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Representative Gibbs

**Cosponsors: Representatives Schindel, Bolon, Foley, Hagan, J., Letson,
Patton, Aslanides, Bacon, Batchelder, Blessing, Chandler, Collier, Combs,
Domenick, Fessler, Flowers, Gardner, Hughes, McGregor, J., Raussen,
Schneider, Setzer, Wachtmann, Webster**

**Senators Schuler, Amstutz, Spada, Kearney, Buehrer, Coughlin, Harris,
Miller, D., Mumper, Niehaus, Seitz, Wilson, Mason, Sawyer, Padgett,
Wagoner, Cafaro**

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A B I L L

To amend sections 5703.70, 5739.03, 5739.033,	1
5739.034, 5739.24, 5741.03, and 5741.05 and to	2
enact section 5739.061 of the Revised Code and	3
later to repeal sections 5739.035, 5739.123,	4
5739.24, and 5740.10 of the Revised Code to	5
require vendors to utilize origin-based sourcing	6
for intrastate sales beginning January 1, 2010, to	7
discontinue compensation of impacted counties for	8
sales tax losses incurred under destination-based	9
sourcing, to compensate vendors required to	10
convert from destination-based sourcing to	11
origin-based sourcing, to permit a vendor, when	12
making a refund, to retain the amount of the	13
delivery charge and sales taxes attributable to	14
the charge, and to declare an emergency.	15
	16

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

Section 1. That sections 5703.70, 5739.03, 5739.033, 17
5739.034, 5739.24, 5741.03, and 5741.05 be amended and section 18
5739.061 of the Revised Code be enacted to read as follows: 19

Sec. 5703.70. (A) On the filing of an application for refund 20
under section 3734.905, 4307.05, 4307.07, 5727.28, 5727.91, 21
5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 22
5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 5743.53, 23
5749.08, or 5751.08 of the Revised Code, or an application for 24
compensation under section ~~5739.123~~ 5739.061 of the Revised Code, 25
if the tax commissioner determines that the amount of the refund 26
or compensation to which the applicant is entitled is less than 27
the amount claimed in the application, the commissioner shall give 28
the applicant written notice by ordinary mail of the amount. The 29
notice shall be sent to the address shown on the application 30
unless the applicant notifies the commissioner of a different 31
address. The applicant shall have sixty days from the date the 32
commissioner mails the notice to provide additional information to 33
the commissioner or request a hearing, or both. 34

(B) If the applicant neither requests a hearing nor provides 35
additional information to the tax commissioner within the time 36
prescribed by division (A) of this section, the commissioner shall 37
take no further action, and the refund or compensation amount ~~or~~ 38
~~compensation amount~~ denied becomes final. 39

(C)(1) If the applicant requests a hearing within the time 40
prescribed by division (A) of this section, the tax commissioner 41
shall assign a time and place for the hearing and notify the 42
applicant of such time and place, but the commissioner may 43
continue the hearing from time to time as necessary. After the 44

hearing, the commissioner may make such adjustments to the refund 45
or compensation as the commissioner finds proper, and shall issue 46
a final determination thereon. 47

(2) If the applicant does not request a hearing, but provides 48
additional information, within the time prescribed by division (A) 49
of this section, the commissioner shall review the information, 50
make such adjustments to the refund or compensation as the 51
commissioner finds proper, and issue a final determination 52
thereon. 53

(3) The commissioner shall serve a copy of the final 54
determination made under division (C)(1) or (2) of this section on 55
the applicant in the manner provided in section 5703.37 of the 56
Revised Code, and the decision is final, subject to appeal under 57
section 5717.02 of the Revised Code. 58

(D) The tax commissioner shall certify to the director of 59
budget and management and treasurer of state for payment from the 60
tax refund fund created by section 5703.052 of the Revised Code, 61
the amount of the refund to be refunded under division (B) or (C) 62
of this section. The commissioner also shall certify to the 63
director and treasurer of state for payment from the general 64
revenue fund the amount of compensation to be paid under division 65
(B) or (C) of this section. 66

Sec. 5739.03. (A) Except as provided in section 5739.05 of 67
the Revised Code, the tax imposed by or pursuant to section 68
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall 69
be paid by the consumer to the vendor, and each vendor shall 70
collect from the consumer, as a trustee for the state of Ohio, the 71
full and exact amount of the tax payable on each taxable sale, in 72
the manner and at the times provided as follows: 73

(1) If the price is, at or prior to the provision of the 74
service or the delivery of possession of the thing sold to the 75

consumer, paid in currency passed from hand to hand by the 76
consumer or the consumer's agent to the vendor or the vendor's 77
agent, the vendor or the vendor's agent shall collect the tax with 78
and at the same time as the price; 79

(2) If the price is otherwise paid or to be paid, the vendor 80
or the vendor's agent shall, at or prior to the provision of the 81
service or the delivery of possession of the thing sold to the 82
consumer, charge the tax imposed by or pursuant to section 83
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 84
the account of the consumer, which amount shall be collected by 85
the vendor from the consumer in addition to the price. Such sale 86
shall be reported on and the amount of the tax applicable thereto 87
shall be remitted with the return for the period in which the sale 88
is made, and the amount of the tax shall become a legal charge in 89
favor of the vendor and against the consumer. 90

(B)(1)(a) If any sale is claimed to be exempt under division 91
(E) of section 5739.01 of the Revised Code or under section 92
5739.02 of the Revised Code, with the exception of divisions 93
(B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the 94
consumer must provide to the vendor, and the vendor must obtain 95
from the consumer, a certificate specifying the reason that the 96
sale is not legally subject to the tax. The certificate shall be 97
in such form, and shall be provided either in a hard copy form or 98
electronic form, as the tax commissioner prescribes. 99

(b) A vendor that obtains a fully completed exemption 100
certificate from a consumer is relieved of liability for 101
collecting and remitting tax on any sale covered by that 102
certificate. If it is determined the exemption was improperly 103
claimed, the consumer shall be liable for any tax due on that sale 104
under section 5739.02, 5739.021, 5739.023, or 5739.026 or Chapter 105
5741. of the Revised Code. Relief under this division from 106
liability does not apply to any of the following: 107

(i) A vendor that fraudulently fails to collect tax; 108

(ii) A vendor that solicits consumers to participate in the 109
unlawful claim of an exemption; 110

(iii) A vendor that accepts an exemption certificate from a 111
consumer that claims an exemption based on who purchases or who 112
sells property or a service, when the subject of the transaction 113
sought to be covered by the exemption certificate is actually 114
received by the consumer at a location operated by the vendor in 115
this state, and this state has posted to its web site an exemption 116
certificate form that clearly and affirmatively indicates that the 117
claimed exemption is not available in this state; 118

