible personal property is or 20
is to be granted; 21

(2) All transactions by which lodging by a hotel is or is 22
to be furnished to transient guests; 23

(3) All transactions by which: 24

(a) An item of tangible personal property is or is to be 25
repaired, except property, the purchase of which would not be 26
subject to the tax imposed by section 5739.02 of the Revised 27
Code; 28

(b) An item of tangible personal property is or is to be 29
installed, except property, the purchase of which would not be 30
subject to the tax imposed by section 5739.02 of the Revised 31
Code or property that is or is to be incorporated into and will 32
become a part of a production, transmission, transportation, or 33
distribution system for the delivery of a public utility 34
service; 35

(c) The service of washing, cleaning, waxing, polishing, 36
or painting a motor vehicle is or is to be furnished; 37

(d) Until August 1, 2003, industrial laundry cleaning 38
services are or are to be provided and, on and after August 1, 39
2003, laundry and dry cleaning services are or are to be 40
provided; 41

(e) Automatic data processing, computer services, or 42
electronic information services are or are to be provided for 43
use in business when the true object of the transaction is the 44
receipt by the consumer of automatic data processing, computer 45
services, or electronic information services rather than the 46

receipt of personal or professional services to which automatic 47
data processing, computer services, or electronic information 48
services are incidental or supplemental. Notwithstanding any 49
other provision of this chapter, such transactions that occur 50
between members of an affiliated group are not sales. An 51
"affiliated group" means two or more persons related in such a 52
way that one person owns or controls the business operation of 53
another member of the group. In the case of corporations with 54
stock, one corporation owns or controls another if it owns more 55
than fifty per cent of the other corporation's common stock with 56
voting rights. 57

(f) Telecommunications service, including prepaid calling 58
service, prepaid wireless calling service, or ancillary service, 59
is or is to be provided, but not including coin-operated 60
telephone service; 61

(g) Landscaping and lawn care service is or is to be 62
provided; 63

(h) Private investigation and security service is or is to 64
be provided; 65

(i) Information services or tangible personal property is 66
provided or ordered by means of a nine hundred telephone call; 67

(j) Building maintenance and janitorial service is or is 68
to be provided; 69

(k) Employment service is or is to be provided; 70

(l) Employment placement service is or is to be provided; 71

(m) Exterminating service is or is to be provided; 72

(n) Physical fitness facility service is or is to be 73
provided, unless, on and after July 1, 2021, such service is or 74

is to be provided by an organization that is exempt from 75
taxation under section 501(c)(3) of the Internal Revenue Code; 76

(o) Recreation and sports club service is or is to be 77
provided, unless, on and after July 1, 2021, such service is or 78
is to be provided by an organization that is exempt from 79
taxation under section 501(c)(3) of the Internal Revenue Code; 80

(p) On and after August 1, 2003, satellite broadcasting 81
service is or is to be provided; 82

(q) On and after August 1, 2003, personal care service is 83
or is to be provided to an individual. As used in this division, 84
"personal care service" includes skin care, the application of 85
cosmetics, manicuring, pedicuring, hair removal, tattooing, body 86
piercing, tanning, massage, and other similar services. 87
"Personal care service" does not include a service provided by 88
or on the order of a licensed physician or licensed 89
chiropractor, or the cutting, coloring, or styling of an 90
individual's hair. 91

(r) On and after August 1, 2003, the transportation of 92
persons by motor vehicle or aircraft is or is to be provided, 93
when the transportation is entirely within this state, except 94
for transportation provided by an ambulance service, by a 95
transit bus, as defined in section 5735.01 of the Revised Code, 96
and transportation provided by a citizen of the United States 97
holding a certificate of public convenience and necessity issued 98
under 49 U.S.C. 41102; 99

(s) On and after August 1, 2003, motor vehicle towing 100
service is or is to be provided. As used in this division, 101
"motor vehicle towing service" means the towing or conveyance of 102
a wrecked, disabled, or illegally parked motor vehicle. 103

(t) On and after August 1, 2003, snow removal service is 104
or is to be provided. As used in this division, "snow removal 105
service" means the removal of snow by any mechanized means, but 106
does not include the providing of such service by a person that 107
has less than five thousand dollars in sales of such service 108
during the calendar year. 109

(u) Electronic publishing service is or is to be provided 110
to a consumer for use in business, except that such transactions 111
occurring between members of an affiliated group, as defined in 112
division (B) (3) (e) of this section, are not sales. 113

(4) All transactions by which printed, imprinted, 114
overprinted, lithographic, multilithic, blueprinted, 115
photostatic, or other productions or reproductions of written or 116
graphic matter are or are to be furnished or transferred; 117

(5) The production or fabrication of tangible personal 118
property for a consideration for consumers who furnish either 119
directly or indirectly the materials used in the production of 120
fabrication work; and include the furnishing, preparing, or 121
serving for a consideration of any tangible personal property 122
consumed on the premises of the person furnishing, preparing, or 123
serving such tangible personal property. Except as provided in 124
section 5739.03 of the Revised Code, a construction contract 125
pursuant to which tangible personal property is or is to be 126
incorporated into a structure or improvement on and becoming a 127
part of real property is not a sale of such tangible personal 128
property. The construction contractor is the consumer of such 129
tangible personal property, provided that the sale and 130
installation of carpeting, the sale and installation of 131
agricultural land tile, the sale and erection or installation of 132
portable grain bins, or the provision of landscaping and lawn 133

care service and the transfer of property as part of such 134
service is never a construction contract. 135

As used in division (B) (5) of this section: 136

(a) "Agricultural land tile" means fired clay or concrete 137
tile, or flexible or rigid perforated plastic pipe or tubing, 138
incorporated or to be incorporated into a subsurface drainage 139
system appurtenant to land used or to be used primarily in 140
production by farming, agriculture, horticulture, or 141
floriculture. The term does not include such materials when they 142
are or are to be incorporated into a drainage system appurtenant 143
to a building or structure even if the building or structure is 144
used or to be used in such production. 145

(b) "Portable grain bin" means a structure that is used or 146
to be used by a person engaged in farming or agriculture to 147
shelter the person's grain and that is designed to be 148
disassembled without significant damage to its component parts. 149

(6) All transactions in which all of the shares of stock 150
of a closely held corporation are transferred, or an ownership 151
interest in a pass-through entity, as defined in section 5733.04 152
of the Revised Code, is transferred, if the corporation or pass- 153
through entity is not engaging in business and its entire assets 154
consist of boats, planes, motor vehicles, or other tangible 155
personal property operated primarily for the use and enjoyment 156
of the shareholders or owners; 157

