

As Introduced

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H. B. No. 603

Representatives Beck, Adams, J.

Cosponsors: Representatives Retherford, Brenner, Thompson

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A B I L L

To amend section 5739.01 of the Revised Code to 1
exempt the sale of internet access used in 2
business from sales and use tax. 3

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

Section 1. That section 5739.01 of the Revised Code be 4
amended to read as follows: 5

Sec. 5739.01. As used in this chapter: 6

(A) "Person" includes individuals, receivers, assignees, 7
trustees in bankruptcy, estates, firms, partnerships, 8
associations, joint-stock companies, joint ventures, clubs, 9
societies, corporations, the state and its political subdivisions, 10
and combinations of individuals of any form. 11

(B) "Sale" and "selling" include all of the following 12
transactions for a consideration in any manner, whether absolutely 13
or conditionally, whether for a price or rental, in money or by 14
exchange, and by any means whatsoever: 15

(1) All transactions by which title or possession, or both, 16
of tangible personal property, is or is to be transferred, or a 17
license to use or consume tangible personal property is or is to 18

be granted;	19
(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;	20 21
(3) All transactions by which:	22
(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;	23 24 25
(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;	26 27 28 29 30 31
(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;	32 33
(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;	34 35 36
(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one	37 38 39 40 41 42 43 44 45 46 47 48 49

corporation owns or controls another if it owns more than fifty 50
per cent of the other corporation's common stock with voting 51
rights. 52

(f) Telecommunications service, including prepaid calling 53
service, prepaid wireless calling service, or ancillary service, 54
is or is to be provided, but not including coin-operated telephone 55
service; 56

(g) Landscaping and lawn care service is or is to be 57
provided; 58

(h) Private investigation and security service is or is to be 59
provided; 60

(i) Information services or tangible personal property is 61
provided or ordered by means of a nine hundred telephone call; 62

(j) Building maintenance and janitorial service is or is to 63
be provided; 64

(k) Employment service is or is to be provided; 65

(l) Employment placement service is or is to be provided; 66

(m) Exterminating service is or is to be provided; 67

(n) Physical fitness facility service is or is to be 68
provided; 69

(o) Recreation and sports club service is or is to be 70
provided; 71

(p) On and after August 1, 2003, satellite broadcasting 72
service is or is to be provided; 73

(q) On and after August 1, 2003, personal care service is or 74
is to be provided to an individual. As used in this division, 75
"personal care service" includes skin care, the application of 76
cosmetics, manicuring, pedicuring, hair removal, tattooing, body 77
piercing, tanning, massage, and other similar services. "Personal 78

care service" does not include a service provided by or on the 79
order of a licensed physician or licensed chiropractor, or the 80
cutting, coloring, or styling of an individual's hair. 81

(r) On and after August 1, 2003, the transportation of 82
persons by motor vehicle or aircraft is or is to be provided, when 83
the transportation is entirely within this state, except for 84
transportation provided by an ambulance service, by a transit bus, 85
as defined in section 5735.01 of the Revised Code, and 86
transportation provided by a citizen of the United States holding 87
a certificate of public convenience and necessity issued under 49 88
U.S.C. 41102; 89

(s) On and after August 1, 2003, motor vehicle towing service 90
is or is to be provided. As used in this division, "motor vehicle 91
towing service" means the towing or conveyance of a wrecked, 92
disabled, or illegally parked motor vehicle. 93

(t) On and after August 1, 2003, snow removal service is or 94
is to be provided. As used in this division, "snow removal 95
service" means the removal of snow by any mechanized means, but 96
does not include the providing of such service by a person that 97
has less than five thousand dollars in sales of such service 98
during the calendar year. 99

(u) Electronic publishing service is or is to be provided to 100
a consumer for use in business, except that such transactions 101
occurring between members of an affiliated group, as defined in 102
division (B)(3)(e) of this section, are not sales. 103

(4) All transactions by which printed, imprinted, 104
overprinted, lithographic, multilithic, blueprinted, photostatic, 105
or other productions or reproductions of written or graphic matter 106
are or are to be furnished or transferred; 107

(5) The production or fabrication of tangible personal 108
property for a consideration for consumers who furnish either 109

directly or indirectly the materials used in the production of 110
fabrication work; and include the furnishing, preparing, or 111
serving for a consideration of any tangible personal property 112
consumed on the premises of the person furnishing, preparing, or 113
serving such tangible personal property. Except as provided in 114
section 5739.03 of the Revised Code, a construction contract 115
pursuant to which tangible personal property is or is to be 116
incorporated into a structure or improvement on and becoming a 117
part of real property is not a sale of such tangible personal 118
property. The construction contractor is the consumer of such 119
tangible personal property, provided that the sale and 120
installation of carpeting, the sale and installation of 121
agricultural land tile, the sale and erection or installation of 122
portable grain bins, or the provision of landscaping and lawn care 123
service and the transfer of property as part of such service is 124
never a construction contract. 125