(iv) A vendor that accepts an exemption certificate from a 119
consumer who claims a multiple points of use exemption under 120
division (D) of section 5739.033 of the Revised Code, if the item 121
purchased is tangible personal property, other than prewritten 122
computer software. 123

(2) The vendor shall maintain records, including exemption 124
certificates, of all sales on which a consumer has claimed an 125
exemption, and provide them to the tax commissioner on request. 126

(3) The tax commissioner may establish an identification 127
system whereby the commissioner issues an identification number to 128
a consumer that is exempt from payment of the tax. The consumer 129
must present the number to the vendor, if any sale is claimed to 130
be exempt as provided in this section. 131

(4) If no certificate is provided or obtained within ninety 132
days after the date on which such sale is consummated, it shall be 133
presumed that the tax applies. Failure to have so provided or 134
obtained a certificate shall not preclude a vendor, within one 135
hundred twenty days after the tax commissioner gives written 136
notice of intent to levy an assessment, from either establishing 137
that the sale is not subject to the tax, or obtaining, in good 138

faith, a fully completed exemption certificate. 139

(5) Certificates need not be obtained nor provided where the 140
identity of the consumer is such that the transaction is never 141
subject to the tax imposed or where the item of tangible personal 142
property sold or the service provided is never subject to the tax 143
imposed, regardless of use, or when the sale is in interstate 144
commerce. 145

(6) If a transaction is claimed to be exempt under division 146
(B)(13) of section 5739.02 of the Revised Code, the contractor 147
shall obtain certification of the claimed exemption from the 148
contractee. This certification shall be in addition to an 149
exemption certificate provided by the contractor to the vendor. A 150
contractee that provides a certification under this division shall 151
be deemed to be the consumer of all items purchased by the 152
contractor under the claim of exemption, if it is subsequently 153
determined that the exemption is not properly claimed. The 154
certification shall be in such form as the tax commissioner 155
prescribes. 156

(C) As used in this division, "contractee" means a person who 157
seeks to enter or enters into a contract or agreement with a 158
contractor or vendor for the construction of real property or for 159
the sale and installation onto real property of tangible personal 160
property. 161

Any contractor or vendor may request from any contractee a 162
certification of what portion of the property to be transferred 163
under such contract or agreement is to be incorporated into the 164
realty and what portion will retain its status as tangible 165
personal property after installation is completed. The contractor 166
or vendor shall request the certification by certified mail 167
delivered to the contractee, return receipt requested. Upon 168
receipt of such request and prior to entering into the contract or 169
agreement, the contractee shall provide to the contractor or 170

vendor a certification sufficiently detailed to enable the 171
contractor or vendor to ascertain the resulting classification of 172
all materials purchased or fabricated by the contractor or vendor 173
and transferred to the contractee. This requirement applies to a 174
contractee regardless of whether the contractee holds a direct 175
payment permit under section 5739.031 of the Revised Code or 176
provides to the contractor or vendor an exemption certificate as 177
provided under this section. 178

For the purposes of the taxes levied by this chapter and 179
Chapter 5741. of the Revised Code, the contractor or vendor may in 180
good faith rely on the contractee's certification. Notwithstanding 181
division (B) of section 5739.01 of the Revised Code, if the tax 182
commissioner determines that certain property certified by the 183
contractee as tangible personal property pursuant to this division 184
is, in fact, real property, the contractee shall be considered to 185
be the consumer of all materials so incorporated into that real 186
property and shall be liable for the applicable tax, and the 187
contractor or vendor shall be excused from any liability on those 188
materials. 189

If a contractee fails to provide such certification upon the 190
request of the contractor or vendor, the contractor or vendor 191
shall comply with the provisions of this chapter and Chapter 5741. 192
of the Revised Code without the certification. If the tax 193
commissioner determines that such compliance has been performed in 194
good faith and that certain property treated as tangible personal 195
property by the contractor or vendor is, in fact, real property, 196
the contractee shall be considered to be the consumer of all 197
materials so incorporated into that real property and shall be 198
liable for the applicable tax, and the construction contractor or 199
vendor shall be excused from any liability on those materials. 200

This division does not apply to any contract or agreement 201
where the tax commissioner determines as a fact that a 202

certification under this division was made solely on the decision 203
or advice of the contractor or vendor. 204

(D) Notwithstanding division (B) of section 5739.01 of the 205
Revised Code, whenever the total rate of tax imposed under this 206
chapter is increased after the date after a construction contract 207
is entered into, the contractee shall reimburse the construction 208
contractor for any additional tax paid on tangible property 209
consumed or services received pursuant to the contract. 210

(E) A vendor who files a petition for reassessment contesting 211
the assessment of tax on sales for which the vendor obtained no 212
valid exemption certificates and for which the vendor failed to 213
establish that the sales were properly not subject to the tax 214
during the one-hundred-twenty-day period allowed under division 215
(B) of this section, may present to the tax commissioner 216
additional evidence to prove that the sales were properly subject 217
to a claim of exception or exemption. The vendor shall file such 218
evidence within ninety days of the receipt by the vendor of the 219
notice of assessment, except that, upon application and for 220
reasonable cause, the period for submitting such evidence shall be 221
extended thirty days. 222

The commissioner shall consider such additional evidence in 223
reaching the final determination on the assessment and petition 224
for reassessment. 225

(F) Whenever a vendor refunds ~~to the consumer~~ the full price, 226
minus any separately stated delivery charge, of an item of 227
tangible personal property on which the tax imposed under this 228
chapter has been paid, the vendor shall also refund the full 229
amount of ~~the tax paid,~~ minus the amount of tax attributable to 230
the delivery charge. 231

Sec. 5739.033. (A) ~~Except as provided in division (B) of this~~ 232
~~section, divisions (C) to (I) of this section apply to sales made~~ 233

~~on and after January 1, 2008. Any vendor previously required to~~ 234
~~comply with divisions (C) to (I) of this section and any vendor~~ 235
~~that irrevocably elects to comply with divisions (C) to (I) of~~ 236
~~this section for all of the vendor's sales and places of business~~ 237
~~in this state shall continue to source its sales under those~~ 238
~~divisions.~~ 239

