

As Introduced

**127th General Assembly
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H. B. No. 121

Representative Setzer

**Cosponsors: Representatives Seitz, Peterson, Evans, White, Collier,
Webster, Flowers**

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A B I L L

To amend section 5739.02 of the Revised Code to 1
exempt from the sales tax sales of motor vehicles 2
used exclusively for vanpool ridesharing 3
arrangements. 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 which 7
to meet the needs of the state, for the use of the general revenue 8
fund of the state, for the purpose of securing a thorough and 9
efficient system of common schools throughout the state, for the 10
purpose of affording revenues, in addition to those from general 11
property taxes, permitted under constitutional limitations, and 12
from other sources, for the support of local governmental 13
functions, and for the purpose of reimbursing the state for the 14
expense of administering this chapter, an excise tax is hereby 15
levied on each retail sale made in this state. 16

(A)(1) The tax shall be collected as provided in section 17
5739.025 of the Revised Code, provided that on and after July 1, 18

2003, and on or before June 30, 2005, the rate of tax shall be six 19
per cent. On and after July 1, 2005, the rate of the tax shall be 20
five and one-half per cent. The tax applies and is collectible 21
when the sale is made, regardless of the time when the price is 22
paid or delivered. 23

(2) In the case of the lease or rental, with a fixed term of 24
more than thirty days or an indefinite term with a minimum period 25
of more than thirty days, of any motor vehicles designed by the 26
manufacturer to carry a load of not more than one ton, watercraft, 27
outboard motor, or aircraft, or of any tangible personal property, 28
other than motor vehicles designed by the manufacturer to carry a 29
load of more than one ton, to be used by the lessee or renter 30
primarily for business purposes, the tax shall be collected by the 31
vendor at the time the lease or rental is consummated and shall be 32
calculated by the vendor on the basis of the total amount to be 33
paid by the lessee or renter under the lease agreement. If the 34
total amount of the consideration for the lease or rental includes 35
amounts that are not calculated at the time the lease or rental is 36
executed, the tax shall be calculated and collected by the vendor 37
at the time such amounts are billed to the lessee or renter. In 38
the case of an open-end lease or rental, the tax shall be 39
calculated by the vendor on the basis of the total amount to be 40
paid during the initial fixed term of the lease or rental, and for 41
each 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 outdrive 44
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 a 53
sham transaction. 54

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

(4) In the case of a sale of a physical fitness facility 59
service or recreation and sports club service, the price of which 60
consists in whole or in part of a membership for the receipt of 61
the benefit of the service, the tax applicable to the sale shall 62
be measured by the installments thereof. 63

(B) The tax does not apply to the following: 64

(1) Sales to the state or any of its political subdivisions, 65
or to any other state or its political subdivisions if the laws of 66
that state exempt from taxation sales made to this state and its 67
political subdivisions; 68

(2) Sales of food for human consumption off the premises 69
where sold; 70

(3) Sales of food sold to students only in a cafeteria, 71
dormitory, fraternity, or sorority maintained in a private, 72
public, or parochial school, college, or university; 73

(4) Sales of newspapers and of magazine subscriptions and 74
sales or transfers of magazines distributed as controlled 75
circulation publications; 76

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

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

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

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

(9) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year. If the number of days on

which such sales are made exceeds six in any calendar year, the 113
church or organization shall be considered to be engaged in 114
business and all subsequent sales by it shall be subject to the 115
tax. In counting the number of days, all sales by groups within a 116
church or within an organization shall be considered to be sales 117
of that church or organization, except that sales made by separate 118
student clubs and other groups of students of a primary or 119
secondary school, and sales made by a parent-teacher association, 120
booster group, or similar organization that raises money to 121
support or fund curricular or extracurricular activities of a 122
primary or secondary school, shall not be considered to be sales 123
of such school, and sales by each such club, group, association, 124
or organization shall be counted separately for purposes of the 125
six-day limitation. This division does not apply to sales by a 126
noncommercial educational radio or television broadcasting 127
station. 128

(10) Sales not within the taxing power of this state under 129
the Constitution of the United States; 130

(11) Except for transactions that are sales under division 131
(B)(3)(r) of section 5739.01 of the Revised Code, the 132
transportation of persons or property, unless the transportation 133
is by a private investigation and security service; 134