As used in division (B)(5) of this section: 126

(a) "Agricultural land tile" means fired clay or concrete 127
tile, or flexible or rigid perforated plastic pipe or tubing, 128
incorporated or to be incorporated into a subsurface drainage 129
system appurtenant to land used or to be used primarily in 130
production by farming, agriculture, horticulture, or floriculture. 131
The term does not include such materials when they are or are to 132
be incorporated into a drainage system appurtenant to a building 133
or structure even if the building or structure is used or to be 134
used in such production. 135

(b) "Portable grain bin" means a structure that is used or to 136
be used by a person engaged in farming or agriculture to shelter 137
the person's grain and that is designed to be disassembled without 138
significant damage to its component parts. 139

(6) All transactions in which all of the shares of stock of a 140
closely held corporation are transferred, or an ownership interest 141

in a pass-through entity, as defined in section 5733.04 of the Revised Code, is transferred, if the corporation or pass-through entity is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders or owners;

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

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

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

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

(11)(a) Except as provided in division (B)(11)(b) of this section, on and after October 1, 2009, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid

health insuring corporation pursuant to the corporation's contract 173
with the state. 174

(b) If the centers for medicare and medicaid services of the 175
United States department of health and human services determines 176
that the taxation of transactions described in division (B)(11)(a) 177
of this section constitutes an impermissible health care-related 178
tax under the "Social Security Act," section 1903(w), 42 U.S.C. 179
1396b(w), and regulations adopted thereunder, the medicaid 180
director shall notify the tax commissioner of that determination. 181
Beginning with the first day of the month following that 182
notification, the transactions described in division (B)(11)(a) of 183
this section are not sales for the purposes of this chapter or 184
Chapter 5741. of the Revised Code. The tax commissioner shall 185
order that the collection of taxes under sections 5739.02, 186
5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 187
5741.023 of the Revised Code shall cease for transactions 188
occurring on or after that date. 189

(12) All transactions by which a specified digital product is 190
provided for permanent use or less than permanent use, regardless 191
of whether continued payment is required. 192

Except as provided in this section, "sale" and "selling" do 193
not include transfers of interest in leased property where the 194
original lessee and the terms of the original lease agreement 195
remain unchanged, or professional, insurance, or personal service 196
transactions that involve the transfer of tangible personal 197
property as an inconsequential element, for which no separate 198
charges are made. 199

(C) "Vendor" means the person providing the service or by 200
whom the transfer effected or license given by a sale is or is to 201
be made or given and, for sales described in division (B)(3)(i) of 202
this section, the telecommunications service vendor that provides 203
the nine hundred telephone service; if two or more persons are 204

engaged in business at the same place of business under a single 205
trade name in which all collections on account of sales by each 206
are made, such persons shall constitute a single vendor. 207

Physicians, dentists, hospitals, and veterinarians who are 208
engaged in selling tangible personal property as received from 209
others, such as eyeglasses, mouthwashes, dentifrices, or similar 210
articles, are vendors. Veterinarians who are engaged in 211
transferring to others for a consideration drugs, the dispensing 212
of which does not require an order of a licensed veterinarian or 213
physician under federal law, are vendors. 214

(D)(1) "Consumer" means the person for whom the service is 215
provided, to whom the transfer effected or license given by a sale 216
is or is to be made or given, to whom the service described in 217
division (B)(3)(f) or (i) of this section is charged, or to whom 218
the admission is granted. 219

(2) Physicians, dentists, hospitals, and blood banks operated 220
by nonprofit institutions and persons licensed to practice 221
veterinary medicine, surgery, and dentistry are consumers of all 222
tangible personal property and services purchased by them in 223
connection with the practice of medicine, dentistry, the rendition 224
of hospital or blood bank service, or the practice of veterinary 225
medicine, surgery, and dentistry. In addition to being consumers 226
of drugs administered by them or by their assistants according to 227
their direction, veterinarians also are consumers of drugs that 228
under federal law may be dispensed only by or upon the order of a 229
licensed veterinarian or physician, when transferred by them to 230
others for a consideration to provide treatment to animals as 231
directed by the veterinarian. 232

(3) A person who performs a facility management, or similar 233
service contract for a contractee is a consumer of all tangible 234
personal property and services purchased for use in connection 235
with the performance of such contract, regardless of whether title 236

to any such property vests in the contractee. The purchase of such 237
property and services is not subject to the exception for resale 238
under division (E)(1) of this section. 239

(4)(a) In the case of a person who purchases printed matter 240
for the purpose of distributing it or having it distributed to the 241
public or to a designated segment of the public, free of charge, 242
that person is the consumer of that printed matter, and the 243
purchase of that printed matter for that purpose is a sale. 244

(b) In the case of a person who produces, rather than 245
purchases, printed matter for the purpose of distributing it or 246
having it distributed to the public or to a designated segment of 247
the public, free of charge, that person is the consumer of all 248
tangible personal property and services purchased for use or 249
consumption in the production of that printed matter. That person 250
is not entitled to claim exemption under division (B)(42)(f) of 251
section 5739.02 of the Revised Code for any material incorporated 252
into the printed matter or any equipment, supplies, or services 253
primarily used to produce the printed matter. 254