(7) All transactions in which a warranty, maintenance or 158
service contract, or similar agreement by which the vendor of 159
the warranty, contract, or agreement agrees to repair or 160
maintain the tangible personal property of the consumer is or is 161
to be provided; 162

(8) The transfer of copyrighted motion picture films used 163
solely for advertising purposes, except that the transfer of 164
such films for exhibition purposes is not a sale; 165

(9) On and after August 1, 2003, all transactions by which 166
tangible personal property is or is to be stored, except such 167
property that the consumer of the storage holds for sale in the 168
regular course of business; 169

(10) All transactions in which "guaranteed auto 170
protection" is provided whereby a person promises to pay to the 171
consumer the difference between the amount the consumer receives 172
from motor vehicle insurance and the amount the consumer owes to 173
a person holding title to or a lien on the consumer's motor 174
vehicle in the event the consumer's motor vehicle suffers a 175
total loss under the terms of the motor vehicle insurance policy 176
or is stolen and not recovered, if the protection and its price 177
are included in the purchase or lease agreement; 178

(11) (a) Except as provided in division (B) (11) (b) of this 179
section, on and after October 1, 2009, all transactions by which 180
health care services are paid for, reimbursed, provided, 181
delivered, arranged for, or otherwise made available by a 182
medicaid health insuring corporation pursuant to the 183
corporation's contract with the state. 184

(b) If the centers for medicare and medicaid services of 185
the United States department of health and human services 186
determines that the taxation of transactions described in 187
division (B) (11) (a) of this section constitutes an impermissible 188
health care-related tax under the "Social Security Act," section 189
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 190
the medicaid director shall notify the tax commissioner of that 191
determination. Beginning with the first day of the month 192

following that notification, the transactions described in 193
division (B) (11) (a) of this section are not sales for the 194
purposes of this chapter or Chapter 5741. of the Revised Code. 195
The tax commissioner shall order that the collection of taxes 196
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 197
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 198
for transactions occurring on or after that date. 199

(12) All transactions by which a specified digital product 200
is provided for permanent use or less than permanent use, 201
regardless of whether continued payment is required. 202

Except as provided in this section, "sale" and "selling" 203
do not include transfers of interest in leased property where 204
the original lessee and the terms of the original lease 205
agreement remain unchanged, or professional, insurance, or 206
personal service transactions that involve the transfer of 207
tangible personal property as an inconsequential element, for 208
which no separate charges are made. 209

(C) "Vendor" means the person providing the service or by 210
whom the transfer effected or license given by a sale is or is 211
to be made or given and, for sales described in division (B) (3) 212
(i) of this section, the telecommunications service vendor that 213
provides the nine hundred telephone service; if two or more 214
persons are engaged in business at the same place of business 215
under a single trade name in which all collections on account of 216
sales by each are made, such persons shall constitute a single 217
vendor. 218

Physicians, dentists, hospitals, and veterinarians who are 219
engaged in selling tangible personal property as received from 220
others, such as eyeglasses, mouthwashes, dentifrices, or similar 221
articles, are vendors. Veterinarians who are engaged in 222

transferring to others for a consideration drugs, the dispensing 223
of which does not require an order of a licensed veterinarian or 224
physician under federal law, are vendors. 225

The operator of any peer-to-peer car sharing program shall 226
be considered to be the vendor. 227

(D) (1) "Consumer" means the person for whom the service is 228
provided, to whom the transfer effected or license given by a 229
sale is or is to be made or given, to whom the service described 230
in division (B) (3) (f) or (i) of this section is charged, or to 231
whom the admission is granted. 232

(2) Physicians, dentists, hospitals, and blood banks 233
operated by nonprofit institutions and persons licensed to 234
practice veterinary medicine, surgery, and dentistry are 235
consumers of all tangible personal property and services 236
purchased by them in connection with the practice of medicine, 237
dentistry, the rendition of hospital or blood bank service, or 238
the practice of veterinary medicine, surgery, and dentistry. In 239
addition to being consumers of drugs administered by them or by 240
their assistants according to their direction, veterinarians 241
also are consumers of drugs that under federal law may be 242
dispensed only by or upon the order of a licensed veterinarian 243
or physician, when transferred by them to others for a 244
consideration to provide treatment to animals as directed by the 245
veterinarian. 246

(3) A person who performs a facility management, or 247
similar service contract for a contractee is a consumer of all 248
tangible personal property and services purchased for use in 249
connection with the performance of such contract, regardless of 250
whether title to any such property vests in the contractee. The 251
purchase of such property and services is not subject to the 252

exception for resale under division (E) of this section. 253

(4) (a) In the case of a person who purchases printed 254
matter for the purpose of distributing it or having it 255
distributed to the public or to a designated segment of the 256
public, free of charge, that person is the consumer of that 257
printed matter, and the purchase of that printed matter for that 258
purpose is a sale. 259

(b) In the case of a person who produces, rather than 260
purchases, printed matter for the purpose of distributing it or 261
having it distributed to the public or to a designated segment 262
of the public, free of charge, that person is the consumer of 263
all tangible personal property and services purchased for use or 264
consumption in the production of that printed matter. That 265
person is not entitled to claim exemption under division (B) (42) 266
(f) of section 5739.02 of the Revised Code for any material 267
incorporated into the printed matter or any equipment, supplies, 268
or services primarily used to produce the printed matter. 269

(c) The distribution of printed matter to the public or to 270
a designated segment of the public, free of charge, is not a 271
sale to the members of the public to whom the printed matter is 272
distributed or to any persons who purchase space in the printed 273
matter for advertising or other purposes. 274

(5) A person who makes sales of any of the services listed 275
in division (B) (3) of this section is the consumer of any 276
tangible personal property used in performing the service. The 277
purchase of that property is not subject to the resale exception 278
under division (E) of this section. 279

(6) A person who engages in highway transportation for 280
hire is the consumer of all packaging materials purchased by 281

that person and used in performing the service, except for 282
packaging materials sold by such person in a transaction 283
separate from the service. 284

(7) In the case of a transaction for health care services 285
under division (B)(11) of this section, a medicaid health 286
insuring corporation is the consumer of such services. The 287
purchase of such services by a medicaid health insuring 288
corporation is not subject to the exception for resale under 289
division (E) of this section or to the exemptions provided under 290
divisions (B)(12), (18), (19), and (22) of section 5739.02 of 291
the Revised Code. 292