(12) Sales of tangible personal property or services to 135
churches, to organizations exempt from taxation under section 136
501(c)(3) of the Internal Revenue Code of 1986, and to any other 137
nonprofit organizations operated exclusively for charitable 138
purposes in this state, no part of the net income of which inures 139
to the benefit of any private shareholder or individual, and no 140
substantial part of the activities of which consists of carrying 141
on propaganda or otherwise attempting to influence legislation; 142
sales to offices administering one or more homes for the aged or 143
one or more hospital facilities exempt under section 140.08 of the 144

Revised Code; and sales to organizations described in division (D) 145
of section 5709.12 of the Revised Code. 146

"Charitable purposes" means the relief of poverty; the 147
improvement of health through the alleviation of illness, disease, 148
or injury; the operation of an organization exclusively for the 149
provision of professional, laundry, printing, and purchasing 150
services to hospitals or charitable institutions; the operation of 151
a home for the aged, as defined in section 5701.13 of the Revised 152
Code; the operation of a radio or television broadcasting station 153
that is licensed by the federal communications commission as a 154
noncommercial educational radio or television station; the 155
operation of a nonprofit animal adoption service or a county 156
humane society; the promotion of education by an institution of 157
learning that maintains a faculty of qualified instructors, 158
teaches regular continuous courses of study, and confers a 159
recognized diploma upon completion of a specific curriculum; the 160
operation of a parent-teacher association, booster group, or 161
similar organization primarily engaged in the promotion and 162
support of the curricular or extracurricular activities of a 163
primary or secondary school; the operation of a community or area 164
center in which presentations in music, dramatics, the arts, and 165
related fields are made in order to foster public interest and 166
education therein; the production of performances in music, 167
dramatics, and the arts; or the promotion of education by an 168
organization engaged in carrying on research in, or the 169
dissemination of, scientific and technological knowledge and 170
information primarily for the public. 171

Nothing in this division shall be deemed to exempt sales to 172
any organization for use in the operation or carrying on of a 173
trade or business, or sales to a home for the aged for use in the 174
operation of independent living facilities as defined in division 175
(A) of section 5709.12 of the Revised Code. 176

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; and building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;

(14) Sales of ships or vessels or rail rolling stock used or

to be used principally in interstate or foreign commerce, and 210
repairs, alterations, fuel, and lubricants for such ships or 211
vessels or rail rolling stock; 212

(15) Sales to persons primarily engaged in any of the 213
activities mentioned in division (B)(42)(a) or (g) of this 214
section, to persons engaged in making retail sales, or to persons 215
who purchase for sale from a manufacturer tangible personal 216
property that was produced by the manufacturer in accordance with 217
specific designs provided by the purchaser, of packages, including 218
material, labels, and parts for packages, and of machinery, 219
equipment, and material for use primarily in packaging tangible 220
personal property produced for sale, including any machinery, 221
equipment, and supplies used to make labels or packages, to 222
prepare packages or products for labeling, or to label packages or 223
products, by or on the order of the person doing the packaging, or 224
sold at retail. "Packages" includes bags, baskets, cartons, 225
crates, boxes, cans, bottles, bindings, wrappings, and other 226
similar devices and containers, but does not include motor 227
vehicles or bulk tanks, trailers, or similar devices attached to 228
motor vehicles. "Packaging" means placing in a package. Division 229
(B)(15) of this section does not apply to persons engaged in 230
highway transportation for hire. 231

(16) Sales of food to persons using food stamp benefits to 232
purchase the food. As used in this division, "food" has the same 233
meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 234
2012, as amended, and federal regulations adopted pursuant to that 235
act. 236

(17) Sales to persons engaged in farming, agriculture, 237
horticulture, or floriculture, of tangible personal property for 238
use or consumption directly in the production by farming, 239
agriculture, horticulture, or floriculture of other tangible 240
personal property for use or consumption directly in the 241

production of tangible personal property for sale by farming, 242
agriculture, horticulture, or floriculture; or material and parts 243
for incorporation into any such tangible personal property for use 244
or consumption in production; and of tangible personal property 245
for such use or consumption in the conditioning or holding of 246
products produced by and for such use, consumption, or sale by 247
persons engaged in farming, agriculture, horticulture, or 248
floriculture, except where such property is incorporated into real 249
property; 250

