

**As Introduced**

**131st General Assembly**

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**H. B. No. 272**

**Representatives Johnson, G., Sykes**

**Cosponsors: Representatives Antonio, Bishoff, Boyce, Boyd, Clyde, Driehaus,  
Fedor, Howse, Kuhns, Lepore-Hagan, Phillips, Ramos, Reece, Sheehy, Smith, K.,  
Sweeney**

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**A BILL**

To amend section 5739.02 of the Revised Code to 1  
exempt from sales and use tax the sale of 2  
tampons and other feminine hygiene products 3  
associated with menstruation. 4

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

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

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

(A) (1) The tax shall be collected as provided in section 18  
5739.025 of the Revised Code. The rate of the tax shall be five 19  
and three-fourths per cent. The tax applies and is collectible 20  
when the sale is made, regardless of the time when the price is 21  
paid or delivered. 22

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

A lease with a renewal clause and a termination penalty or 46  
similar provision that applies if the renewal clause is not 47  
exercised is presumed to be a sham transaction. In such a case, 48

the tax shall be calculated and paid on the basis of the entire 49  
length of the lease period, including any renewal periods, until 50  
the termination penalty or similar provision no longer applies. 51  
The taxpayer shall bear the burden, by a preponderance of the 52  
evidence, that the transaction or series of transactions is not 53  
a sham transaction. 54

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

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

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

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

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

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

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

(5) The furnishing, preparing, or serving of meals without 77  
charge by an employer to an employee provided the employer 78  
records the meals as part compensation for services performed or 79  
work done; 80

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

(7) Sales of natural gas by a natural gas company, of 91  
water by a water-works company, or of steam by a heating 92  
company, if in each case the thing sold is delivered to 93  
consumers through pipes or conduits, and all sales of 94  
communications services by a telegraph company, all terms as 95  
defined in section 5727.01 of the Revised Code, and sales of 96  
electricity delivered through wires; 97

(8) Casual sales by a person, or auctioneer employed 98  
directly by the person to conduct such sales, except as to such 99  
sales of motor vehicles, watercraft or outboard motors required 100  
to be titled under section 1548.06 of the Revised Code, 101  
watercraft documented with the United States coast guard, 102  
snowmobiles, and all-purpose vehicles as defined in section 103  
4519.01 of the Revised Code; 104

(9) (a) Sales of services or tangible personal property, 105  
other than motor vehicles, mobile homes, and manufactured homes, 106

by churches, organizations exempt from taxation under section 107  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 108  
organizations operated exclusively for charitable purposes as 109  
defined in division (B) (12) of this section, provided that the 110  
number of days on which such tangible personal property or 111  
services, other than items never subject to the tax, are sold 112  
does not exceed six in any calendar year, except as otherwise 113  
provided in division (B) (9) (b) of this section. If the number of 114  
days on which such sales are made exceeds six in any calendar 115  
year, the church or organization shall be considered to be 116  
engaged in business and all subsequent sales by it shall be 117  
subject to the tax. In counting the number of days, all sales by 118  
groups within a church or within an organization shall be 119  
considered to be sales of that church or organization. 120

(b) The limitation on the number of days on which tax- 121  
exempt sales may be made by a church or organization under 122  
division (B) (9) (a) of this section does not apply to sales made 123  
by student clubs and other groups of students of a primary or 124  
secondary school, or a parent-teacher association, booster 125  
group, or similar organization that raises money to support or 126  
fund curricular or extracurricular activities of a primary or 127  
secondary school. 128

(c) Divisions (B) (9) (a) and (b) of this section do not 129  
apply to sales by a noncommercial educational radio or 130  
television broadcasting station. 131

(10) Sales not within the taxing power of this state under 132  
the Constitution or laws of the United States or the 133  
Constitution of this state; 134

(11) Except for transactions that are sales under division 135  
(B) (3) (r) of section 5739.01 of the Revised Code, the 136

transportation of persons or property, unless the transportation 137  
is by a private investigation and security service; 138