(c) The distribution of printed matter to the public or to a 255
designated segment of the public, free of charge, is not a sale to 256
the members of the public to whom the printed matter is 257
distributed or to any persons who purchase space in the printed 258
matter for advertising or other purposes. 259

(5) A person who makes sales of any of the services listed in 260
division (B)(3) of this section is the consumer of any tangible 261
personal property used in performing the service. The purchase of 262
that property is not subject to the resale exception under 263
division (E)(1) of this section. 264

(6) A person who engages in highway transportation for hire 265
is the consumer of all packaging materials purchased by that 266
person and used in performing the service, except for packaging 267

materials sold by such person in a transaction separate from the 268
service. 269

(7) In the case of a transaction for health care services 270
under division (B)(11) of this section, a medicaid health insuring 271
corporation is the consumer of such services. The purchase of such 272
services by a medicaid health insuring corporation is not subject 273
to the exception for resale under division (E)(1) of this section 274
or to the exemptions provided under divisions (B)(12), (18), (19), 275
and (22) of section 5739.02 of the Revised Code. 276

(E) "Retail sale" and "sales at retail" include all sales, 277
except those in which the purpose of the consumer is to resell the 278
thing transferred or benefit of the service provided, by a person 279
engaging in business, in the form in which the same is, or is to 280
be, received by the person. 281

(F) "Business" includes any activity engaged in by any person 282
with the object of gain, benefit, or advantage, either direct or 283
indirect. "Business" does not include the activity of a person in 284
managing and investing the person's own funds. 285

(G) "Engaging in business" means commencing, conducting, or 286
continuing in business, and liquidating a business when the 287
liquidator thereof holds itself out to the public as conducting 288
such business. Making a casual sale is not engaging in business. 289

(H)(1)(a) "Price," except as provided in divisions (H)(2), 290
(3), and (4) of this section, means the total amount of 291
consideration, including cash, credit, property, and services, for 292
which tangible personal property or services are sold, leased, or 293
rented, valued in money, whether received in money or otherwise, 294
without any deduction for any of the following: 295

(i) The vendor's cost of the property sold; 296

(ii) The cost of materials used, labor or service costs, 297
interest, losses, all costs of transportation to the vendor, all 298

taxes imposed on the vendor, including the tax imposed under	299
Chapter 5751. of the Revised Code, and any other expense of the	300
vendor;	301
(iii) Charges by the vendor for any services necessary to	302
complete the sale;	303
(iv) On and after August 1, 2003, delivery charges. As used	304
in this division, "delivery charges" means charges by the vendor	305
for preparation and delivery to a location designated by the	306
consumer of tangible personal property or a service, including	307
transportation, shipping, postage, handling, crating, and packing.	308
(v) Installation charges;	309
(vi) Credit for any trade-in.	310
(b) "Price" includes consideration received by the vendor	311
from a third party, if the vendor actually receives the	312
consideration from a party other than the consumer, and the	313
consideration is directly related to a price reduction or discount	314
on the sale; the vendor has an obligation to pass the price	315
reduction or discount through to the consumer; the amount of the	316
consideration attributable to the sale is fixed and determinable	317
by the vendor at the time of the sale of the item to the consumer;	318
and one of the following criteria is met:	319
(i) The consumer presents a coupon, certificate, or other	320
document to the vendor to claim a price reduction or discount	321
where the coupon, certificate, or document is authorized,	322
distributed, or granted by a third party with the understanding	323
that the third party will reimburse any vendor to whom the coupon,	324
certificate, or document is presented;	325
(ii) The consumer identifies the consumer's self to the	326
seller as a member of a group or organization entitled to a price	327
reduction or discount. A preferred customer card that is available	328
to any patron does not constitute membership in such a group or	329

organization. 330

(iii) The price reduction or discount is identified as a 331
third party price reduction or discount on the invoice received by 332
the consumer, or on a coupon, certificate, or other document 333
presented by the consumer. 334

(c) "Price" does not include any of the following: 335

(i) Discounts, including cash, term, or coupons that are not 336
reimbursed by a third party that are allowed by a vendor and taken 337
by a consumer on a sale; 338

(ii) Interest, financing, and carrying charges from credit 339
extended on the sale of tangible personal property or services, if 340
the amount is separately stated on the invoice, bill of sale, or 341
similar document given to the purchaser; 342

(iii) Any taxes legally imposed directly on the consumer that 343
are separately stated on the invoice, bill of sale, or similar 344
document given to the consumer. For the purpose of this division, 345
the tax imposed under Chapter 5751. of the Revised Code is not a 346
tax directly on the consumer, even if the tax or a portion thereof 347
is separately stated. 348

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 349
section, any discount allowed by an automobile manufacturer to its 350
employee, or to the employee of a supplier, on the purchase of a 351
new motor vehicle from a new motor vehicle dealer in this state. 352