The amount of tax due pursuant to sections 5739.02, 5739.021, 240
5739.023, and 5739.026 of the Revised Code is the sum of the taxes 241
imposed pursuant to those sections at the sourcing location of the 242
sale as determined under this section or, if applicable, under 243
division (C) of section 5739.031 or section 5739.034 of the 244
Revised Code, ~~or at the situs of the sale as determined under~~ 245
~~section 5739.035 of the Revised Code.~~ This section applies only to 246
a vendor's or seller's obligation to collect and remit sales taxes 247
under section 5739.02, 5739.021, 5739.023, or 5739.026 of the 248
Revised Code or use taxes under section 5741.02, 5741.021, 249
5741.022, or 5741.023 of the Revised Code. Division (A) of this 250
section does not apply in determining the jurisdiction for which 251
sellers are required to collect the use tax under section 5741.05 252
of the Revised Code. This section does not affect the obligation 253
of a consumer to remit use taxes on the storage, use, or other 254
consumption of tangible personal property or on the benefit 255
realized of any service provided, to the jurisdiction of that 256
storage, use, or consumption, or benefit realized. 257

(B)(1) ~~As used in this division:~~ 258

~~(a) "Delivery sale" means the taxable sale of tangible~~ 259
~~personal property or a service that is received by a consumer, or~~ 260
~~a donee designated by the consumer, in a taxing jurisdiction that~~ 261
~~is not the taxing jurisdiction in which the vendor has a fixed~~ 262
~~place of business.~~ 263

~~(b) "Agreement" has the same meaning as in section 5740.01 of~~ 264
~~the Revised Code.~~ 265

~~(c) "Governing board" has the same meaning as in section 266
5740.02 of the Revised Code. 267~~

~~(2) If the tax commissioner does not make the certification 268
under section 5740.10 of the Revised Code, a vendor that is not 269
required by division (A) of this section to situs sales under 270
divisions (C) to (I) of this section on the date of the 271
commissioner's certification may continue after that date to situs 272
its sales under section 5739.035 of the Revised Code unless it is 273
required, under division (B)(5) of this section, to situs its 274
sales under divisions (C) to (I) of this section. 275~~

~~(3) Except as otherwise provided in divisions (B)(4) and (5) 276
of this section, a vendor with total delivery sales within this 277
state in prior calendar years, beginning with calendar year 2007, 278
of less than five hundred thousand dollars may situs its sales 279
under section 5739.035 of the Revised Code. 280~~

~~(4) Once a vendor has total delivery sales in this state of 281
five hundred thousand dollars or more for a prior calendar year, 282
the vendor shall source its sales under divisions (C) to (I) of 283
this section and shall continue to source its sales under those 284
divisions regardless of the amount of the vendor's total delivery 285
sales in future years. 286~~

~~(5) A vendor permitted under division (B)(3) of this section 287
to situs its sales under section 5739.035 of the Revised Code that 288
fails to provide, absent a clerical error, the notices required 289
under division (I)(1) of section 5739.035 of the Revised Code 290
shall situs all subsequent sales as required under divisions (C) 291
to (I) of this section Beginning January 1, 2010, retail sales, 292
excluding the lease or rental, of tangible personal property or 293
digital goods shall be sourced to the location where the vendor 294
receives an order for the sale of such property or goods if: 295~~

~~(a) The vendor receives the order in this state and the 296~~

consumer receives the property or goods in this state; 297

(b) The location where the consumer receives the property or 298
goods is determined under division (C)(2), (3), or (4) of this 299
section; and 300

(c) The record-keeping system used by the vendor to calculate 301
the tax imposed captures the location where the order is received 302
at the time the order is received. 303

(2) A consumer has no additional liability to this state 304
under this chapter or Chapter 5741. of the Revised Code for tax, 305
penalty, or interest on a sale for which the consumer remits tax 306
to the vendor in the amount invoiced by the vendor if the invoice 307
amount is calculated at either the rate applicable to the location 308
where the consumer receives the property or digital good or at the 309
rate applicable to the location where the order is received by the 310
vendor. A consumer may rely on a written representation by the 311
vendor as to the location where the order for the sale was 312
received by the vendor. If the consumer does not have a written 313
representation by the vendor as to the location where the order 314
was received by the vendor, the consumer may use a location 315
indicated by a business address for the vendor that is available 316
from records that are maintained in the ordinary course of the 317
consumer's business to determine the rate applicable to the 318
location where the order was received. 319

(3) For the purposes of division (B) of this section, the 320
location where an order is received by or on behalf of a vendor 321
means the physical location of the vendor or a third party such as 322
an established outlet, office location, or automated order receipt 323
system operated by or on behalf of the vendor, where an order is 324
initially received by or on behalf of the vendor, and not where 325
the order may be subsequently accepted, completed, or fulfilled. 326
An order is received when all necessary information to determine 327
whether the order can be accepted has been received by or on 328

behalf of the vendor. The location from which the property or 329
digital good is shipped shall not be used to determine the 330
location where the order is received by the vendor. 331

(4) For the purposes of division (B) of this section, if 332
services subject to taxation under this chapter or Chapter 5741. 333
of the Revised Code are sold with tangible personal property or 334
digital goods pursuant to a single contract or in the same 335
transaction, the services are billed on the same billing statement 336
or invoice, and, because of the application of division (B) of 337
this section, the transaction would be sourced to more than one 338
jurisdiction, the situs of the transaction shall be the location 339
where the order is received by or on behalf of the vendor. 340

(C) Except for sales, other than leases, of titled motor 341
vehicles, titled watercraft, or titled outboard motors as provided 342
in section 5741.05 of the Revised Code, or as otherwise provided 343
in this section and section 5739.034 of the Revised Code, all 344
sales shall be sourced as follows: 345

(1) If the consumer or a donee designated by the consumer 346
receives tangible personal property or a service at a vendor's 347
place of business, the sale shall be sourced to that place of 348
business. 349

(2) When the tangible personal property or service is not 350
received at a vendor's place of business, the sale shall be 351
sourced to the location known to the vendor where the consumer or 352
the donee designated by the consumer receives the tangible 353
personal property or service, including the location indicated by 354
instructions for delivery to the consumer or the consumer's donee. 355

(3) If divisions (C)(1) and (2) of this section do not apply, 356
the sale shall be sourced to the location indicated by an address 357
for the consumer that is available from the vendor's business 358
records that are maintained in the ordinary course of the vendor's 359

business, when use of that address does not constitute bad faith. 360
361

(4) If divisions (C)(1), (2), and (3) of this section do not 362
apply, the sale shall be sourced to the location indicated by an 363
address for the consumer obtained during the consummation of the 364
sale, including the address associated with the consumer's payment 365
instrument, if no other address is available, when use of that 366
address does not constitute bad faith. 367