(12) Sales of tangible personal property or services to 139  
churches, to organizations exempt from taxation under section 140  
501(c)(3) of the Internal Revenue Code of 1986, and to any other 141  
nonprofit organizations operated exclusively for charitable 142  
purposes in this state, no part of the net income of which 143  
inures to the benefit of any private shareholder or individual, 144  
and no substantial part of the activities of which consists of 145  
carrying on propaganda or otherwise attempting to influence 146  
legislation; sales to offices administering one or more homes 147  
for the aged or one or more hospital facilities exempt under 148  
section 140.08 of the Revised Code; and sales to organizations 149  
described in division (D) of section 5709.12 of the Revised 150  
Code. 151

"Charitable purposes" means the relief of poverty; the 152  
improvement of health through the alleviation of illness, 153  
disease, or injury; the operation of an organization exclusively 154  
for the provision of professional, laundry, printing, and 155  
purchasing services to hospitals or charitable institutions; the 156  
operation of a home for the aged, as defined in section 5701.13 157  
of the Revised Code; the operation of a radio or television 158  
broadcasting station that is licensed by the federal 159  
communications commission as a noncommercial educational radio 160  
or television station; the operation of a nonprofit animal 161  
adoption service or a county humane society; the promotion of 162  
education by an institution of learning that maintains a faculty 163  
of qualified instructors, teaches regular continuous courses of 164  
study, and confers a recognized diploma upon completion of a 165  
specific curriculum; the operation of a parent-teacher 166  
association, booster group, or similar organization primarily 167

engaged in the promotion and support of the curricular or 168  
extracurricular activities of a primary or secondary school; the 169  
operation of a community or area center in which presentations 170  
in music, dramatics, the arts, and related fields are made in 171  
order to foster public interest and education therein; the 172  
production of performances in music, dramatics, and the arts; or 173  
the promotion of education by an organization engaged in 174  
carrying on research in, or the dissemination of, scientific and 175  
technological knowledge and information primarily for the 176  
public. 177

Nothing in this division shall be deemed to exempt sales 178  
to any organization for use in the operation or carrying on of a 179  
trade or business, or sales to a home for the aged for use in 180  
the operation of independent living facilities as defined in 181  
division (A) of section 5709.12 of the Revised Code. 182

(13) Building and construction materials and services sold 183  
to construction contractors for incorporation into a structure 184  
or improvement to real property under a construction contract 185  
with this state or a political subdivision of this state, or 186  
with the United States government or any of its agencies; 187  
building and construction materials and services sold to 188  
construction contractors for incorporation into a structure or 189  
improvement to real property that are accepted for ownership by 190  
this state or any of its political subdivisions, or by the 191  
United States government or any of its agencies at the time of 192  
completion of the structures or improvements; building and 193  
construction materials sold to construction contractors for 194  
incorporation into a horticulture structure or livestock 195  
structure for a person engaged in the business of horticulture 196  
or producing livestock; building materials and services sold to 197  
a construction contractor for incorporation into a house of 198

public worship or religious education, or a building used 199  
exclusively for charitable purposes under a construction 200  
contract with an organization whose purpose is as described in 201  
division (B) (12) of this section; building materials and 202  
services sold to a construction contractor for incorporation 203  
into a building under a construction contract with an 204  
organization exempt from taxation under section 501(c) (3) of the 205  
Internal Revenue Code of 1986 when the building is to be used 206  
exclusively for the organization's exempt purposes; building and 207  
construction materials sold for incorporation into the original 208  
construction of a sports facility under section 307.696 of the 209  
Revised Code; building and construction materials and services 210  
sold to a construction contractor for incorporation into real 211  
property outside this state if such materials and services, when 212  
sold to a construction contractor in the state in which the real 213  
property is located for incorporation into real property in that 214  
state, would be exempt from a tax on sales levied by that state; 215  
building and construction materials for incorporation into a 216  
transportation facility pursuant to a public-private agreement 217  
entered into under sections 5501.70 to 5501.83 of the Revised 218  
Code; and, until one calendar year after the construction of a 219  
convention center that qualifies for property tax exemption 220  
under section 5709.084 of the Revised Code is completed, 221  
building and construction materials and services sold to a 222  
construction contractor for incorporation into the real property 223  
comprising that convention center; 224

(14) Sales of ships or vessels or rail rolling stock used 225  
or to be used principally in interstate or foreign commerce, and 226  
repairs, alterations, fuel, and lubricants for such ships or 227  
vessels or rail rolling stock; 228