(E) "Retail sale" and "sales at retail" include all sales, 293
except those in which the purpose of the consumer is to resell 294
the thing transferred or benefit of the service provided, by a 295
person engaging in business, in the form in which the same is, 296
or is to be, received by the person. 297

(F) "Business" includes any activity engaged in by any 298
person with the object of gain, benefit, or advantage, either 299
direct or indirect. "Business" does not include the activity of 300
a person in managing and investing the person's own funds. 301

(G) "Engaging in business" means commencing, conducting, 302
or continuing in business, and liquidating a business when the 303
liquidator thereof holds itself out to the public as conducting 304
such business. Making a casual sale is not engaging in business. 305

(H) (1) (a) "Price," except as provided in divisions (H) (2), 306
(3), and (4) of this section, means the total amount of 307
consideration, including cash, credit, property, and services, 308
for which tangible personal property or services are sold, 309
leased, or rented, valued in money, whether received in money or 310

otherwise, without any deduction for any of the following: 311

(i) The vendor's cost of the property sold; 312

(ii) The cost of materials used, labor or service costs, 313
interest, losses, all costs of transportation to the vendor, all 314
taxes imposed on the vendor, including the tax imposed under 315
Chapter 5751. of the Revised Code, and any other expense of the 316
vendor; 317

(iii) Charges by the vendor for any services necessary to 318
complete the sale; 319

(iv) On and after August 1, 2003, delivery charges. As 320
used in this division, "delivery charges" means charges by the 321
vendor for preparation and delivery to a location designated by 322
the consumer of tangible personal property or a service, 323
including transportation, shipping, postage, handling, crating, 324
and packing. 325

(v) Installation charges; 326

(vi) Credit for any trade-in. 327

(b) "Price" includes consideration received by the vendor 328
from a third party, if the vendor actually receives the 329
consideration from a party other than the consumer, and the 330
consideration is directly related to a price reduction or 331
discount on the sale; the vendor has an obligation to pass the 332
price reduction or discount through to the consumer; the amount 333
of the consideration attributable to the sale is fixed and 334
determinable by the vendor at the time of the sale of the item 335
to the consumer; and one of the following criteria is met: 336

(i) The consumer presents a coupon, certificate, or other 337
document to the vendor to claim a price reduction or discount 338

where the coupon, certificate, or document is authorized, 339
distributed, or granted by a third party with the understanding 340
that the third party will reimburse any vendor to whom the 341
coupon, certificate, or document is presented; 342

(ii) The consumer identifies the consumer's self to the 343
seller as a member of a group or organization entitled to a 344
price reduction or discount. A preferred customer card that is 345
available to any patron does not constitute membership in such a 346
group or organization. 347

(iii) The price reduction or discount is identified as a 348
third party price reduction or discount on the invoice received 349
by the consumer, or on a coupon, certificate, or other document 350
presented by the consumer. 351

(c) "Price" does not include any of the following: 352

(i) Discounts, including cash, term, or coupons that are 353
not reimbursed by a third party that are allowed by a vendor and 354
taken by a consumer on a sale; 355

(ii) Interest, financing, and carrying charges from credit 356
extended on the sale of tangible personal property or services, 357
if the amount is separately stated on the invoice, bill of sale, 358
or similar document given to the purchaser; 359

(iii) Any taxes legally imposed directly on the consumer 360
that are separately stated on the invoice, bill of sale, or 361
similar document given to the consumer. For the purpose of this 362
division, the tax imposed under Chapter 5751. of the Revised 363
Code is not a tax directly on the consumer, even if the tax or a 364
portion thereof is separately stated. 365

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 366
this section, any discount allowed by an automobile manufacturer 367

to its employee, or to the employee of a supplier, on the 368
purchase of a new motor vehicle from a new motor vehicle dealer 369
in this state. 370

(v) The dollar value of a gift card that is not sold by a 371
vendor or purchased by a consumer and that is redeemed by the 372
consumer in purchasing tangible personal property or services if 373
the vendor is not reimbursed and does not receive compensation 374
from a third party to cover all or part of the gift card value. 375
For the purposes of this division, a gift card is not sold by a 376
vendor or purchased by a consumer if it is distributed pursuant 377
to an awards, loyalty, or promotional program. Past and present 378
purchases of tangible personal property or services by the 379
consumer shall not be treated as consideration exchanged for a 380
gift card. 381

(2) In the case of a sale of any new motor vehicle by a 382
new motor vehicle dealer, as defined in section 4517.01 of the 383
Revised Code, in which another motor vehicle is accepted by the 384
dealer as part of the consideration received, "price" has the 385
same meaning as in division (H)(1) of this section, reduced by 386
the credit afforded the consumer by the dealer for the motor 387
vehicle received in trade. 388

(3) In the case of a sale of any watercraft or outboard 389
motor by a watercraft dealer licensed in accordance with section 390
1547.543 of the Revised Code, in which another watercraft, 391
watercraft and trailer, or outboard motor is accepted by the 392
dealer as part of the consideration received, "price" has the 393
same meaning as in division (H)(1) of this section, reduced by 394
the credit afforded the consumer by the dealer for the 395
watercraft, watercraft and trailer, or outboard motor received 396
in trade. As used in this division, "watercraft" includes an 397

outdrive unit attached to the watercraft. 398

(4) In the case of transactions for health care services 399
under division (B) (11) of this section, "price" means the amount 400
of managed care premiums received each month by a medicaid 401
health insuring corporation. 402

(I) "Receipts" means the total amount of the prices of the 403
sales of vendors, provided that the dollar value of gift cards 404
distributed pursuant to an awards, loyalty, or promotional 405
program, and cash discounts allowed and taken on sales at the 406
time they are consummated are not included, minus any amount 407
deducted as a bad debt pursuant to section 5739.121 of the 408
Revised Code. "Receipts" does not include the sale price of 409
property returned or services rejected by consumers when the 410
full sale price and tax are refunded either in cash or by 411
credit. 412

(J) "Place of business" means any location at which a 413
person engages in business. 414

(K) "Premises" includes any real property or portion 415
thereof upon which any person engages in selling tangible 416
personal property at retail or making retail sales and also 417
includes any real property or portion thereof designated for, or 418
devoted to, use in conjunction with the business engaged in by 419
such person. 420