(5) If divisions (C)(1), (2), (3), and (4) of this section do 368
not apply, including in the circumstance where the vendor is 369
without sufficient information to apply any of those divisions, 370
the sale shall be sourced to the address from which tangible 371
personal property was shipped, or from which the service was 372
provided, disregarding any location that merely provided the 373
electronic transfer of the property sold or service provided. 374

(6) As used in division (C) of this section, "receive" means 375
taking possession of tangible personal property or making first 376
use of a service. "Receive" does not include possession by a 377
shipping company on behalf of a consumer. 378

(D)(1)(a) Notwithstanding divisions (C)(1) to (5) of this 379
section, a business consumer that is not a holder of a direct 380
payment permit granted under section 5739.031 of the Revised Code, 381
that purchases a digital good, computer software, except computer 382
software received in person by a business consumer at a vendor's 383
place of business, or a service, and that knows at the time of 384
purchase that such digital good, software, or service will be 385
concurrently available for use in more than one taxing 386
jurisdiction shall deliver to the vendor in conjunction with its 387
purchase an exemption certificate claiming multiple points of use, 388
or shall meet the requirements of division (D)(2) of this section. 389
On receipt of the exemption certificate claiming multiple points 390
of use, the vendor is relieved of its obligation to collect, pay, 391

or remit the tax due, and the business consumer must pay the tax 392
directly to the state. 393

(b) A business consumer that delivers the exemption 394
certificate claiming multiple points of use to a vendor may use 395
any reasonable, consistent, and uniform method of apportioning the 396
tax due on the digital good, computer software, or service that is 397
supported by the consumer's business records as they existed at 398
the time of the sale. The business consumer shall report and pay 399
the appropriate tax to each jurisdiction where concurrent use 400
occurs. The tax due shall be calculated as if the apportioned 401
amount of the digital good, computer software, or service had been 402
delivered to each jurisdiction to which the sale is apportioned 403
under this division. 404

(c) The exemption certificate claiming multiple points of use 405
shall remain in effect for all future sales by the vendor to the 406
business consumer until it is revoked in writing by the business 407
consumer, except as to the business consumer's specific 408
apportionment of a subsequent sale under division (D)(1)(b) of 409
this section and the facts existing at the time of the sale. 410

(2) When the vendor knows that a digital good, computer 411
software, or service sold will be concurrently available for use 412
by the business consumer in more than one jurisdiction, but the 413
business consumer does not provide an exemption certificate 414
claiming multiple points of use as required by division (D)(1) of 415
this section, the vendor may work with the business consumer to 416
produce the correct apportionment. Governed by the principles of 417
division (D)(1)(b) of this section, the vendor and business 418
consumer may use any reasonable, but consistent and uniform, 419
method of apportionment that is supported by the vendor's and 420
business consumer's books and records as they exist at the time 421
the sale is reported for purposes of the taxes levied under this 422
chapter. If the business consumer certifies to the accuracy of the 423

apportionment and the vendor accepts the certification, the vendor 424
shall collect and remit the tax accordingly. In the absence of bad 425
faith, the vendor is relieved of any further obligation to collect 426
tax on any transaction where the vendor has collected tax pursuant 427
to the information certified by the business consumer. 428

(3) When the vendor knows that the digital good, computer 429
software, or service will be concurrently available for use in 430
more than one jurisdiction, and the business consumer does not 431
have a direct pay permit and does not provide to the vendor an 432
exemption certificate claiming multiple points of use as required 433
in division (D)(1) of this section, or certification pursuant to 434
division (D)(2) of this section, the vendor shall collect and 435
remit the tax based on division (C) of this section. 436

(4) Nothing in this section shall limit a person's obligation 437
for sales or use tax to any state in which a digital good, 438
computer software, or service is concurrently available for use, 439
nor limit a person's ability under local, state, or federal law, 440
to claim a credit for sales or use taxes legally due and paid to 441
other jurisdictions. 442

(E) A person who holds a direct payment permit issued under 443
section 5739.031 of the Revised Code is not required to deliver an 444
exemption certificate claiming multiple points of use to a vendor. 445
But such permit holder shall comply with division (D)(2) of this 446
section in apportioning the tax due on a digital good, computer 447
software, or a service for use in business that will be 448
concurrently available for use in more than one taxing 449
jurisdiction. 450

(F)(1) Notwithstanding divisions (C)(1) to (5) of this 451
section, the consumer of direct mail that is not a holder of a 452
direct payment permit shall provide to the vendor in conjunction 453
with the sale either an exemption certificate claiming direct mail 454
prescribed by the tax commissioner, or information to show the 455

jurisdictions to which the direct mail is delivered to recipients. 456

(2) Upon receipt of such exemption certificate, the vendor is 457
relieved of all obligations to collect, pay, or remit the 458
applicable tax and the consumer is obligated to pay that tax on a 459
direct pay basis. An exemption certificate claiming direct mail 460
shall remain in effect for all future sales of direct mail by the 461
vendor to the consumer until it is revoked in writing. 462

(3) Upon receipt of information from the consumer showing the 463
jurisdictions to which the direct mail is delivered to recipients, 464
the vendor shall collect the tax according to the delivery 465
information provided by the consumer. In the absence of bad faith, 466
the vendor is relieved of any further obligation to collect tax on 467
any transaction where the vendor has collected tax pursuant to the 468
delivery information provided by the consumer. 469

(4) If the consumer of direct mail does not have a direct 470
payment permit and does not provide the vendor with either an 471
exemption certificate claiming direct mail or delivery information 472
as required by division (F)(1) of this section, the vendor shall 473
collect the tax according to division (C)(5) of this section. 474
Nothing in division (F)(4) of this section shall limit a 475
consumer's obligation to pay sales or use tax to any state to 476
which the direct mail is delivered. 477

(5) If a consumer of direct mail provides the vendor with 478
documentation of direct payment authority, the consumer shall not 479
be required to provide an exemption certificate claiming direct 480
mail or delivery information to the vendor. 481

(G) If the vendor provides lodging to transient guests as 482
specified in division (B)(2) of section 5739.01 of the Revised 483
Code, the sale shall be sourced to the location where the lodging 484
is located. 485

(H)(1) As used in this division and division (I) of this 486

section, "transportation equipment" means any of the following: 487

(a) Locomotives and railcars that are utilized for the 488
carriage of persons or property in interstate commerce. 489

(b) Trucks and truck-tractors with a gross vehicle weight 490
rating of greater than ten thousand pounds, trailers, 491
semi-trailers, or passenger buses that are registered through the 492
international registration plan and are operated under authority 493
of a carrier authorized and certificated by the United States 494
department of transportation or another federal authority to 495
engage in the carriage of persons or property in interstate 496
commerce. 497