(v) The dollar value of a gift card that is not sold by a 353
vendor or purchased by a consumer and that is redeemed by the 354
consumer in purchasing tangible personal property or services if 355
the vendor is not reimbursed and does not receive compensation 356
from a third party to cover all or part of the gift card value. 357
For the purposes of this division, a gift card is not sold by a 358
vendor or purchased by a consumer if it is distributed pursuant to 359
an awards, loyalty, or promotional program. Past and present 360

purchases of tangible personal property or services by the 361
consumer shall not be treated as consideration exchanged for a 362
gift card. 363

(2) In the case of a sale of any new motor vehicle by a new 364
motor vehicle dealer, as defined in section 4517.01 of the Revised 365
Code, in which another motor vehicle is accepted by the dealer as 366
part of the consideration received, "price" has the same meaning 367
as in division (H)(1) of this section, reduced by the credit 368
afforded the consumer by the dealer for the motor vehicle received 369
in trade. 370

(3) In the case of a sale of any watercraft or outboard motor 371
by a watercraft dealer licensed in accordance with section 372
1547.543 of the Revised Code, in which another watercraft, 373
watercraft and trailer, or outboard motor is accepted by the 374
dealer as part of the consideration received, "price" has the same 375
meaning as in division (H)(1) of this section, reduced by the 376
credit afforded the consumer by the dealer for the watercraft, 377
watercraft and trailer, or outboard motor received in trade. As 378
used in this division, "watercraft" includes an outdrive unit 379
attached to the watercraft. 380

(4) In the case of transactions for health care services 381
under division (B)(11) of this section, "price" means the amount 382
of managed care premiums received each month by a medicaid health 383
insuring corporation. 384

(I) "Receipts" means the total amount of the prices of the 385
sales of vendors, provided that the dollar value of gift cards 386
distributed pursuant to an awards, loyalty, or promotional 387
program, and cash discounts allowed and taken on sales at the time 388
they are consummated are not included, minus any amount deducted 389
as a bad debt pursuant to section 5739.121 of the Revised Code. 390
"Receipts" does not include the sale price of property returned or 391
services rejected by consumers when the full sale price and tax 392

are refunded either in cash or by credit. 393

(J) "Place of business" means any location at which a person 394
engages in business. 395

(K) "Premises" includes any real property or portion thereof 396
upon which any person engages in selling tangible personal 397
property at retail or making retail sales and also includes any 398
real property or portion thereof designated for, or devoted to, 399
use in conjunction with the business engaged in by such person. 400

(L) "Casual sale" means a sale of an item of tangible 401
personal property that was obtained by the person making the sale, 402
through purchase or otherwise, for the person's own use and was 403
previously subject to any state's taxing jurisdiction on its sale 404
or use, and includes such items acquired for the seller's use that 405
are sold by an auctioneer employed directly by the person for such 406
purpose, provided the location of such sales is not the 407
auctioneer's permanent place of business. As used in this 408
division, "permanent place of business" includes any location 409
where such auctioneer has conducted more than two auctions during 410
the year. 411

(M) "Hotel" means every establishment kept, used, maintained, 412
advertised, or held out to the public to be a place where sleeping 413
accommodations are offered to guests, in which five or more rooms 414
are used for the accommodation of such guests, whether the rooms 415
are in one or several structures, except as otherwise provided in 416
division (G) of section 5739.09 of the Revised Code. 417

(N) "Transient guests" means persons occupying a room or 418
rooms for sleeping accommodations for less than thirty consecutive 419
days. 420

(O) "Making retail sales" means the effecting of transactions 421
wherein one party is obligated to pay the price and the other 422
party is obligated to provide a service or to transfer title to or 423

possession of the item sold. "Making retail sales" does not 424
include the preliminary acts of promoting or soliciting the retail 425
sales, other than the distribution of printed matter which 426
displays or describes and prices the item offered for sale, nor 427
does it include delivery of a predetermined quantity of tangible 428
personal property or transportation of property or personnel to or 429
from a place where a service is performed. 430

(P) "Used directly in the rendition of a public utility 431
service" means that property that is to be incorporated into and 432
will become a part of the consumer's production, transmission, 433
transportation, or distribution system and that retains its 434
classification as tangible personal property after such 435
incorporation; fuel or power used in the production, transmission, 436
transportation, or distribution system; and tangible personal 437
property used in the repair and maintenance of the production, 438
transmission, transportation, or distribution system, including 439
only such motor vehicles as are specially designed and equipped 440
for such use. Tangible personal property and services used 441
primarily in providing highway transportation for hire are not 442
used directly in the rendition of a public utility service. In 443
this definition, "public utility" includes a citizen of the United 444
States holding, and required to hold, a certificate of public 445
convenience and necessity issued under 49 U.S.C. 41102. 446

(Q) "Refining" means removing or separating a desirable 447
product from raw or contaminated materials by distillation or 448
physical, mechanical, or chemical processes. 449