(L) "Casual sale" means a sale of an item of tangible 421
personal property that was obtained by the person making the 422
sale, through purchase or otherwise, for the person's own use 423
and was previously subject to any state's taxing jurisdiction on 424
its sale or use, and includes such items acquired for the 425
seller's use that are sold by an auctioneer employed directly by 426

the person for such purpose, provided the location of such sales 427
is not the auctioneer's permanent place of business. As used in 428
this division, "permanent place of business" includes any 429
location where such auctioneer has conducted more than two 430
auctions during the year. 431

(M) "Hotel" means every establishment kept, used, 432
maintained, advertised, or held out to the public to be a place 433
where sleeping accommodations are offered to guests, in which 434
five or more rooms are used for the accommodation of such 435
guests, whether the rooms are in one or several structures, 436
except as otherwise provided in division (G) of section 5739.09 437
of the Revised Code. 438

(N) "Transient guests" means persons occupying a room or 439
rooms for sleeping accommodations for less than thirty 440
consecutive days. 441

(O) "Making retail sales" means the effecting of 442
transactions wherein one party is obligated to pay the price and 443
the other party is obligated to provide a service or to transfer 444
title to or possession of the item sold. "Making retail sales" 445
does not include the preliminary acts of promoting or soliciting 446
the retail sales, other than the distribution of printed matter 447
which displays or describes and prices the item offered for 448
sale, nor does it include delivery of a predetermined quantity 449
of tangible personal property or transportation of property or 450
personnel to or from a place where a service is performed. 451

(P) "Used directly in the rendition of a public utility 452
service" means that property that is to be incorporated into and 453
will become a part of the consumer's production, transmission, 454
transportation, or distribution system and that retains its 455
classification as tangible personal property after such 456

incorporation; fuel or power used in the production, 457
transmission, transportation, or distribution system; and 458
tangible personal property used in the repair and maintenance of 459
the production, transmission, transportation, or distribution 460
system, including only such motor vehicles as are specially 461
designed and equipped for such use. Tangible personal property 462
and services used primarily in providing highway transportation 463
for hire are not used directly in the rendition of a public 464
utility service. In this definition, "public utility" includes a 465
citizen of the United States holding, and required to hold, a 466
certificate of public convenience and necessity issued under 49 467
U.S.C. 41102. 468

(Q) "Refining" means removing or separating a desirable 469
product from raw or contaminated materials by distillation or 470
physical, mechanical, or chemical processes. 471

(R) "Assembly" and "assembling" mean attaching or fitting 472
together parts to form a product, but do not include packaging a 473
product. 474

(S) "Manufacturing operation" means a process in which 475
materials are changed, converted, or transformed into a 476
different state or form from which they previously existed and 477
includes refining materials, assembling parts, and preparing raw 478
materials and parts by mixing, measuring, blending, or otherwise 479
committing such materials or parts to the manufacturing process. 480
"Manufacturing operation" does not include packaging. 481

(T) "Fiscal officer" means, with respect to a regional 482
transit authority, the secretary-treasurer thereof, and with 483
respect to a county that is a transit authority, the fiscal 484
officer of the county transit board if one is appointed pursuant 485
to section 306.03 of the Revised Code or the county auditor if 486

the board of county commissioners operates the county transit 487
system. 488

(U) "Transit authority" means a regional transit authority 489
created pursuant to section 306.31 of the Revised Code or a 490
county in which a county transit system is created pursuant to 491
section 306.01 of the Revised Code. For the purposes of this 492
chapter, a transit authority must extend to at least the entire 493
area of a single county. A transit authority that includes 494
territory in more than one county must include all the area of 495
the most populous county that is a part of such transit 496
authority. County population shall be measured by the most 497
recent census taken by the United States census bureau. 498

(V) "Legislative authority" means, with respect to a 499
regional transit authority, the board of trustees thereof, and 500
with respect to a county that is a transit authority, the board 501
of county commissioners. 502

(W) "Territory of the transit authority" means all of the 503
area included within the territorial boundaries of a transit 504
authority as they from time to time exist. Such territorial 505
boundaries must at all times include all the area of a single 506
county or all the area of the most populous county that is a 507
part of such transit authority. County population shall be 508
measured by the most recent census taken by the United States 509
census bureau. 510

(X) "Providing a service" means providing or furnishing 511
anything described in division (B) (3) of this section for 512
consideration. 513

(Y) (1) (a) "Automatic data processing" means processing of 514
others' data, including keypunching or similar data entry 515

services together with verification thereof, or providing access 516
to computer equipment for the purpose of processing data. 517

(b) "Computer services" means providing services 518
consisting of specifying computer hardware configurations and 519
evaluating technical processing characteristics, computer 520
programming, and training of computer programmers and operators, 521
provided in conjunction with and to support the sale, lease, or 522
operation of taxable computer equipment or systems. 523

(c) "Electronic information services" means providing 524
access to computer equipment by means of telecommunications 525
equipment for the purpose of either of the following: 526

(i) Examining or acquiring data stored in or accessible to 527
the computer equipment; 528

(ii) Placing data into the computer equipment to be 529
retrieved by designated recipients with access to the computer 530
equipment. 531

For transactions occurring on or after the effective date 532
of the amendment of this section by H.B. 157 of the 127th 533
general assembly, December 21, 2007, "electronic information 534
services" does not include electronic publishing. 535

(d) "Automatic data processing, computer services, or 536
electronic information services" shall not include personal or 537
professional services. 538

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 539
section, "personal and professional services" means all services 540
other than automatic data processing, computer services, or 541
electronic information services, including but not limited to: 542

(a) Accounting and legal services such as advice on tax 543

matters, asset management, budgetary matters, quality control, 544
information security, and auditing and any other situation where 545
the service provider receives data or information and studies, 546
alters, analyzes, interprets, or adjusts such material; 547

(b) Analyzing business policies and procedures; 548

(c) Identifying management information needs; 549

(d) Feasibility studies, including economic and technical 550
analysis of existing or potential computer hardware or software 551
needs and alternatives; 552

(e) Designing policies, procedures, and custom software 553
for collecting business information, and determining how data 554
should be summarized, sequenced, formatted, processed, 555
controlled, and reported so that it will be meaningful to 556
management; 557

(f) Developing policies and procedures that document how 558
business events and transactions are to be authorized, executed, 559
and controlled; 560