(c) Aircraft that are operated by air carriers authorized and 498
certificated by the United States department of transportation or 499
another federal authority to engage in the carriage of persons or 500
property in interstate or foreign commerce. 501

(d) Containers designed for use on and component parts 502
attached to or secured on the items set forth in division 503
(H)(1)(a), (b), or (c) of this section. 504

(2) A sale, lease, or rental of transportation equipment 505
shall be sourced pursuant to division (C) of this section. 506

(I)(1) A lease or rental of tangible personal property that 507
does not require recurring periodic payments shall be sourced 508
pursuant to division (C) of this section. 509

(2) A lease or rental of tangible personal property that 510
requires recurring periodic payments shall be sourced as follows: 511

(a) In the case of a motor vehicle, other than a motor 512
vehicle that is transportation equipment, or an aircraft, other 513
than an aircraft that is transportation equipment, such lease or 514
rental shall be sourced as follows: 515

(i) An accelerated tax payment on a lease or rental taxed 516

pursuant to division (A)(2) of section 5739.02 of the Revised Code 517
shall be sourced to the primary property location at the time the 518
lease or rental is consummated. Any subsequent taxable charges on 519
the lease or rental shall be sourced to the primary property 520
location for the period in which the charges are incurred. 521

(ii) For a lease or rental taxed pursuant to division (A)(3) 522
of section 5739.02 of the Revised Code, each lease or rental 523
installment shall be sourced to the primary property location for 524
the period covered by the installment. 525

(b) In the case of a lease or rental of all other tangible 526
personal property, other than transportation equipment, such lease 527
or rental shall be sourced as follows: 528

(i) An accelerated tax payment on a lease or rental that is 529
taxed pursuant to division (A)(2) of section 5739.02 of the 530
Revised Code shall be sourced pursuant to division (C) of this 531
section at the time the lease or rental is consummated. Any 532
subsequent taxable charges on the lease or rental shall be sourced 533
to the primary property location for the period in which the 534
charges are incurred. 535

(ii) For a lease or rental that is taxed pursuant to division 536
(A)(3) of section 5739.02 of the Revised Code, the initial lease 537
or rental installment shall be sourced pursuant to division (C) of 538
this section. Each subsequent installment shall be sourced to the 539
primary property location for the period covered by the 540
installment. 541

(3) As used in division (I) of this section, "primary 542
property location" means an address for tangible personal property 543
provided by the lessee or renter that is available to the lessor 544
or owner from its records maintained in the ordinary course of 545
business, when use of that address does not constitute bad faith. 546

Sec. 5739.034. (A) As used in this section: 547

(1) "Air-to-ground radiotelephone service" means a radio 548
service, as defined in 47 C.F.R. 22.99, in which common carriers 549
are authorized to offer and provide radio telecommunications 550
service for hire to subscribers in aircraft. 551

(2) "Call-by-call basis" means any method of charging for 552
telecommunications services where the price is measured by 553
individual calls. 554

(3) "Customer" means the person or entity that contracts with 555
a seller of telecommunications service. If the end user of 556
telecommunications service is not the contracting party, the end 557
user of the telecommunications service is the customer of the 558
telecommunications service. "Customer" does not include a reseller 559
of telecommunications service or of mobile telecommunications 560
service of a serving carrier under an agreement to serve the 561
customer outside the home service provider's licensed service 562
area. 563

(4) "End user" means the person who utilizes the 564
telecommunications service. In the case of a person other than an 565
individual, "end user" means the individual who utilizes the 566
service on behalf of the person. 567

(5) "Home service provider" has the same meaning as in the 568
"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 569
Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 570

(6) "Place of primary use" means the street address 571
representative of where the customer's use of the 572
telecommunications service primarily occurs, which must be the 573
residential street address or the primary business street address 574
of the customer. In the case of mobile telecommunications 575
services, "place of primary use" must be within the licensed 576

service area of the home service provider. 577

(7) "Post-paid calling service" means the telecommunications 578
service obtained by making a payment on a call-by-call basis 579
either through the use of a credit card or payment mechanism such 580
as a bank card, travel card, credit card, or debit card, or by 581
charge made to a telephone number that is not associated with the 582
origination or termination of the telecommunications service. 583
"Post-paid calling service" includes a telecommunications service, 584
except a prepaid wireless calling service, that would be a prepaid 585
calling service, but for the fact that it is not exclusively a 586
telecommunications service. 587

(8) "Prepaid calling service" and "prepaid wireless calling 588
service" have the same meanings as in section 5739.01 of the 589
Revised Code. 590

(9) "Service address" means: 591

(a) The location of the telecommunications equipment to which 592
a customer's call is charged and from which the call originates or 593
terminates, regardless of where the call is billed or paid. 594

(b) If the location in division (A)(9)(a) of this section is 595
not known, "service address" means the origination point of the 596
signal of the telecommunications service first identified by 597
either the seller's telecommunications system or in information 598
received by the seller from its service provider, where the system 599
used to transport such signals is not that of the seller. 600

(c) If the locations in divisions (A)(9)(a) and (b) of this 601
section are not known, "service address" means the location of the 602
customer's place of primary use. 603

(10) "Private communication service" means a 604
telecommunications service that entitles a customer to exclusive 605
or priority use of a communications channel or group of channels 606
between or among termination points, regardless of the manner in 607

which the channel or channels are connected, and includes 608
switching capacity, extension lines, stations, and any other 609
associated services that are provided in connection with the use 610
of such channel or channels. 611

(B) The amount of tax due pursuant to sections 5739.02, 612
5739.021, 5739.023, and 5739.026 of the Revised Code on sales of 613
telecommunications service, information service, or mobile 614
telecommunications service, is the sum of the taxes imposed 615
pursuant to those sections at the sourcing location of the sale as 616
determined under this section. 617

(C) Except for the telecommunications services described in 618
division (E) of this section, the sale of telecommunications 619
service sold on a call-by-call basis shall be sourced to each 620
level of taxing jurisdiction where the call originates and 621
terminates in that jurisdiction, or each level of taxing 622
jurisdiction where the call either originates or terminates and in 623
which the service address also is located. 624

(D) Except for the telecommunications services described in 625
division (E) of this section, a sale of telecommunications 626
services sold on a basis other than a call-by-call basis shall be 627
sourced to the customer's place of primary use. 628

(E) The sale of the following telecommunications services 629
shall be sourced to each level of taxing jurisdiction, as follows: 630