(18) Sales of drugs for a human being that may be dispensed 251
only pursuant to a prescription; insulin as recognized in the 252
official United States pharmacopoeia; urine and blood testing 253
materials when used by diabetics or persons with hypoglycemia to 254
test for glucose or acetone; hypodermic syringes and needles when 255
used by diabetics for insulin injections; epoetin alfa when 256
purchased for use in the treatment of persons with medical 257
disease; hospital beds when purchased by hospitals, nursing homes, 258
or other medical facilities; and medical oxygen and medical 259
oxygen-dispensing equipment when purchased by hospitals, nursing 260
homes, or other medical facilities; 261

(19) Sales of prosthetic devices, durable medical equipment 262
for home use, or mobility enhancing equipment, when made pursuant 263
to a prescription and when such devices or equipment are for use 264
by a human being. 265

(20) Sales of emergency and fire protection vehicles and 266
equipment to nonprofit organizations for use solely in providing 267
fire protection and emergency services, including trauma care and 268
emergency medical services, for political subdivisions of the 269
state; 270

(21) Sales of tangible personal property manufactured in this 271
state, if sold by the manufacturer in this state to a retailer for 272
use in the retail business of the retailer outside of this state 273

and if possession is taken from the manufacturer by the purchaser 274
within this state for the sole purpose of immediately removing the 275
same from this state in a vehicle owned by the purchaser; 276

(22) Sales of services provided by the state or any of its 277
political subdivisions, agencies, instrumentalities, institutions, 278
or authorities, or by governmental entities of the state or any of 279
its political subdivisions, agencies, instrumentalities, 280
institutions, or authorities; 281

(23) Sales of motor vehicles to nonresidents of this state 282
upon the presentation of an affidavit executed in this state by 283
the nonresident purchaser affirming that the purchaser is a 284
nonresident of this state, that possession of the motor vehicle is 285
taken in this state for the sole purpose of immediately removing 286
it from this state, that the motor vehicle will be permanently 287
titled and registered in another state, and that the motor vehicle 288
will not be used in this state; 289

(24) Sales to persons engaged in the preparation of eggs for 290
sale of tangible personal property used or consumed directly in 291
such preparation, including such tangible personal property used 292
for cleaning, sanitizing, preserving, grading, sorting, and 293
classifying by size; packages, including material and parts for 294
packages, and machinery, equipment, and material for use in 295
packaging eggs for sale; and handling and transportation equipment 296
and parts therefor, except motor vehicles licensed to operate on 297
public highways, used in intraplant or interplant transfers or 298
shipment of eggs in the process of preparation for sale, when the 299
plant or plants within or between which such transfers or 300
shipments occur are operated by the same person. "Packages" 301
includes containers, cases, baskets, flats, fillers, filler flats, 302
cartons, closure materials, labels, and labeling materials, and 303
"packaging" means placing therein. 304

(25)(a) Sales of water to a consumer for residential use, 305

except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;	306 307
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	308 309 310 311
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	312 313
(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:	314 315 316 317
(a) To prepare food for human consumption for sale;	318
(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;	319 320 321 322
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	323 324
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	325 326
(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;	327 328 329 330
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	331 332 333
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the	334 335

Revised Code;	336
(32) The sale, lease, repair, and maintenance of, parts for,	337
or items attached to or incorporated in, motor vehicles that are	338
primarily used for transporting tangible personal property	339
belonging to others by a person engaged in highway transportation	340
for hire, except for packages and packaging used for the	341
transportation of tangible personal property;	342
(33) Sales to the state headquarters of any veterans'	343
organization in this state that is either incorporated and issued	344
a charter by the congress of the United States or is recognized by	345
the United States veterans administration, for use by the	346
headquarters;	347
(34) Sales to a telecommunications service vendor, mobile	348
telecommunications service vendor, or satellite broadcasting	349
service vendor of tangible personal property and services used	350
directly and primarily in transmitting, receiving, switching, or	351
recording any interactive, one- or two-way electromagnetic	352
communications, including voice, image, data, and information,	353
through the use of any medium, including, but not limited to,	354
poles, wires, cables, switching equipment, computers, and record	355
storage devices and media, and component parts for the tangible	356
personal property. The exemption provided in this division shall	357
be in lieu of all other exemptions under division (B)(42)(a) of	358
this section to which the vendor may otherwise be entitled, based	359
upon the use of the thing purchased in providing the	360
telecommunications, mobile telecommunications, or satellite	361
broadcasting service.	362
(35)(a) Sales where the purpose of the consumer is to use or	363
consume the things transferred in making retail sales and	364
consisting of newspaper inserts, catalogues, coupons, flyers, gift	365
certificates, or other advertising material that prices and	366
describes tangible personal property offered for retail sale.	367