(g) Testing of business procedures; 561

(h) Training personnel in business procedure applications; 562

(i) Providing credit information to users of such 563
information by a consumer reporting agency, as defined in the 564
"Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 565
U.S.C. 1681a(f), or as hereafter amended, including but not 566
limited to gathering, organizing, analyzing, recording, and 567
furnishing such information by any oral, written, graphic, or 568
electronic medium; 569

(j) Providing debt collection services by any oral, 570
written, graphic, or electronic means; 571

(k) Providing digital advertising services. 572

The services listed in divisions (Y) (2) (a) to (k) of this 573
section are not automatic data processing or computer services. 574

(Z) "Highway transportation for hire" means the 575
transportation of personal property belonging to others for 576
consideration by any of the following: 577

(1) The holder of a permit or certificate issued by this 578
state or the United States authorizing the holder to engage in 579
transportation of personal property belonging to others for 580
consideration over or on highways, roadways, streets, or any 581
similar public thoroughfare; 582

(2) A person who engages in the transportation of personal 583
property belonging to others for consideration over or on 584
highways, roadways, streets, or any similar public thoroughfare 585
but who could not have engaged in such transportation on 586
December 11, 1985, unless the person was the holder of a permit 587
or certificate of the types described in division (Z) (1) of this 588
section; 589

(3) A person who leases a motor vehicle to and operates it 590
for a person described by division (Z) (1) or (2) of this 591
section. 592

(AA) (1) "Telecommunications service" means the electronic 593
transmission, conveyance, or routing of voice, data, audio, 594
video, or any other information or signals to a point, or 595
between or among points. "Telecommunications service" includes 596
such transmission, conveyance, or routing in which computer 597
processing applications are used to act on the form, code, or 598
protocol of the content for purposes of transmission, 599
conveyance, or routing without regard to whether the service is 600

referred to as voice-over internet protocol service or is 601
classified by the federal communications commission as enhanced 602
or value-added. "Telecommunications service" does not include 603
any of the following: 604

(a) Data processing and information services that allow 605
data to be generated, acquired, stored, processed, or retrieved 606
and delivered by an electronic transmission to a consumer where 607
the consumer's primary purpose for the underlying transaction is 608
the processed data or information; 609

(b) Installation or maintenance of wiring or equipment on 610
a customer's premises; 611

(c) Tangible personal property; 612

(d) Advertising, including directory advertising; 613

(e) Billing and collection services provided to third 614
parties; 615

(f) Internet access service; 616

(g) Radio and television audio and video programming 617
services, regardless of the medium, including the furnishing of 618
transmission, conveyance, and routing of such services by the 619
programming service provider. Radio and television audio and 620
video programming services include, but are not limited to, 621
cable service, as defined in 47 U.S.C. 522(6), and audio and 622
video programming services delivered by commercial mobile radio 623
service providers, as defined in 47 C.F.R. 20.3; 624

(h) Ancillary service; 625

(i) Digital products delivered electronically, including 626
software, music, video, reading materials, or ring tones. 627

(2) "Ancillary service" means a service that is associated 628
with or incidental to the provision of telecommunications 629
service, including conference bridging service, detailed 630
telecommunications billing service, directory assistance, 631
vertical service, and voice mail service. As used in this 632
division: 633

(a) "Conference bridging service" means an ancillary 634
service that links two or more participants of an audio or video 635
conference call, including providing a telephone number. 636
"Conference bridging service" does not include 637
telecommunications services used to reach the conference bridge. 638

(b) "Detailed telecommunications billing service" means an 639
ancillary service of separately stating information pertaining 640
to individual calls on a customer's billing statement. 641

(c) "Directory assistance" means an ancillary service of 642
providing telephone number or address information. 643

(d) "Vertical service" means an ancillary service that is 644
offered in connection with one or more telecommunications 645
services, which offers advanced calling features that allow 646
customers to identify callers and manage multiple calls and call 647
connections, including conference bridging service. 648

(e) "Voice mail service" means an ancillary service that 649
enables the customer to store, send, or receive recorded 650
messages. "Voice mail service" does not include any vertical 651
services that the customer may be required to have in order to 652
utilize the voice mail service. 653

(3) "900 service" means an inbound toll telecommunications 654
service purchased by a subscriber that allows the subscriber's 655
customers to call in to the subscriber's prerecorded 656

announcement or live service, and which is typically marketed 657
under the name "900 service" and any subsequent numbers 658
designated by the federal communications commission. "900 659
service" does not include the charge for collection services 660
provided by the seller of the telecommunications service to the 661
subscriber, or services or products sold by the subscriber to 662
the subscriber's customer. 663

(4) "Prepaid calling service" means the right to access 664
exclusively telecommunications services, which must be paid for 665
in advance and which enables the origination of calls using an 666
access number or authorization code, whether manually or 667
electronically dialed, and that is sold in predetermined units 668
or dollars of which the number declines with use in a known 669
amount. 670

(5) "Prepaid wireless calling service" means a 671
telecommunications service that provides the right to utilize 672
mobile telecommunications service as well as other non- 673
telecommunications services, including the download of digital 674
products delivered electronically, and content and ancillary 675
services, that must be paid for in advance and that is sold in 676
predetermined units or dollars of which the number declines with 677
use in a known amount. 678

(6) "Value-added non-voice data service" means a 679
telecommunications service in which computer processing 680
applications are used to act on the form, content, code, or 681
protocol of the information or data primarily for a purpose 682
other than transmission, conveyance, or routing. 683

(7) "Coin-operated telephone service" means a 684
telecommunications service paid for by inserting money into a 685
telephone accepting direct deposits of money to operate. 686

(8) "Customer" has the same meaning as in section 5739.034 687
of the Revised Code. 688

(BB) "Laundry and dry cleaning services" means removing 689
soil or dirt from towels, linens, articles of clothing, or other 690
fabric items that belong to others and supplying towels, linens, 691
articles of clothing, or other fabric items. "Laundry and dry 692
cleaning services" does not include the provision of self- 693
service facilities for use by consumers to remove soil or dirt 694
from towels, linens, articles of clothing, or other fabric 695
items. 696

(CC) "Magazines distributed as controlled circulation 697
publications" means magazines containing at least twenty-four 698
pages, at least twenty-five per cent editorial content, issued 699
at regular intervals four or more times a year, and circulated 700
without charge to the recipient, provided that such magazines 701
are not owned or controlled by individuals or business concerns 702
which conduct such publications as an auxiliary to, and 703
essentially for the advancement of the main business or calling 704
of, those who own or control them. 705