(1) A sale of mobile telecommunications service, other than 631
air-to-ground radiotelephone service and prepaid calling service, 632
shall be sourced to the customer's place of primary use as 633
required by the Mobile Telecommunications Sourcing Act. 634

(2) A sale of post-paid calling service shall be sourced to 635
the origination point of the telecommunications signal as first 636
identified by the service provider's telecommunications system, or 637
information received by the seller from its service provider, 638

where the system used to transport such signals is not that of the 639
seller. 640

(3) A sale of prepaid calling service or prepaid wireless 641
calling service shall be sourced under division (C) of section 642
5739.033 of the Revised Code ~~or, if permitted by division (B) of~~ 643
~~that section, shall be situated under section 5739.035 of the~~ 644
~~Revised Code.~~ But in the case of prepaid wireless calling service, 645
in lieu of sourcing the sale of the service under division (C)(5) 646
of section 5739.033 of the Revised Code, the service provider may 647
elect to source the sale to the location associated with the 648
mobile telephone number. 649

(4) A sale of a private communication service shall be 650
sourced as follows: 651

(a) Service for a separate charge related to a customer 652
channel termination point shall be sourced to each level of 653
jurisdiction in which the customer channel termination point is 654
located; 655

(b) Service where all customer channel termination points are 656
located entirely within one jurisdiction or level of jurisdiction 657
shall be sourced in the jurisdiction in which the customer channel 658
termination points are located; 659

(c) Service for segments of a channel between two customer 660
channel termination points located in different jurisdictions and 661
which segments of a channel are separately charged shall be 662
sourced fifty per cent in each level of jurisdiction in which the 663
customer channel termination points are located; 664

(d) Service for segments of a channel located in more than 665
one jurisdiction or level of jurisdiction and which segments are 666
not separately billed shall be sourced in each jurisdiction based 667
on the percentage determined by dividing the number of customer 668
channel termination points in the jurisdiction by the total number 669

of customer channel termination points.

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Sec. 5739.061. (A) As used in this section, "origin-based sourcing requirements" means the manner in which intrastate sales are to be sourced under division (B)(1) of section 5739.033 of the Revised Code.

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(B) On and after July 1, 2009, a vendor that received temporary compensation under section 5739.123 of the Revised Code as that section existed before its repeal by H.B. 429 of the 127th general assembly may apply for compensation to assist the vendor in complying with the origin-based sourcing requirements. The vendor shall file an application in accordance with division (C) of this section. The compensation shall be a one-time payment equal to the actual total costs the vendor incurred in complying with the origin-based sourcing requirements, not to exceed one thousand dollars for vendors that were required to comply with divisions (C) to (I) of section 5739.033 of the Revised Code before the effective date of this section, and six hundred dollars for vendors that irrevocably elected to comply with divisions (C) to (I) of that section before the effective date of this section. In no event shall a vendor receive compensation that exceeds its total cost of complying with the origin-based sourcing requirements.

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(C) To be considered for compensation under this section, a vendor shall file an application with the tax commissioner on a form prescribed by the commissioner. The commissioner shall determine the amount of compensation to which the vendor is entitled, and if that amount is equal to or greater than the amount claimed on the application, the commissioner shall certify that amount to the director of budget and management and the treasurer of state for payment from the general revenue fund. If the commissioner determines that the amount of compensation to

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which the vendor is entitled is less than the amount claimed on 701
the vendor's application, the commissioner shall proceed in 702
accordance with section 5703.70 of the Revised Code. 703

(D) The compensation provided under this section shall not 704
reduce the amount required to be returned to counties and transit 705
authorities under section 5739.21 of the Revised Code. 706

Sec. 5739.24. (A) As used in this section: 707

(1) "Destination-based sourcing requirements" has the same 708
meaning as in section 5739.123 of the Revised Code. 709

(2) "Impacted county" means a county having a population of 710
less than seventy-five thousand as of the decennial census of 2000 711
taken by the United States census bureau. 712

(3) "Master account holder" means a person that holds more 713
than one vendor's license under division (A) of section 5739.17 of 714
the Revised Code, operates in multiple tax jurisdictions under the 715
same ownership, and files or is required to file a consolidated 716
return under section 5739.12 of the Revised Code. 717

(4) "Tax jurisdiction" means a county or, if applicable, the 718
portion of a county in which a transit authority has territory. 719

(B)(1) Beginning in 2006 and ending January 31, 2009, within 720
thirty days after the thirtieth day of June and the thirty-first 721
day of December of each year, a master account holder that makes a 722
sale that is subject to the destination-based sourcing 723
requirements shall file with the tax commissioner a report that 724
details the total taxable sales it made for the prior six-month 725
period in each tax jurisdiction and at each fixed place of 726
business for which the master account holder holds or should hold 727
a license, irrespective of where those sales were sourced under 728
those requirements. The commissioner may extend the time for 729
filing the report under this section. 730

(2) If the report required by division (B)(1) of this section 731
is not timely filed by a master account holder, the tax 732
commissioner shall mail notice of a delinquent report to the 733
holder. In addition to any other penalties or additional charges 734
imposed under this chapter, the commissioner may impose a penalty 735
of up to fifty dollars for each fixed place of business of the 736
master account holder. If the report is filed within fifteen days 737
after the commissioner mails the delinquency notice, the penalty 738
may be remitted in full or in part by the commissioner. But if the 739
master account holder fails to file the report within fifteen days 740
after the commissioner mails the notice, the commissioner shall 741
impose a penalty of up to one hundred dollars for each fixed place 742
of business of the master account holder. This penalty may not be 743
remitted in full by the commissioner. A penalty imposed under this 744
division is subject to collection and assessment in the same 745
manner as any tax levied under this chapter. 746

(C)(1) Beginning in 2006 and ending April 17, 2009, within 747
seventy-five days after the thirty-first day of July each year and 748
the thirty-first day of January of the following year, the tax 749
commissioner shall determine for each county both of the 750
following: 751

(a) The amount of taxes reported on returns filed by all 752
vendors licensed under division (A) of section 5739.17 of the 753
Revised Code that were levied by sections 5739.021 and 5739.026 of 754
the Revised Code and were reported as due in accordance with the 755
destination-based sourcing requirements; 756

(b) The amount of taxes levied by those sections that would 757
have been paid to the county by vendors licensed under division 758
(A) of section 5739.17 of the Revised Code if the taxes had been 759
collected in accordance with section 5739.035 of the Revised Code, 760
as that section exists when the determination is made. 761