(15) Sales to persons primarily engaged in any of the 229



activities mentioned in division (B)(42)(a), (g), or (h) of this 230  
section, to persons engaged in making retail sales, or to 231  
persons who purchase for sale from a manufacturer tangible 232  
personal property that was produced by the manufacturer in 233  
accordance with specific designs provided by the purchaser, of 234  
packages, including material, labels, and parts for packages, 235  
and of machinery, equipment, and material for use primarily in 236  
packaging tangible personal property produced for sale, 237  
including any machinery, equipment, and supplies used to make 238  
labels or packages, to prepare packages or products for 239  
labeling, or to label packages or products, by or on the order 240  
of the person doing the packaging, or sold at retail. "Packages" 241  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 242  
bindings, wrappings, and other similar devices and containers, 243  
but does not include motor vehicles or bulk tanks, trailers, or 244  
similar devices attached to motor vehicles. "Packaging" means 245  
placing in a package. Division (B)(15) of this section does not 246  
apply to persons engaged in highway transportation for hire. 247

(16) Sales of food to persons using supplemental nutrition 248  
assistance program benefits to purchase the food. As used in 249  
this division, "food" has the same meaning as in 7 U.S.C. 2012 250  
and federal regulations adopted pursuant to the Food and 251  
Nutrition Act of 2008. 252

(17) Sales to persons engaged in farming, agriculture, 253  
horticulture, or floriculture, of tangible personal property for 254  
use or consumption primarily in the production by farming, 255  
agriculture, horticulture, or floriculture of other tangible 256  
personal property for use or consumption primarily in the 257  
production of tangible personal property for sale by farming, 258  
agriculture, horticulture, or floriculture; or material and 259  
parts for incorporation into any such tangible personal property 260

for use or consumption in production; and of tangible personal 261  
property for such use or consumption in the conditioning or 262  
holding of products produced by and for such use, consumption, 263  
or sale by persons engaged in farming, agriculture, 264  
horticulture, or floriculture, except where such property is 265  
incorporated into real property; 266

(18) Sales of drugs for a human being that may be 267  
dispensed only pursuant to a prescription; insulin as recognized 268  
in the official United States pharmacopoeia; urine and blood 269  
testing materials when used by diabetics or persons with 270  
hypoglycemia to test for glucose or acetone; hypodermic syringes 271  
and needles when used by diabetics for insulin injections; 272  
epoetin alfa when purchased for use in the treatment of persons 273  
with medical disease; hospital beds when purchased by hospitals, 274  
nursing homes, or other medical facilities; and medical oxygen 275  
and medical oxygen-dispensing equipment when purchased by 276  
hospitals, nursing homes, or other medical facilities; 277

(19) Sales of prosthetic devices, durable medical 278  
equipment for home use, or mobility enhancing equipment, when 279  
made pursuant to a prescription and when such devices or 280  
equipment are for use by a human being. 281

(20) Sales of emergency and fire protection vehicles and 282  
equipment to nonprofit organizations for use solely in providing 283  
fire protection and emergency services, including trauma care 284  
and emergency medical services, for political subdivisions of 285  
the state; 286

(21) Sales of tangible personal property manufactured in 287  
this state, if sold by the manufacturer in this state to a 288  
retailer for use in the retail business of the retailer outside 289  
of this state and if possession is taken from the manufacturer 290

by the purchaser within this state for the sole purpose of 291  
immediately removing the same from this state in a vehicle owned 292  
by the purchaser; 293

(22) Sales of services provided by the state or any of its 294  
political subdivisions, agencies, instrumentalities, 295  
institutions, or authorities, or by governmental entities of the 296  
state or any of its political subdivisions, agencies, 297  
instrumentalities, institutions, or authorities; 298

(23) Sales of motor vehicles to nonresidents of this state 299  
under the circumstances described in division (B) of section 300  
5739.029 of the Revised Code; 301