(DD) "Landscaping and lawn care service" means the 706
services of planting, seeding, sodding, removing, cutting, 707
trimming, pruning, mulching, aerating, applying chemicals, 708
watering, fertilizing, and providing similar services to 709
establish, promote, or control the growth of trees, shrubs, 710
flowers, grass, ground cover, and other flora, or otherwise 711
maintaining a lawn or landscape grown or maintained by the owner 712
for ornamentation or other nonagricultural purpose. However, 713
"landscaping and lawn care service" does not include the 714
providing of such services by a person who has less than five 715
thousand dollars in sales of such services during the calendar 716

year. 717

(EE) "Private investigation and security service" means 718
the performance of any activity for which the provider of such 719
service is required to be licensed pursuant to Chapter 4749. of 720
the Revised Code, or would be required to be so licensed in 721
performing such services in this state, and also includes the 722
services of conducting polygraph examinations and of monitoring 723
or overseeing the activities on or in, or the condition of, the 724
consumer's home, business, or other facility by means of 725
electronic or similar monitoring devices. "Private investigation 726
and security service" does not include special duty services 727
provided by off-duty police officers, deputy sheriffs, and other 728
peace officers regularly employed by the state or a political 729
subdivision. 730

(FF) "Information services" means providing conversation, 731
giving consultation or advice, playing or making a voice or 732
other recording, making or keeping a record of the number of 733
callers, and any other service provided to a consumer by means 734
of a nine hundred telephone call, except when the nine hundred 735
telephone call is the means by which the consumer makes a 736
contribution to a recognized charity. 737

(GG) "Research and development" means designing, creating, 738
or formulating new or enhanced products, equipment, or 739
manufacturing processes, and also means conducting scientific or 740
technological inquiry and experimentation in the physical 741
sciences with the goal of increasing scientific knowledge which 742
may reveal the bases for new or enhanced products, equipment, or 743
manufacturing processes. 744

(HH) "Qualified research and development equipment" means 745
capitalized tangible personal property, and leased personal 746

property that would be capitalized if purchased, used by a 747
person primarily to perform research and development. Tangible 748
personal property primarily used in testing, as defined in 749
division (A) (4) of section 5739.011 of the Revised Code, or used 750
for recording or storing test results, is not qualified research 751
and development equipment unless such property is primarily used 752
by the consumer in testing the product, equipment, or 753
manufacturing process being created, designed, or formulated by 754
the consumer in the research and development activity or in 755
recording or storing such test results. 756

(II) "Building maintenance and janitorial service" means 757
cleaning the interior or exterior of a building and any tangible 758
personal property located therein or thereon, including any 759
services incidental to such cleaning for which no separate 760
charge is made. However, "building maintenance and janitorial 761
service" does not include the providing of such service by a 762
person who has less than five thousand dollars in sales of such 763
service during the calendar year. As used in this division, 764
"cleaning" does not include sanitation services necessary for an 765
establishment described in 21 U.S.C. 608 to comply with rules 766
and regulations adopted pursuant to that section. 767

(JJ) "Employment service" means providing or supplying 768
personnel, on a temporary or long-term basis, to perform work or 769
labor under the supervision or control of another, when the 770
personnel so provided or supplied receive their wages, salary, 771
or other compensation from the provider or supplier of the 772
employment service or from a third party that provided or 773
supplied the personnel to the provider or supplier. "Employment 774
service" does not include: 775

(1) Acting as a contractor or subcontractor, where the 776

personnel performing the work are not under the direct control 777
of the purchaser. 778

(2) Medical and health care services. 779

(3) Supplying personnel to a purchaser pursuant to a 780
contract of at least one year between the service provider and 781
the purchaser that specifies that each employee covered under 782
the contract is assigned to the purchaser on a permanent basis. 783

(4) Transactions between members of an affiliated group, 784
as defined in division (B) (3) (e) of this section. 785

(5) Transactions where the personnel so provided or 786
supplied by a provider or supplier to a purchaser of an 787
employment service are then provided or supplied by that 788
purchaser to a third party as an employment service, except 789
"employment service" does include the transaction between that 790
purchaser and the third party. 791

(KK) "Employment placement service" means locating or 792
finding employment for a person or finding or locating an 793
employee to fill an available position. 794

(LL) "Exterminating service" means eradicating or 795
attempting to eradicate vermin infestations from a building or 796
structure, or the area surrounding a building or structure, and 797
includes activities to inspect, detect, or prevent vermin 798
infestation of a building or structure. 799

(MM) "Physical fitness facility service" means all 800
transactions by which a membership is granted, maintained, or 801
renewed, including initiation fees, membership dues, renewal 802
fees, monthly minimum fees, and other similar fees and dues, by 803
a physical fitness facility such as an athletic club, health 804
spa, or gymnasium, which entitles the member to use the facility 805

for physical exercise. 806

(NN) "Recreation and sports club service" means all 807
transactions by which a membership is granted, maintained, or 808
renewed, including initiation fees, membership dues, renewal 809
fees, monthly minimum fees, and other similar fees and dues, by 810
a recreation and sports club, which entitles the member to use 811
the facilities of the organization. "Recreation and sports club" 812
means an organization that has ownership of, or controls or 813
leases on a continuing, long-term basis, the facilities used by 814
its members and includes an aviation club, gun or shooting club, 815
yacht club, card club, swimming club, tennis club, golf club, 816
country club, riding club, amateur sports club, or similar 817
organization. 818

(OO) "Livestock" means farm animals commonly raised for 819
food, food production, or other agricultural purposes, 820
including, but not limited to, cattle, sheep, goats, swine, 821
poultry, and captive deer. "Livestock" does not include 822
invertebrates, amphibians, reptiles, domestic pets, animals for 823
use in laboratories or for exhibition, or other animals not 824
commonly raised for food or food production. 825

(PP) "Livestock structure" means a building or structure 826
used exclusively for the housing, raising, feeding, or 827
sheltering of livestock, and includes feed storage or handling 828
structures and structures for livestock waste handling. 829

(QQ) "Horticulture" means the growing, cultivation, and 830
production of flowers, fruits, herbs, vegetables, sod, 831
mushrooms, and nursery stock. As used in this division, "nursery 832
stock" has the same meaning as in section 927.51 of the Revised 833
Code. 834