The commissioner may make any adjustments that are necessary 762

to account for delinquent tax returns or reports. 763

(2) In making the determination required by division (C)(1) 764
of this section, the commissioner shall use the lesser of the 765
county's tax rate in effect as of January 1, 2006, or the actual 766
tax rate in effect for the six-month period for which the 767
compensation was calculated. 768

(3) The commissioner also shall calculate the percentage 769
difference between the amounts determined under divisions 770
(C)(1)(a) and (b) of this section by using a fraction, with the 771
amount determined under division (C)(1)(a) of this section in the 772
numerator, and the amount determined under division (C)(1)(b) of 773
this section in the denominator. 774

(D)(1) If the percentage difference calculated under division 775
(C)(3) of this section for a county is ninety-six per cent or 776
less, and the county is an impacted county under this section, the 777
county shall receive compensation. Beginning in 2006 and ending 778
May 1, 2009, within ninety days after the thirty-first day of July 779
each year and the thirty-first day of January of the following 780
year, the tax commissioner, in the next ensuing payment to be made 781
under division (B)(1) of section 5739.21 of the Revised Code, 782
shall in addition provide from the general revenue fund to such 783
county compensation in the amount of ninety-eight per cent of the 784
denominator calculated under division (C)(3) of this section, 785
minus the numerator calculated under division (C)(3) of this 786
section. 787

(2) A county that is entitled to compensation under division 788
(D)(1) of this section may request an advance payment of that 789
compensation. The commissioner shall adopt rules that establish 790
the manner by which such county may make the request and the 791
method the commissioner will use to determine the amount of the 792
advance payment to be made to the county. Compensation provided 793
under division (D)(1) of this section shall be adjusted 794

accordingly to account for advance payments made under division 795
(D)(2) of this section. 796

(E) If, under division (C)(1) of this section, the tax 797
commissioner determines that a county received more taxes under 798
the destination-based sourcing requirements than it would have 799
received if taxes had been paid in accordance with section 800
5739.035 of the Revised Code, as that section existed when the 801
determination was made, the county is a windfall county under this 802
division. Beginning in 2006, within ninety days after the 803
thirty-first day of July each year and the thirty-first day of 804
January of the following year, the commissioner, in the next 805
ensuing payment to be made under division (B)(1) of section 806
5739.21 of the Revised Code, shall reduce the amount to be 807
returned to each windfall county by the total amount of excess 808
taxes that would have been received by all windfall counties in 809
proportion to the total amount needed to compensate counties under 810
division (D) of this section. 811

(F) The commissioner shall make available to the public the 812
determinations made under division (C) of this section, but any 813
data obtained from taxpayers under this section or that would 814
identify those taxpayers shall remain confidential. 815

(G) There is hereby created the county compensation tax study 816
committee. The committee shall consist of the following seven 817
members: the tax commissioner, three members of the senate 818
appointed by the president of the senate, and three members of the 819
house of representatives appointed by the speaker of the house of 820
representatives. The appointments shall be made not later than 821
January 31, 2007. The tax commissioner shall be the chairperson of 822
the committee and the department of taxation shall provide any 823
information and assistance that is required by the committee to 824
carry out its duties. The committee shall study the extent to 825
which each county has been impacted by the destination-based 826

sourcing requirements. Not later than June 30, 2007, the committee 827
shall issue a report of its findings and shall make 828
recommendations to the president of the senate and the speaker of 829
the house of representatives, at which time the committee shall 830
cease to exist. 831

Sec. 5741.03. (A) One hundred per cent of all money deposited 832
into the state treasury under sections 5741.01 to 5741.22 of the 833
Revised Code that is not required to be distributed as provided in 834
division (B) ~~or (C)~~ of this section shall be credited to the 835
general revenue fund. 836

(B) In any case where any county or transit authority has 837
levied a tax or taxes pursuant to section 5741.021, 5741.022, or 838
5741.023 of the Revised Code, the tax commissioner shall, within 839
forty-five days after the end of each month, determine and certify 840
to the director of budget and management the amount of the 841
proceeds of such tax or taxes from billings and assessments 842
received during that month, or shown on tax returns or reports 843
filed during that month, to be returned to the county or transit 844
authority levying the tax or taxes, which amounts shall be 845
determined in the manner provided in section 5739.21 of the 846
Revised Code. The director of budget and management shall 847
transfer, from the general revenue fund, to the permissive tax 848
distribution fund created by division (B)(1) of section 4301.423 849
of the Revised Code and to the local sales tax administrative fund 850
created by division (C) of section 5739.21 of the Revised Code, 851
the amounts certified by the tax commissioner. The tax 852
commissioner shall then, on or before the twentieth day of the 853
month in which such certification is made, provide for payment of 854
such respective amounts to the county treasurer or to the fiscal 855
officer of the transit authority levying the tax or taxes. The 856
amount transferred to the local sales tax administrative fund is 857
for use by the tax commissioner in defraying costs the 858

commissioner incurs in administering such taxes levied by a county 859
or transit authority. 860

~~(C) Of the revenue deposited into the state treasury from 861
taxes paid under division (B) of section 5741.05 of the Revised 862
Code, a percentage shall be distributed each fiscal year to all 863
counties and transit authorities that levy a tax under section 864
5739.021, 5739.023, or 5739.026 of the Revised Code. The 865
percentage to be distributed each fiscal year shall be computed by 866
dividing the amount described in division (C)(1) by the amount 867
described in division (C)(2) of this section. 868~~

~~(1) The total sales and use tax revenue distributed to 869
counties and transit authorities in the calendar year that ended 870
in the preceding fiscal year. 871~~

~~(2) The sum of the total sales and use tax revenue 872
distributed to such counties and transit authorities in that 873
calendar year plus the total revenue collected in that calendar 874
year from the taxes levied under sections 5739.02 and 5741.02 of 875
the Revised Code. 876~~

~~(D) Each county and transit authority shall receive a 877
quarterly distribution each fiscal year from the revenue to be 878
distributed as provided in division (C) of this section. The 879
amount of the distribution for each such county and transit 880
authority shall equal one fourth of a percentage of the revenue to 881
be distributed in the fiscal year under that division. The 882
percentage shall be computed by dividing the amount described in 883
division (D)(1) by the amount described in division (D)(2) of this 884
section. 885~~

~~(1) The total sales and use tax revenue distributed to the 886
county or transit authority under division (B) of section 5739.21 887
of the Revised Code in the calendar year that ended in the 888
preceding fiscal year. 889~~

~~(2) The total sales and use tax revenue distributed to all~~ 890
~~counties and transit authorities under division (B) of section~~ 891
~~5739.21 of the Revised Code in that calendar year.~~ 892