(R) "Assembly" and "assembling" mean attaching or fitting 450
together parts to form a product, but do not include packaging a 451
product. 452

(S) "Manufacturing operation" means a process in which 453
materials are changed, converted, or transformed into a different 454
state or form from which they previously existed and includes 455

refining materials, assembling parts, and preparing raw materials 456
and parts by mixing, measuring, blending, or otherwise committing 457
such materials or parts to the manufacturing process. 458

"Manufacturing operation" does not include packaging. 459

(T) "Fiscal officer" means, with respect to a regional 460
transit authority, the secretary-treasurer thereof, and with 461
respect to a county that is a transit authority, the fiscal 462
officer of the county transit board if one is appointed pursuant 463
to section 306.03 of the Revised Code or the county auditor if the 464
board of county commissioners operates the county transit system. 465

(U) "Transit authority" means a regional transit authority 466
created pursuant to section 306.31 of the Revised Code or a county 467
in which a county transit system is created pursuant to section 468
306.01 of the Revised Code. For the purposes of this chapter, a 469
transit authority must extend to at least the entire area of a 470
single county. A transit authority that includes territory in more 471
than one county must include all the area of the most populous 472
county that is a part of such transit authority. County population 473
shall be measured by the most recent census taken by the United 474
States census bureau. 475

(V) "Legislative authority" means, with respect to a regional 476
transit authority, the board of trustees thereof, and with respect 477
to a county that is a transit authority, the board of county 478
commissioners. 479

(W) "Territory of the transit authority" means all of the 480
area included within the territorial boundaries of a transit 481
authority as they from time to time exist. Such territorial 482
boundaries must at all times include all the area of a single 483
county or all the area of the most populous county that is a part 484
of such transit authority. County population shall be measured by 485
the most recent census taken by the United States census bureau. 486

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

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

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

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

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

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

For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing ~~as defined in division (III) of this section.~~ For transactions occurring on or after January 1, 2015, "electronic information services" does not include internet access services.

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

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:	517 518 519 520
(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;	521 522 523 524 525
(b) Analyzing business policies and procedures;	526
(c) Identifying management information needs;	527
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	528 529 530
(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;	531 532 533 534
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	535 536 537
(g) Testing of business procedures;	538
(h) Training personnel in business procedure applications;	539
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	540 541 542 543 544 545
(j) Providing debt collection services by any oral, written,	546

graphic, or electronic means. 547

The services listed in divisions (Y)(2)(a) to (j) of this 548
section are not automatic data processing or computer services. 549

(Z) "Highway transportation for hire" means the 550
transportation of personal property belonging to others for 551
consideration by any of the following: 552

(1) The holder of a permit or certificate issued by this 553
state or the United States authorizing the holder to engage in 554
transportation of personal property belonging to others for 555
consideration over or on highways, roadways, streets, or any 556
similar public thoroughfare; 557

(2) A person who engages in the transportation of personal 558
property belonging to others for consideration over or on 559
highways, roadways, streets, or any similar public thoroughfare 560
but who could not have engaged in such transportation on December 561
11, 1985, unless the person was the holder of a permit or 562
certificate of the types described in division (Z)(1) of this 563
section; 564

(3) A person who leases a motor vehicle to and operates it 565
for a person described by division (Z)(1) or (2) of this section. 566

(AA)(1) "Telecommunications service" means the electronic 567
transmission, conveyance, or routing of voice, data, audio, video, 568
or any other information or signals to a point, or between or 569
among points. "Telecommunications service" includes such 570
transmission, conveyance, or routing in which computer processing 571
applications are used to act on the form, code, or protocol of the 572
content for purposes of transmission, conveyance, or routing 573
without regard to whether the service is referred to as voice-over 574
internet protocol service or is classified by the federal 575
communications commission as enhanced or value-added. 576
"Telecommunications service" does not include any of the 577

following:	578
(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;	579 580 581 582 583
(b) Installation or maintenance of wiring or equipment on a customer's premises;	584 585
(c) Tangible personal property;	586
(d) Advertising, including directory advertising;	587
(e) Billing and collection services provided to third parties;	588 589
(f) Internet access service;	590
(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;	591 592 593 594 595 596 597 598
(h) Ancillary service;	599
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	600 601
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	602 603 604 605 606
(a) "Conference bridging service" means an ancillary service	607

that links two or more participants of an audio or video 608
conference call, including providing a telephone number. 609
"Conference bridging service" does not include telecommunications 610
services used to reach the conference bridge. 611

(b) "Detailed telecommunications billing service" means an 612
ancillary service of separately stating information pertaining to 613
individual calls on a customer's billing statement. 614

(c) "Directory assistance" means an ancillary service of 615
providing telephone number or address information. 616

(d) "Vertical service" means an ancillary service that is 617
offered in connection with one or more telecommunications 618
services, which offers advanced calling features that allow 619
customers to identify callers and manage multiple calls and call 620
connections, including conference bridging service. 621