(RR) "Horticulture structure" means a building or 835
structure used exclusively for the commercial growing, raising, 836
or overwintering of horticultural products, and includes the 837
area used for stocking, storing, and packing horticultural 838
products when done in conjunction with the production of those 839
products. 840

(SS) "Newspaper" means an unbound publication bearing a 841
title or name that is regularly published, at least as 842
frequently as biweekly, and distributed from a fixed place of 843
business to the public in a specific geographic area, and that 844
contains a substantial amount of news matter of international, 845
national, or local events of interest to the general public. 846

(TT) 847

(UU) (1) "Lease" or "rental" means any transfer of the 848
possession or control of tangible personal property for a fixed 849
or indefinite term, for consideration. "Lease" or "rental" 850
includes future options to purchase or extend, and agreements 851
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 852
trailers where the amount of consideration may be increased or 853
decreased by reference to the amount realized upon the sale or 854
disposition of the property. "Lease" or "rental" does not 855
include: 856

(a) A transfer of possession or control of tangible 857
personal property under a security agreement or a deferred 858
payment plan that requires the transfer of title upon completion 859
of the required payments; 860

(b) A transfer of possession or control of tangible 861
personal property under an agreement that requires the transfer 862
of title upon completion of required payments and payment of an 863

option price that does not exceed the greater of one hundred 864
dollars or one per cent of the total required payments; 865

(c) Providing tangible personal property along with an 866
operator for a fixed or indefinite period of time, if the 867
operator is necessary for the property to perform as designed. 868
For purposes of this division, the operator must do more than 869
maintain, inspect, or set up the tangible personal property. 870

(2) "Lease" and "rental," as defined in division (UU) of 871
this section, shall not apply to leases or rentals that exist 872
before June 26, 2003. 873

(3) "Lease" and "rental" have the same meaning as in 874
division (UU) (1) of this section regardless of whether a 875
transaction is characterized as a lease or rental under 876
generally accepted accounting principles, the Internal Revenue 877
Code, Title XIII of the Revised Code, or other federal, state, 878
or local laws. 879

(VV) "Mobile telecommunications service" has the same 880
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 881
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 882
amended, and, on and after August 1, 2003, includes related fees 883
and ancillary services, including universal service fees, 884
detailed billing service, directory assistance, service 885
initiation, voice mail service, and vertical services, such as 886
caller ID and three-way calling. 887

(WW) "Certified service provider" has the same meaning as 888
in section 5740.01 of the Revised Code. 889

(XX) "Satellite broadcasting service" means the 890
distribution or broadcasting of programming or services by 891
satellite directly to the subscriber's receiving equipment 892

without the use of ground receiving or distribution equipment, 893
except the subscriber's receiving equipment or equipment used in 894
the uplink process to the satellite, and includes all service 895
and rental charges, premium channels or other special services, 896
installation and repair service charges, and any other charges 897
having any connection with the provision of the satellite 898
broadcasting service. 899

(YY) "Tangible personal property" means personal property 900
that can be seen, weighed, measured, felt, or touched, or that 901
is in any other manner perceptible to the senses. For purposes 902
of this chapter and Chapter 5741. of the Revised Code, "tangible 903
personal property" includes motor vehicles, electricity, water, 904
gas, steam, and prewritten computer software. 905

(ZZ) "Municipal gas utility" means a municipal corporation 906
that owns or operates a system for the distribution of natural 907
gas. 908

(AAA) "Computer" means an electronic device that accepts 909
information in digital or similar form and manipulates it for a 910
result based on a sequence of instructions. 911

(BBB) "Computer software" means a set of coded 912
instructions designed to cause a computer or automatic data 913
processing equipment to perform a task. 914

(CCC) "Delivered electronically" means delivery of 915
computer software from the seller to the purchaser by means 916
other than tangible storage media. 917

(DDD) "Prewritten computer software" means computer 918
software, including prewritten upgrades, that is not designed 919
and developed by the author or other creator to the 920
specifications of a specific purchaser. The combining of two or 921

more prewritten computer software programs or prewritten 922
portions thereof does not cause the combination to be other than 923
prewritten computer software. "Prewritten computer software" 924
includes software designed and developed by the author or other 925
creator to the specifications of a specific purchaser when it is 926
sold to a person other than the purchaser. If a person modifies 927
or enhances computer software of which the person is not the 928
author or creator, the person shall be deemed to be the author 929
or creator only of such person's modifications or enhancements. 930
Prewritten computer software or a prewritten portion thereof 931
that is modified or enhanced to any degree, where such 932
modification or enhancement is designed and developed to the 933
specifications of a specific purchaser, remains prewritten 934
computer software; provided, however, that where there is a 935
reasonable, separately stated charge or an invoice or other 936
statement of the price given to the purchaser for the 937
modification or enhancement, the modification or enhancement 938
shall not constitute prewritten computer software. 939

(EEE) (1) "Food" means substances, whether in liquid, 940
concentrated, solid, frozen, dried, or dehydrated form, that are 941
sold for ingestion or chewing by humans and are consumed for 942
their taste or nutritional value. "Food" does not include 943
alcoholic beverages, dietary supplements, soft drinks, or 944
tobacco. 945

(2) As used in division (EEE) (1) of this section: 946

(a) "Alcoholic beverages" means beverages that are 947
suitable for human consumption and contain one-half of one per 948
cent or more of alcohol by volume. 949

(b) "Dietary supplements" means any product, other than 950
tobacco, that is intended to supplement the diet and that is 951

intended for ingestion in tablet, capsule, powder, softgel, 952
gelcap, or liquid form, or, if not intended for ingestion in 953
such a form, is not represented as conventional food for use as 954
a sole item of a meal or of the diet; that is required to be 955
labeled as a dietary supplement, identifiable by the "supplement 956
facts" box found on the label, as required by 21 C.F.R. 101.36; 957
and that contains one or more of the following dietary 958
ingredients: 959

(i) A vitamin; 960

(ii) A mineral; 961

(iii) An herb or other botanical; 962

(iv) An amino acid; 963

(v) A dietary substance for use by humans to supplement 964
the diet by increasing the total dietary intake; 965

(vi) A concentrate, metabolite, constituent, extract, or 966
combination of any ingredient described in divisions (EEE) (2) (b) 967
(i) to (v) of this section. 968

(c) "Soft drinks" means nonalcoholic beverages that 969
contain natural or artificial sweeteners. "Soft drinks" does not 970
include beverages that contain milk or milk products, soy, rice, 971
or similar milk substitutes, or that contains greater than fifty 972
per cent vegetable or fruit juice by volume. 973