(24) Sales to persons engaged in the preparation of eggs 302  
for sale of tangible personal property used or consumed directly 303  
in such preparation, including such tangible personal property 304  
used for cleaning, sanitizing, preserving, grading, sorting, and 305  
classifying by size; packages, including material and parts for 306  
packages, and machinery, equipment, and material for use in 307  
packaging eggs for sale; and handling and transportation 308  
equipment and parts therefor, except motor vehicles licensed to 309  
operate on public highways, used in intraplant or interplant 310  
transfers or shipment of eggs in the process of preparation for 311  
sale, when the plant or plants within or between which such 312  
transfers or shipments occur are operated by the same person. 313  
"Packages" includes containers, cases, baskets, flats, fillers, 314  
filler flats, cartons, closure materials, labels, and labeling 315  
materials, and "packaging" means placing therein. 316

(25) (a) Sales of water to a consumer for residential use; 317

(b) Sales of water by a nonprofit corporation engaged 318  
exclusively in the treatment, distribution, and sale of water to 319

consumers, if such water is delivered to consumers through pipes or tubing.	320 321
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	322 323
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	324 325 326 327
(a) To prepare food for human consumption for sale;	328
(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;	329 330 331 332
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	333 334
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	335 336
(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;	337 338 339 340
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	341 342 343
(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;	344 345 346

(32) The sale, lease, repair, and maintenance of, parts 347  
for, or items attached to or incorporated in, motor vehicles 348  
that are primarily used for transporting tangible personal 349  
property belonging to others by a person engaged in highway 350  
transportation for hire, except for packages and packaging used 351  
for the transportation of tangible personal property; 352

(33) Sales to the state headquarters of any veterans' 353  
organization in this state that is either incorporated and 354  
issued a charter by the congress of the United States or is 355  
recognized by the United States veterans administration, for use 356  
by the headquarters; 357

(34) Sales to a telecommunications service vendor, mobile 358  
telecommunications service vendor, or satellite broadcasting 359  
service vendor of tangible personal property and services used 360  
directly and primarily in transmitting, receiving, switching, or 361  
recording any interactive, one- or two-way electromagnetic 362  
communications, including voice, image, data, and information, 363  
through the use of any medium, including, but not limited to, 364  
poles, wires, cables, switching equipment, computers, and record 365  
storage devices and media, and component parts for the tangible 366  
personal property. The exemption provided in this division shall 367  
be in lieu of all other exemptions under division (B) (42) (a) or 368  
(n) of this section to which the vendor may otherwise be 369  
entitled, based upon the use of the thing purchased in providing 370  
the telecommunications, mobile telecommunications, or satellite 371  
broadcasting service. 372

(35) (a) Sales where the purpose of the consumer is to use 373  
or consume the things transferred in making retail sales and 374  
consisting of newspaper inserts, catalogues, coupons, flyers, 375  
gift certificates, or other advertising material that prices and 376

describes tangible personal property offered for retail sale.	377
(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; and of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B) (35) (a) of this section;	378 379 380 381 382 383 384
(c) Sales of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.	385 386 387 388
(d) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.	389 390 391
For purposes of division (B) (35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.	392 393 394 395 396 397 398 399
(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;	400 401 402 403
(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer	404 405

equipment to an individual who is licensed or certified to teach 406  
in an elementary or a secondary school in this state for use by 407  
that individual in preparation for teaching elementary or 408  
secondary school students; 409

(38) Sales to a professional racing team of any of the 410  
following: 411

(a) Motor racing vehicles; 412

(b) Repair services for motor racing vehicles; 413

(c) Items of property that are attached to or incorporated 414  
in motor racing vehicles, including engines, chassis, and all 415  
other components of the vehicles, and all spare, replacement, 416  
and rebuilt parts or components of the vehicles; except not 417  
including tires, consumable fluids, paint, and accessories 418  
consisting of instrumentation sensors and related items added to 419  
the vehicle to collect and transmit data by means of telemetry 420  
and other forms of communication. 421

(39) Sales of used manufactured homes and used mobile 422  
homes, as defined in section 5739.0210 of the Revised Code, made 423  
on or after January 1, 2000; 424