(e) "Voice mail service" means an ancillary service that 622
enables the customer to store, send, or receive recorded messages. 623
"Voice mail service" does not include any vertical services that 624
the customer may be required to have in order to utilize the voice 625
mail service. 626

(3) "900 service" means an inbound toll telecommunications 627
service purchased by a subscriber that allows the subscriber's 628
customers to call in to the subscriber's prerecorded announcement 629
or live service, and which is typically marketed under the name 630
"900 service" and any subsequent numbers designated by the federal 631
communications commission. "900 service" does not include the 632
charge for collection services provided by the seller of the 633
telecommunications service to the subscriber, or services or 634
products sold by the subscriber to the subscriber's customer. 635

(4) "Prepaid calling service" means the right to access 636
exclusively telecommunications services, which must be paid for in 637
advance and which enables the origination of calls using an access 638

number or authorization code, whether manually or electronically 639
dialed, and that is sold in predetermined units or dollars of 640
which the number declines with use in a known amount. 641

(5) "Prepaid wireless calling service" means a 642
telecommunications service that provides the right to utilize 643
mobile telecommunications service as well as other 644
non-telecommunications services, including the download of digital 645
products delivered electronically, and content and ancillary 646
services, that must be paid for in advance and that is sold in 647
predetermined units or dollars of which the number declines with 648
use in a known amount. 649

(6) "Value-added non-voice data service" means a 650
telecommunications service in which computer processing 651
applications are used to act on the form, content, code, or 652
protocol of the information or data primarily for a purpose other 653
than transmission, conveyance, or routing. 654

(7) "Coin-operated telephone service" means a 655
telecommunications service paid for by inserting money into a 656
telephone accepting direct deposits of money to operate. 657

(8) "Customer" has the same meaning as in section 5739.034 of 658
the Revised Code. 659

(BB) "Laundry and dry cleaning services" means removing soil 660
or dirt from towels, linens, articles of clothing, or other fabric 661
items that belong to others and supplying towels, linens, articles 662
of clothing, or other fabric items. "Laundry and dry cleaning 663
services" does not include the provision of self-service 664
facilities for use by consumers to remove soil or dirt from 665
towels, linens, articles of clothing, or other fabric items. 666

(CC) "Magazines distributed as controlled circulation 667
publications" means magazines containing at least twenty-four 668
pages, at least twenty-five per cent editorial content, issued at 669

regular intervals four or more times a year, and circulated 670
without charge to the recipient, provided that such magazines are 671
not owned or controlled by individuals or business concerns which 672
conduct such publications as an auxiliary to, and essentially for 673
the advancement of the main business or calling of, those who own 674
or control them. 675

(DD) "Landscaping and lawn care service" means the services 676
of planting, seeding, sodding, removing, cutting, trimming, 677
pruning, mulching, aerating, applying chemicals, watering, 678
fertilizing, and providing similar services to establish, promote, 679
or control the growth of trees, shrubs, flowers, grass, ground 680
cover, and other flora, or otherwise maintaining a lawn or 681
landscape grown or maintained by the owner for ornamentation or 682
other nonagricultural purpose. However, "landscaping and lawn care 683
service" does not include the providing of such services by a 684
person who has less than five thousand dollars in sales of such 685
services during the calendar year. 686

(EE) "Private investigation and security service" means the 687
performance of any activity for which the provider of such service 688
is required to be licensed pursuant to Chapter 4749. of the 689
Revised Code, or would be required to be so licensed in performing 690
such services in this state, and also includes the services of 691
conducting polygraph examinations and of monitoring or overseeing 692
the activities on or in, or the condition of, the consumer's home, 693
business, or other facility by means of electronic or similar 694
monitoring devices. "Private investigation and security service" 695
does not include special duty services provided by off-duty police 696
officers, deputy sheriffs, and other peace officers regularly 697
employed by the state or a political subdivision. 698

(FF) "Information services" means providing conversation, 699
giving consultation or advice, playing or making a voice or other 700
recording, making or keeping a record of the number of callers, 701

and any other service provided to a consumer by means of a nine 702
hundred telephone call, except when the nine hundred telephone 703
call is the means by which the consumer makes a contribution to a 704
recognized charity. 705

(GG) "Research and development" means designing, creating, or 706
formulating new or enhanced products, equipment, or manufacturing 707
processes, and also means conducting scientific or technological 708
inquiry and experimentation in the physical sciences with the goal 709
of increasing scientific knowledge which may reveal the bases for 710
new or enhanced products, equipment, or manufacturing processes. 711

(HH) "Qualified research and development equipment" means 712
capitalized tangible personal property, and leased personal 713
property that would be capitalized if purchased, used by a person 714
primarily to perform research and development. Tangible personal 715
property primarily used in testing, as defined in division (A)(4) 716
of section 5739.011 of the Revised Code, or used for recording or 717
storing test results, is not qualified research and development 718
equipment unless such property is primarily used by the consumer 719
in testing the product, equipment, or manufacturing process being 720
created, designed, or formulated by the consumer in the research 721
and development activity or in recording or storing such test 722
results. 723