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 974
tobacco, or any other item that contains tobacco. 975

(FFF) "Drug" means a compound, substance, or preparation, 976
and any component of a compound, substance, or preparation, 977
other than food, dietary supplements, or alcoholic beverages 978
that is recognized in the official United States pharmacopoeia, 979

official homeopathic pharmacopoeia of the United States, or 980
official national formulary, and supplements to them; is 981
intended for use in the diagnosis, cure, mitigation, treatment, 982
or prevention of disease; or is intended to affect the structure 983
or any function of the body. 984

(GGG) "Prescription" means an order, formula, or recipe 985
issued in any form of oral, written, electronic, or other means 986
of transmission by a duly licensed practitioner authorized by 987
the laws of this state to issue a prescription. 988

(HHH) "Durable medical equipment" means equipment, 989
including repair and replacement parts for such equipment, that 990
can withstand repeated use, is primarily and customarily used to 991
serve a medical purpose, generally is not useful to a person in 992
the absence of illness or injury, and is not worn in or on the 993
body. "Durable medical equipment" does not include mobility 994
enhancing equipment. 995

(III) "Mobility enhancing equipment" means equipment, 996
including repair and replacement parts for such equipment, that 997
is primarily and customarily used to provide or increase the 998
ability to move from one place to another and is appropriate for 999
use either in a home or a motor vehicle, that is not generally 1000
used by persons with normal mobility, and that does not include 1001
any motor vehicle or equipment on a motor vehicle normally 1002
provided by a motor vehicle manufacturer. "Mobility enhancing 1003
equipment" does not include durable medical equipment. 1004

(JJJ) "Prosthetic device" means a replacement, corrective, 1005
or supportive device, including repair and replacement parts for 1006
the device, worn on or in the human body to artificially replace 1007
a missing portion of the body, prevent or correct physical 1008
deformity or malfunction, or support a weak or deformed portion 1009

of the body. As used in this division, before July 1, 2019, 1010
"prosthetic device" does not include corrective eyeglasses, 1011
contact lenses, or dental prosthesis. On or after July 1, 2019, 1012
"prosthetic device" does not include dental prosthesis but does 1013
include corrective eyeglasses or contact lenses. 1014

(KKK) (1) "Fractional aircraft ownership program" means a 1015
program in which persons within an affiliated group sell and 1016
manage fractional ownership program aircraft, provided that at 1017
least one hundred airworthy aircraft are operated in the program 1018
and the program meets all of the following criteria: 1019

(a) Management services are provided by at least one 1020
program manager within an affiliated group on behalf of the 1021
fractional owners. 1022

(b) Each program aircraft is owned or possessed by at 1023
least one fractional owner. 1024

(c) Each fractional owner owns or possesses at least a 1025
one-sixteenth interest in at least one fixed-wing program 1026
aircraft. 1027

(d) A dry-lease aircraft interchange arrangement is in 1028
effect among all of the fractional owners. 1029

(e) Multi-year program agreements are in effect regarding 1030
the fractional ownership, management services, and dry-lease 1031
aircraft interchange arrangement aspects of the program. 1032

(2) As used in division (KKK) (1) of this section: 1033

(a) "Affiliated group" has the same meaning as in division 1034
(B) (3) (e) of this section. 1035

(b) "Fractional owner" means a person that owns or 1036
possesses at least a one-sixteenth interest in a program 1037

aircraft and has entered into the agreements described in 1038
division (KKK) (1) (e) of this section. 1039

(c) "Fractional ownership program aircraft" or "program 1040
aircraft" means a turbojet aircraft that is owned or possessed 1041
by a fractional owner and that has been included in a dry-lease 1042
aircraft interchange arrangement and agreement under divisions 1043
(KKK) (1) (d) and (e) of this section, or an aircraft a program 1044
manager owns or possesses primarily for use in a fractional 1045
aircraft ownership program. 1046

(d) "Management services" means administrative and 1047
aviation support services furnished under a fractional aircraft 1048
ownership program in accordance with a management services 1049
agreement under division (KKK) (1) (e) of this section, and 1050
offered by the program manager to the fractional owners, 1051
including, at a minimum, the establishment and implementation of 1052
safety guidelines; the coordination of the scheduling of the 1053
program aircraft and crews; program aircraft maintenance; 1054
program aircraft insurance; crew training for crews employed, 1055
furnished, or contracted by the program manager or the 1056
fractional owner; the satisfaction of record-keeping 1057
requirements; and the development and use of an operations 1058
manual and a maintenance manual for the fractional aircraft 1059
ownership program. 1060

(e) "Program manager" means the person that offers 1061
management services to fractional owners pursuant to a 1062
management services agreement under division (KKK) (1) (e) of this 1063
section. 1064

(LLL) "Electronic publishing" means providing access to 1065
one or more of the following primarily for business customers, 1066
including the federal government or a state government or a 1067

political subdivision thereof, to conduct research: news; 1068
business, financial, legal, consumer, or credit materials; 1069
editorials, columns, reader commentary, or features; photos or 1070
images; archival or research material; legal notices, identity 1071
verification, or public records; scientific, educational, 1072
instructional, technical, professional, trade, or other literary 1073
materials; or other similar information which has been gathered 1074
and made available by the provider to the consumer in an 1075
electronic format. Providing electronic publishing includes the 1076
functions necessary for the acquisition, formatting, editing, 1077
storage, and dissemination of data or information that is the 1078
subject of a sale. 1079

(MMM) "Medicaid health insuring corporation" means a 1080
health insuring corporation that holds a certificate of 1081
authority under Chapter 1751. of the Revised Code and is under 1082
contract with the department of medicaid pursuant to section 1083
5167.10 of the Revised Code. 1084

(NNN) "Managed care premium" means any premium, 1085
capitation, or other payment a medicaid health insuring 1086
corporation receives for providing or arranging for the 1087
provision of health care services to its members or enrollees 1088
residing in this state. 1089

(OOO) "Captive deer" means deer and other cervidae that 1090
have been legally acquired, or their offspring, that are 1091
privately owned for agricultural or farming purposes. 1092

(PPP) "Gift card" means a document, card, certificate, or 1093
other record, whether tangible or intangible, that may be 1094
redeemed by a consumer for a dollar value when making a purchase 1095
of tangible personal property or services. 1096

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

As used in division (QQQ) of this section:

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

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

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

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

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

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

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