(b) Sales to direct marketing vendors of preliminary 368
materials such as photographs, artwork, and typesetting that will 369
be used in printing advertising material; of printed matter that 370
offers free merchandise or chances to win sweepstake prizes and 371
that is mailed to potential customers with advertising material 372
described in division (B)(35)(a) of this section; and of equipment 373
such as telephones, computers, facsimile machines, and similar 374
tangible personal property primarily used to accept orders for 375
direct marketing retail sales. 376

(c) Sales of automatic food vending machines that preserve 377
food with a shelf life of forty-five days or less by refrigeration 378
and dispense it to the consumer. 379

For purposes of division (B)(35) of this section, "direct 380
marketing" means the method of selling where consumers order 381
tangible personal property by United States mail, delivery 382
service, or telecommunication and the vendor delivers or ships the 383
tangible personal property sold to the consumer from a warehouse, 384
catalogue distribution center, or similar fulfillment facility by 385
means of the United States mail, delivery service, or common 386
carrier. 387

(36) Sales to a person engaged in the business of 388
horticulture or producing livestock of materials to be 389
incorporated into a horticulture structure or livestock structure; 390

(37) Sales of personal computers, computer monitors, computer 391
keyboards, modems, and other peripheral computer equipment to an 392
individual who is licensed or certified to teach in an elementary 393
or a secondary school in this state for use by that individual in 394
preparation for teaching elementary or secondary school students; 395

(38) Sales to a professional racing team of any of the 396
following: 397

(a) Motor racing vehicles; 398

(b) Repair services for motor racing vehicles;	399
(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.	400 401 402 403 404 405 406 407
(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;	408 409 410
(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.	411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427
(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in	428 429 430

providing taxable services under that section. 431

(42) Sales where the purpose of the purchaser is to do any of 432
the following: 433

(a) To incorporate the thing transferred as a material or a 434
part into tangible personal property to be produced for sale by 435
manufacturing, assembling, processing, or refining; or to use or 436
consume the thing transferred directly in producing tangible 437
personal property for sale by mining, including, without 438
limitation, the extraction from the earth of all substances that 439
are classed geologically as minerals, production of crude oil and 440
natural gas, farming, agriculture, horticulture, or floriculture, 441
or directly in the rendition of a public utility service, except 442
that the sales tax levied by this section shall be collected upon 443
all meals, drinks, and food for human consumption sold when 444
transporting persons. Persons engaged in rendering farming, 445
agricultural, horticultural, or floricultural services, and 446
services in the exploration for, and production of, crude oil and 447
natural gas, for others are deemed engaged directly in farming, 448
agriculture, horticulture, and floriculture, or exploration for, 449
and production of, crude oil and natural gas. This paragraph does 450
not exempt from "retail sale" or "sales at retail" the sale of 451
tangible personal property that is to be incorporated into a 452
structure or improvement to real property. 453

(b) To hold the thing transferred as security for the 454
performance of an obligation of the vendor; 455

(c) To resell, hold, use, or consume the thing transferred as 456
evidence of a contract of insurance; 457

(d) To use or consume the thing directly in commercial 458
fishing; 459

(e) To incorporate the thing transferred as a material or a 460
part into, or to use or consume the thing transferred directly in 461

the production of, magazines distributed as controlled circulation 462
publications; 463

(f) To use or consume the thing transferred in the production 464
and preparation in suitable condition for market and sale of 465
printed, imprinted, overprinted, lithographic, multilithic, 466
blueprinted, photostatic, or other productions or reproductions of 467
written or graphic matter; 468

(g) To use the thing transferred, as described in section 469
5739.011 of the Revised Code, primarily in a manufacturing 470
operation to produce tangible personal property for sale; 471