(II) "Building maintenance and janitorial service" means 724
cleaning the interior or exterior of a building and any tangible 725
personal property located therein or thereon, including any 726
services incidental to such cleaning for which no separate charge 727
is made. However, "building maintenance and janitorial service" 728
does not include the providing of such service by a person who has 729
less than five thousand dollars in sales of such service during 730
the calendar year. 731

(JJ) "Employment service" means providing or supplying 732
personnel, on a temporary or long-term basis, to perform work or 733

labor under the supervision or control of another, when the 734
personnel so provided or supplied receive their wages, salary, or 735
other compensation from the provider or supplier of the employment 736
service or from a third party that provided or supplied the 737
personnel to the provider or supplier. "Employment service" does 738
not include: 739

(1) Acting as a contractor or subcontractor, where the 740
personnel performing the work are not under the direct control of 741
the purchaser. 742

(2) Medical and health care services. 743

(3) Supplying personnel to a purchaser pursuant to a contract 744
of at least one year between the service provider and the 745
purchaser that specifies that each employee covered under the 746
contract is assigned to the purchaser on a permanent basis. 747

(4) Transactions between members of an affiliated group, as 748
defined in division (B)(3)(e) of this section. 749

(5) Transactions where the personnel so provided or supplied 750
by a provider or supplier to a purchaser of an employment service 751
are then provided or supplied by that purchaser to a third party 752
as an employment service, except "employment service" does include 753
the transaction between that purchaser and the third party. 754

(KK) "Employment placement service" means locating or finding 755
employment for a person or finding or locating an employee to fill 756
an available position. 757

(LL) "Exterminating service" means eradicating or attempting 758
to eradicate vermin infestations from a building or structure, or 759
the area surrounding a building or structure, and includes 760
activities to inspect, detect, or prevent vermin infestation of a 761
building or structure. 762

(MM) "Physical fitness facility service" means all 763

transactions by which a membership is granted, maintained, or 764
renewed, including initiation fees, membership dues, renewal fees, 765
monthly minimum fees, and other similar fees and dues, by a 766
physical fitness facility such as an athletic club, health spa, or 767
gymnasium, which entitles the member to use the facility for 768
physical exercise. 769

(NN) "Recreation and sports club service" means all 770
transactions by which a membership is granted, maintained, or 771
renewed, including initiation fees, membership dues, renewal fees, 772
monthly minimum fees, and other similar fees and dues, by a 773
recreation and sports club, which entitles the member to use the 774
facilities of the organization. "Recreation and sports club" means 775
an organization that has ownership of, or controls or leases on a 776
continuing, long-term basis, the facilities used by its members 777
and includes an aviation club, gun or shooting club, yacht club, 778
card club, swimming club, tennis club, golf club, country club, 779
riding club, amateur sports club, or similar organization. 780

(OO) "Livestock" means farm animals commonly raised for food, 781
food production, or other agricultural purposes, including, but 782
not limited to, cattle, sheep, goats, swine, poultry, and captive 783
deer. "Livestock" does not include invertebrates, amphibians, 784
reptiles, domestic pets, animals for use in laboratories or for 785
exhibition, or other animals not commonly raised for food or food 786
production. 787

(PP) "Livestock structure" means a building or structure used 788
exclusively for the housing, raising, feeding, or sheltering of 789
livestock, and includes feed storage or handling structures and 790
structures for livestock waste handling. 791

(QQ) "Horticulture" means the growing, cultivation, and 792
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 793
and nursery stock. As used in this division, "nursery stock" has 794
the same meaning as in section 927.51 of the Revised Code. 795

(RR) "Horticulture structure" means a building or structure 796
used exclusively for the commercial growing, raising, or 797
overwintering of horticultural products, and includes the area 798
used for stocking, storing, and packing horticultural products 799
when done in conjunction with the production of those products. 800

(SS) "Newspaper" means an unbound publication bearing a title 801
or name that is regularly published, at least as frequently as 802
biweekly, and distributed from a fixed place of business to the 803
public in a specific geographic area, and that contains a 804
substantial amount of news matter of international, national, or 805
local events of interest to the general public. 806

(TT) "Professional racing team" means a person that employs 807
at least twenty full-time employees for the purpose of conducting 808
a motor vehicle racing business for profit. The person must 809
conduct the business with the purpose of racing one or more motor 810
racing vehicles in at least ten competitive professional racing 811
events each year that comprise all or part of a motor racing 812
series sanctioned by one or more motor racing sanctioning 813
organizations. A "motor racing vehicle" means a vehicle for which 814
the chassis, engine, and parts are designed exclusively for motor 815
racing, and does not include a stock or production model vehicle 816
that may be modified for use in racing. For the purposes of this 817
division: 818

(1) A "competitive professional racing event" is a motor 819
vehicle racing event sanctioned by one or more motor racing 820
sanctioning organizations, at which aggregate cash prizes in 821
excess of eight hundred thousand dollars are awarded to the 822
competitors. 823