(40) Sales of tangible personal property and services to a 425  
provider of electricity used or consumed directly and primarily 426  
in generating, transmitting, or distributing electricity for use 427  
by others, including property that is or is to be incorporated 428  
into and will become a part of the consumer's production, 429  
transmission, or distribution system and that retains its 430  
classification as tangible personal property after 431  
incorporation; fuel or power used in the production, 432  
transmission, or distribution of electricity; energy conversion 433  
equipment as defined in section 5727.01 of the Revised Code; and 434

tangible personal property and services used in the repair and 435  
maintenance of the production, transmission, or distribution 436  
system, including only those motor vehicles as are specially 437  
designed and equipped for such use. The exemption provided in 438  
this division shall be in lieu of all other exemptions in 439  
division (B) (42) (a) or (n) of this section to which a provider 440  
of electricity may otherwise be entitled based on the use of the 441  
tangible personal property or service purchased in generating, 442  
transmitting, or distributing electricity. 443

(41) Sales to a person providing services under division 444  
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 445  
personal property and services used directly and primarily in 446  
providing taxable services under that section. 447

(42) Sales where the purpose of the purchaser is to do any 448  
of the following: 449

(a) To incorporate the thing transferred as a material or 450  
a part into tangible personal property to be produced for sale 451  
by manufacturing, assembling, processing, or refining; or to use 452  
or consume the thing transferred directly in producing tangible 453  
personal property for sale by mining, including, without 454  
limitation, the extraction from the earth of all substances that 455  
are classed geologically as minerals, production of crude oil 456  
and natural gas, or directly in the rendition of a public 457  
utility service, except that the sales tax levied by this 458  
section shall be collected upon all meals, drinks, and food for 459  
human consumption sold when transporting persons. Persons 460  
engaged in rendering services in the exploration for, and 461  
production of, crude oil and natural gas for others are deemed 462  
engaged directly in the exploration for, and production of, 463  
crude oil and natural gas. This paragraph does not exempt from 464



"retail sale" or "sales at retail" the sale of tangible personal 465  
property that is to be incorporated into a structure or 466  
improvement to real property. 467

(b) To hold the thing transferred as security for the 468  
performance of an obligation of the vendor; 469

(c) To resell, hold, use, or consume the thing transferred 470  
as evidence of a contract of insurance; 471

(d) To use or consume the thing directly in commercial 472  
fishing; 473

(e) To incorporate the thing transferred as a material or 474  
a part into, or to use or consume the thing transferred directly 475  
in the production of, magazines distributed as controlled 476  
circulation publications; 477

(f) To use or consume the thing transferred in the 478  
production and preparation in suitable condition for market and 479  
sale of printed, imprinted, overprinted, lithographic, 480  
multilithic, blueprinted, photostatic, or other productions or 481  
reproductions of written or graphic matter; 482

(g) To use the thing transferred, as described in section 483  
5739.011 of the Revised Code, primarily in a manufacturing 484  
operation to produce tangible personal property for sale; 485

(h) To use the benefit of a warranty, maintenance or 486  
service contract, or similar agreement, as described in division 487  
(B) (7) of section 5739.01 of the Revised Code, to repair or 488  
maintain tangible personal property, if all of the property that 489  
is the subject of the warranty, contract, or agreement would not 490  
be subject to the tax imposed by this section; 491

(i) To use the thing transferred as qualified research and 492

development equipment; 493

(j) To use or consume the thing transferred primarily in 494  
storing, transporting, mailing, or otherwise handling purchased 495  
sales inventory in a warehouse, distribution center, or similar 496  
facility when the inventory is primarily distributed outside 497  
this state to retail stores of the person who owns or controls 498  
the warehouse, distribution center, or similar facility, to 499  
retail stores of an affiliated group of which that person is a 500  
member, or by means of direct marketing. This division does not 501  
apply to motor vehicles registered for operation on the public 502  
highways. As used in this division, "affiliated group" has the 503  
same meaning as in division (B) (3) (e) of section 5739.01 of the 504  
Revised Code and "direct marketing" has the same meaning as in 505  
division (B) (35) of this section. 506

(k) To use or consume the thing transferred to fulfill a 507  
contractual obligation incurred by a warrantor pursuant to a 508  
warranty provided as a part of the price of the tangible 509  
personal property sold or by a vendor of a warranty, maintenance 510  
or service contract, or similar agreement the provision of which 511  
is defined as a sale under division (B) (7) of section 5739.01 of 512  
the Revised Code; 513

(l) To use or consume the thing transferred in the 514  
production of a newspaper for distribution to the public; 515