Sec. 5741.05. ~~(A) Except as provided in division (B) of this~~ 893
~~section, a~~ A seller that collects the tax levied by sections 894
5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code on 895
transactions, other than sales of titled motor vehicles, titled 896
watercraft, or titled outboard motors, shall determine under 897
section 5739.033 or 5739.034 of the Revised Code the jurisdiction 898
for which to collect the tax. A vendor or seller of motor 899
vehicles, watercraft, or outboard motors required to be titled in 900
this state shall collect the tax levied by section 5739.02 or 901
5741.02 of the Revised Code and the additional taxes levied by 902
division (A)(1) of section 5741.021, division (A)(1) of section 903
5741.022, and division (A)(1) of section 5741.023 of the Revised 904
Code for the consumer's county of residence as provided in section 905
1548.06 and division (B) of section 4505.06 of the Revised Code. 906
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~~(B)(1) Divisions (B) and (C) of this section apply only if~~ 908
~~the tax commissioner makes the certification under section 5740.10~~ 909
~~of the Revised Code.~~ 910

~~(2) For the purposes of this division and division (C) of~~ 911
~~this section, "delivery sale" has the same meaning as in section~~ 912
~~5739.033 of the Revised Code, and "tax jurisdiction" has the same~~ 913
~~meaning as in section 5739.24 of the Revised Code.~~ 914

~~(3) Except as otherwise provided in division (B)(4) of this~~ 915
~~section, and notwithstanding sections 5741.02, 5741.021, 5741.022,~~ 916
~~and 5741.023 of the Revised Code, beginning January 1, 2008, a~~ 917
~~seller with total delivery sales in this state in calendar year~~ 918
~~2007 and each calendar year thereafter of less than five hundred~~ 919
~~thousand dollars may elect to collect the tax due under this~~ 920

~~chapter at a rate equal to the sum of the tax levied under section 921~~
~~5741.02 of the Revised Code and the lowest combined rate of tax 922~~
~~levied in any tax jurisdiction in this state under sections 923~~
~~5741.021, 5741.022, and 5741.023 of the Revised Code. 924~~

~~(4) Once a seller has total delivery sales in this state of 925~~
~~five hundred thousand dollars or more for a prior calendar year, 926~~
~~the seller shall source its sales pursuant to division (A) of this 927~~
~~section regardless of the amount of the seller's total delivery 928~~
~~sales in future years. 929~~

~~(C)(1) In each sale by a seller permitted to collect use tax 930~~
~~under division (B) of this section, the seller shall clearly 931~~
~~indicate on each invoice or other similar document provided to the 932~~
~~purchaser at the time of the sale that the seller is authorized to 933~~
~~collect use tax at the rate prescribed in division (B)(3) of this 934~~
~~section. 935~~

~~(2) If a purchaser purchases tangible personal property from 936~~
~~a seller permitted to collect use tax pursuant to division (B) of 937~~
~~this section and pays the tax due under that division to the 938~~
~~seller, no assessment may be made against the purchaser for 939~~
~~additional tax due under section 5741.021, 5741.022, or 5741.023 940~~
~~of the Revised Code unless the purchaser subsequently removes the 941~~
~~property from the tax jurisdiction in which the resident received 942~~
~~the property to another tax jurisdiction with a higher tax rate. 943~~

~~(3) Nothing in this section relieves a person that claims to 944~~
~~be authorized to collect the tax as provided in division (B) of 945~~
~~this section, but that is not so authorized, from liability for 946~~
~~tax, penalties, interest, or additional charges imposed under this 947~~
~~chapter for failure to collect the amount of tax lawfully due 948~~
~~applying the situsing provisions of division (A) of this section. 949~~

~~(D) A vendor or seller is not responsible for collecting or 950~~
~~remitting additional tax if a consumer subsequently stores, uses, 951~~

or consumes the tangible personal property or service in another 952
jurisdiction with a rate of tax imposed by sections 5741.02, 953
5741.021, 5741.022, or 5741.023 of the Revised Code that is higher 954
than the amount collected by the vendor or seller pursuant to 955
Chapter 5739. or 5741. of the Revised Code. 956

Section 2. That existing sections 5703.70, 5739.03, 5739.033, 957
5739.034, 5739.24, 5741.03, and 5741.05 of the Revised Code are 958
hereby repealed. 959

Section 3. That section 5739.24 of the Revised Code is hereby 960
repealed effective May 1, 2009. No payments or reductions in 961
payments required by division (D) of section 5739.24 of the 962
Revised Code shall be effected after May 1, 2009. No request for 963
an advance of the payment that, but for this act, would have been 964
made after May 1, 2009, shall be honored. 965

Section 4. That the amendment by this act of sections 966
5703.70, 5739.033, 5739.034, 5741.03, and 5741.05 of the Revised 967
Code shall take effect January 1, 2010. 968

Section 5. That a vendor may source sales in the manner 969
prescribed by division (B)(1) of section 5739.033 of the Revised 970
Code, as amended by this act, before the effective date specified 971
in Section 4 of this act. A vendor that elects under this section 972
to source sales in that manner before the effective date specified 973
in Section 4 of this act shall begin sourcing sales in that manner 974
on the first day of a month. Once a vendor sources sales in the 975
manner so prescribed the vendor shall continue to source all sales 976
described in that division as so prescribed. 977

Section 6. That sections 5739.035, 5739.123, and 5740.10 of 978
the Revised Code are hereby repealed effective January 1, 2010. 979

Section 7. That the amendment by this act of section 5739.03 980
of the Revised Code shall take effect July 1, 2008. 981

Section 8. Section 5739.034 of the Revised Code is presented 982
in this act as a composite of the section as amended by both Am. 983
Sub. H.B. 66 and Am. Sub. S.B. 26 of the 126th General Assembly. 984
The General Assembly, applying the principle stated in division 985
(B) of section 1.52 of the Revised Code that amendments are to be 986
harmonized if reasonably capable of simultaneous operation, finds 987
that the composite is the resulting version of the section in 988
effect prior to the effective date of the section as presented in 989
this act. 990

Section 9. This act is hereby declared to be an emergency 991
measure necessary for the immediate preservation of the public 992
peace, health, and safety. The reason for such necessity is that 993
destination-based sourcing is causing counties to lose sales tax 994
revenues on sale orders made by residents of other counties, and 995
an immediate conversion back to origin-based sourcing for 996
intrastate sales is needed to prevent that loss. Therefore, this 997
act shall go into immediate effect. 998