(h) To use the benefit of a warranty, maintenance or service 472
contract, or similar agreement, as described in division (B)(7) of 473
section 5739.01 of the Revised Code, to repair or maintain 474
tangible personal property, if all of the property that is the 475
subject of the warranty, contract, or agreement would not be 476
subject to the tax imposed by this section; 477

(i) To use the thing transferred as qualified research and 478
development equipment; 479

(j) To use or consume the thing transferred primarily in 480
storing, transporting, mailing, or otherwise handling purchased 481
sales inventory in a warehouse, distribution center, or similar 482
facility when the inventory is primarily distributed outside this 483
state to retail stores of the person who owns or controls the 484
warehouse, distribution center, or similar facility, to retail 485
stores of an affiliated group of which that person is a member, or 486
by means of direct marketing. This division does not apply to 487
motor vehicles registered for operation on the public highways. As 488
used in this division, "affiliated group" has the same meaning as 489
in division (B)(3)(e) of section 5739.01 of the Revised Code and 490
"direct marketing" has the same meaning as in division (B)(35) of 491
this section. 492

(k) To use or consume the thing transferred to fulfill a 493
contractual obligation incurred by a warrantor pursuant to a 494
warranty provided as a part of the price of the tangible personal 495
property sold or by a vendor of a warranty, maintenance or service 496
contract, or similar agreement the provision of which is defined 497
as a sale under division (B)(7) of section 5739.01 of the Revised 498
Code; 499

(l) To use or consume the thing transferred in the production 500
of a newspaper for distribution to the public; 501

(m) To use tangible personal property to perform a service 502
listed in division (B)(3) of section 5739.01 of the Revised Code, 503
if the property is or is to be permanently transferred to the 504
consumer of the service as an integral part of the performance of 505
the service. 506

As used in division (B)(42) of this section, "thing" includes 507
all transactions included in divisions (B)(3)(a), (b), and (e) of 508
section 5739.01 of the Revised Code. 509

(43) Sales conducted through a coin operated device that 510
activates vacuum equipment or equipment that dispenses water, 511
whether or not in combination with soap or other cleaning agents 512
or wax, to the consumer for the consumer's use on the premises in 513
washing, cleaning, or waxing a motor vehicle, provided no other 514
personal property or personal service is provided as part of the 515
transaction. 516

(44) Sales of replacement and modification parts for engines, 517
airframes, instruments, and interiors in, and paint for, aircraft 518
used primarily in a fractional aircraft ownership program, and 519
sales of services for the repair, modification, and maintenance of 520
such aircraft, and machinery, equipment, and supplies primarily 521
used to provide those services. 522

(45) Sales of telecommunications service that is used 523

directly and primarily to perform the functions of a call center. 524
As used in this division, "call center" means any physical 525
location where telephone calls are placed or received in high 526
volume for the purpose of making sales, marketing, customer 527
service, technical support, or other specialized business 528
activity, and that employs at least fifty individuals that engage 529
in call center activities on a full-time basis, or sufficient 530
individuals to fill fifty full-time equivalent positions. 531

(46) Sales by a telecommunications service vendor of 900 532
service to a subscriber. This division does not apply to 533
information services, as defined in division (FF) of section 534
5739.01 of the Revised Code. 535

(47) Sales of value-added non-voice data service. This 536
division does not apply to any similar service that is not 537
otherwise a telecommunications service; 538

(48) The sale of a motor vehicle that is used exclusively for 539
a vanpool ridesharing arrangement to persons participating in the 540
vanpool ridesharing arrangement when the vendor is selling the 541
vehicle pursuant to a contract between the vendor and the 542
department of transportation. 543

(C) For the purpose of the proper administration of this 544
chapter, and to prevent the evasion of the tax, it is presumed 545
that all sales made in this state are subject to the tax until the 546
contrary is established. 547

(D) The levy of this tax on retail sales of recreation and 548
sports club service shall not prevent a municipal corporation from 549
levying any tax on recreation and sports club dues or on any 550
income generated by recreation and sports club dues. 551

(E) The tax collected by the vendor from the consumer under 552
this chapter is not part of the price, but is a tax collection for 553
the benefit of the state, and of counties levying an additional 554

sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

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