(m) To use tangible personal property to perform a service 516  
listed in division (B) (3) of section 5739.01 of the Revised 517  
Code, if the property is or is to be permanently transferred to 518  
the consumer of the service as an integral part of the 519  
performance of the service; 520

(n) To use or consume the thing transferred primarily in 521

producing tangible personal property for sale by farming, 522  
agriculture, horticulture, or floriculture. Persons engaged in 523  
rendering farming, agriculture, horticulture, or floriculture 524  
services for others are deemed engaged primarily in farming, 525  
agriculture, horticulture, or floriculture. This paragraph does 526  
not exempt from "retail sale" or "sales at retail" the sale of 527  
tangible personal property that is to be incorporated into a 528  
structure or improvement to real property. 529

(o) To use or consume the thing transferred in acquiring, 530  
formatting, editing, storing, and disseminating data or 531  
information by electronic publishing. 532

As used in division (B) (42) of this section, "thing" 533  
includes all transactions included in divisions (B) (3) (a), (b), 534  
and (e) of section 5739.01 of the Revised Code. 535

(43) Sales conducted through a coin operated device that 536  
activates vacuum equipment or equipment that dispenses water, 537  
whether or not in combination with soap or other cleaning agents 538  
or wax, to the consumer for the consumer's use on the premises 539  
in washing, cleaning, or waxing a motor vehicle, provided no 540  
other personal property or personal service is provided as part 541  
of the transaction. 542

(44) Sales of replacement and modification parts for 543  
engines, airframes, instruments, and interiors in, and paint 544  
for, aircraft used primarily in a fractional aircraft ownership 545  
program, and sales of services for the repair, modification, and 546  
maintenance of such aircraft, and machinery, equipment, and 547  
supplies primarily used to provide those services. 548

(45) Sales of telecommunications service that is used 549  
directly and primarily to perform the functions of a call 550

center. As used in this division, "call center" means any 551  
physical location where telephone calls are placed or received 552  
in high volume for the purpose of making sales, marketing, 553  
customer service, technical support, or other specialized 554  
business activity, and that employs at least fifty individuals 555  
that engage in call center activities on a full-time basis, or 556  
sufficient individuals to fill fifty full-time equivalent 557  
positions. 558

(46) Sales by a telecommunications service vendor of 900 559  
service to a subscriber. This division does not apply to 560  
information services, as defined in division (FF) of section 561  
5739.01 of the Revised Code. 562

(47) Sales of value-added non-voice data service. This 563  
division does not apply to any similar service that is not 564  
otherwise a telecommunications service. 565

(48) (a) Sales of machinery, equipment, and software to a 566  
qualified direct selling entity for use in a warehouse or 567  
distribution center primarily for storing, transporting, or 568  
otherwise handling inventory that is held for sale to 569  
independent salespersons who operate as direct sellers and that 570  
is held primarily for distribution outside this state; 571

(b) As used in division (B) (48) (a) of this section: 572

(i) "Direct seller" means a person selling consumer 573  
products to individuals for personal or household use and not 574  
from a fixed retail location, including selling such product at 575  
in-home product demonstrations, parties, and other one-on-one 576  
selling. 577

(ii) "Qualified direct selling entity" means an entity 578  
selling to direct sellers at the time the entity enters into a 579

tax credit agreement with the tax credit authority pursuant to 580  
section 122.17 of the Revised Code, provided that the agreement 581  
was entered into on or after January 1, 2007. Neither 582  
contingencies relevant to the granting of, nor later 583  
developments with respect to, the tax credit shall impair the 584  
status of the qualified direct selling entity under division (B) 585  
(48) of this section after execution of the tax credit agreement 586  
by the tax credit authority. 587

(c) Division (B) (48) of this section is limited to 588  
machinery, equipment, and software first stored, used, or 589  
consumed in this state within the period commencing June 24, 590  
2008, and ending on the date that is five years after that date. 591

(49) Sales of materials, parts, equipment, or engines used 592  
in the repair or maintenance of aircraft or avionics systems of 593  
such aircraft, and sales of repair, remodeling, replacement, or 594  
maintenance services in this state performed on aircraft or on 595  
an aircraft's avionics, engine, or component materials or parts. 596  
As used in division (B) (49) of this section, "aircraft" means 597  
aircraft of more than six thousand pounds maximum certified 598  
takeoff weight or used exclusively in general aviation. 599

(50) Sales of full flight simulators that are used for 600  
pilot or flight-crew training, sales of repair or replacement 601  
parts or components, and sales of repair or maintenance services 602  
for such full flight simulators. "Full flight simulator" means a 603  
replica of a specific type, or make, model, and series of 604  
aircraft cockpit. It includes the assemblage of equipment and 605  
computer programs necessary to represent aircraft operations in 606  
ground and flight conditions, a visual system providing an out- 607  
of-the-cockpit view, and a system that provides cues at least 608  
equivalent to those of a three-degree-of-freedom motion system, 609

and has the full range of capabilities of the systems installed 610  
in the device as described in appendices A and B of part 60 of 611  
chapter 1 of title 14 of the Code of Federal Regulations. 612

(51) Any transfer or lease of tangible personal property 613  
between the state and JobsOhio in accordance with section 614  
4313.02 of the Revised Code. 615

(52) (a) Sales to a qualifying corporation. 616

(b) As used in division (B) (52) of this section: 617

(i) "Qualifying corporation" means a nonprofit corporation 618  
organized in this state that leases from an eligible county 619  
land, buildings, structures, fixtures, and improvements to the 620  
land that are part of or used in a public recreational facility 621  
used by a major league professional athletic team or a class A 622  
to class AAA minor league affiliate of a major league 623  
professional athletic team for a significant portion of the 624  
team's home schedule, provided the following apply: 625

(I) The facility is leased from the eligible county 626  
pursuant to a lease that requires substantially all of the 627  
revenue from the operation of the business or activity conducted 628  
by the nonprofit corporation at the facility in excess of 629  
operating costs, capital expenditures, and reserves to be paid 630  
to the eligible county at least once per calendar year. 631

(II) Upon dissolution and liquidation of the nonprofit 632  
corporation, all of its net assets are distributable to the 633  
board of commissioners of the eligible county from which the 634  
corporation leases the facility. 635

(ii) "Eligible county" has the same meaning as in section 636  
307.695 of the Revised Code. 637

(53) Sales to or by a cable service provider, video 638  
service provider, or radio or television broadcast station 639  
regulated by the federal government of cable service or 640  
programming, video service or programming, audio service or 641  
programming, or electronically transferred digital audiovisual 642  
or audio work. As used in division (B) (53) of this section, 643  
"cable service" and "cable service provider" have the same 644  
meanings as in section 1332.01 of the Revised Code, and "video 645  
service," "video service provider," and "video programming" have 646  
the same meanings as in section 1332.21 of the Revised Code. 647

(54) Sales of tampons, panty liners, menstrual cups, 648  
sanitary napkins, and other similar tangible personal property 649  
the principal purpose of which is feminine hygiene in connection 650  
with the menstrual cycle. 651

(C) For the purpose of the proper administration of this 652  
chapter, and to prevent the evasion of the tax, it is presumed 653  
that all sales made in this state are subject to the tax until 654  
the contrary is established. 655

(D) The levy of this tax on retail sales of recreation and 656  
sports club service shall not prevent a municipal corporation 657  
from levying any tax on recreation and sports club dues or on 658  
any income generated by recreation and sports club dues. 659

(E) The tax collected by the vendor from the consumer 660  
under this chapter is not part of the price, but is a tax 661  
collection for the benefit of the state, and of counties levying 662  
an additional sales tax pursuant to section 5739.021 or 5739.026 663  
of the Revised Code and of transit authorities levying an 664  
additional sales tax pursuant to section 5739.023 of the Revised 665  
Code. Except for the discount authorized under section 5739.12 666  
of the Revised Code and the effects of any rounding pursuant to 667

section 5703.055 of the Revised Code, no person other than the 668  
state or such a county or transit authority shall derive any 669  
benefit from the collection or payment of the tax levied by this 670  
section or section 5739.021, 5739.023, or 5739.026 of the 671  
Revised Code. 672

**Section 2.** That existing section 5739.02 of the Revised 673  
Code is hereby repealed. 674

**Section 3.** The amendment by this act of section 5739.02 of 675  
the Revised Code applies on and after the first day of the first 676  
month that begins at least thirty days after the effective date 677  
of this act. 678