(2) "Full-time employee" means an individual who is employed 824
for consideration for thirty-five or more hours a week, or who 825
renders any other standard of service generally accepted by custom 826
or specified by contract as full-time employment. 827

(UU)(1) "Lease" or "rental" means any transfer of the 828
possession or control of tangible personal property for a fixed or 829
indefinite term, for consideration. "Lease" or "rental" includes 830
future options to purchase or extend, and agreements described in 831
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 832
the amount of consideration may be increased or decreased by 833
reference to the amount realized upon the sale or disposition of 834
the property. "Lease" or "rental" does not include: 835

(a) A transfer of possession or control of tangible personal 836
property under a security agreement or a deferred payment plan 837
that requires the transfer of title upon completion of the 838
required payments; 839

(b) A transfer of possession or control of tangible personal 840
property under an agreement that requires the transfer of title 841
upon completion of required payments and payment of an option 842
price that does not exceed the greater of one hundred dollars or 843
one per cent of the total required payments; 844

(c) Providing tangible personal property along with an 845
operator for a fixed or indefinite period of time, if the operator 846
is necessary for the property to perform as designed. For purposes 847
of this division, the operator must do more than maintain, 848
inspect, or set up the tangible personal property. 849

(2) "Lease" and "rental," as defined in division (UU) of this 850
section, shall not apply to leases or rentals that exist before 851
June 26, 2003. 852

(3) "Lease" and "rental" have the same meaning as in division 853
(UU)(1) of this section regardless of whether a transaction is 854
characterized as a lease or rental under generally accepted 855
accounting principles, the Internal Revenue Code, Title XIII of 856
the Revised Code, or other federal, state, or local laws. 857

(VV) "Mobile telecommunications service" has the same meaning 858

as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 859
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 860
on and after August 1, 2003, includes related fees and ancillary 861
services, including universal service fees, detailed billing 862
service, directory assistance, service initiation, voice mail 863
service, and vertical services, such as caller ID and three-way 864
calling. 865

(WW) "Certified service provider" has the same meaning as in 866
section 5740.01 of the Revised Code. 867

(XX) "Satellite broadcasting service" means the distribution 868
or broadcasting of programming or services by satellite directly 869
to the subscriber's receiving equipment without the use of ground 870
receiving or distribution equipment, except the subscriber's 871
receiving equipment or equipment used in the uplink process to the 872
satellite, and includes all service and rental charges, premium 873
channels or other special services, installation and repair 874
service charges, and any other charges having any connection with 875
the provision of the satellite broadcasting service. 876

(YY) "Tangible personal property" means personal property 877
that can be seen, weighed, measured, felt, or touched, or that is 878
in any other manner perceptible to the senses. For purposes of 879
this chapter and Chapter 5741. of the Revised Code, "tangible 880
personal property" includes motor vehicles, electricity, water, 881
gas, steam, and prewritten computer software. 882

(ZZ) "Direct mail" means printed material delivered or 883
distributed by United States mail or other delivery service to a 884
mass audience or to addressees on a mailing list provided by the 885
consumer or at the direction of the consumer when the cost of the 886
items are not billed directly to the recipients. "Direct mail" 887
includes tangible personal property supplied directly or 888
indirectly by the consumer to the direct mail vendor for inclusion 889
in the package containing the printed material. "Direct mail" does 890

not include multiple items of printed material delivered to a 891
single address. 892

(AAA) "Computer" means an electronic device that accepts 893
information in digital or similar form and manipulates it for a 894
result based on a sequence of instructions. 895

(BBB) "Computer software" means a set of coded instructions 896
designed to cause a computer or automatic data processing 897
equipment to perform a task. 898

(CCC) "Delivered electronically" means delivery of computer 899
software from the seller to the purchaser by means other than 900
tangible storage media. 901

(DDD) "Prewritten computer software" means computer software, 902
including prewritten upgrades, that is not designed and developed 903
by the author or other creator to the specifications of a specific 904
purchaser. The combining of two or more prewritten computer 905
software programs or prewritten portions thereof does not cause 906
the combination to be other than prewritten computer software. 907
"Prewritten computer software" includes software designed and 908
developed by the author or other creator to the specifications of 909
a specific purchaser when it is sold to a person other than the 910
purchaser. If a person modifies or enhances computer software of 911
which the person is not the author or creator, the person shall be 912
deemed to be the author or creator only of such person's 913
modifications or enhancements. Prewritten computer software or a 914
prewritten portion thereof that is modified or enhanced to any 915
degree, where such modification or enhancement is designed and 916
developed to the specifications of a specific purchaser, remains 917
prewritten computer software; provided, however, that where there 918
is a reasonable, separately stated charge or an invoice or other 919
statement of the price given to the purchaser for the modification 920
or enhancement, the modification or enhancement shall not 921
constitute prewritten computer software. 922

(EEE)(1) "Food" means substances, whether in liquid, 923
concentrated, solid, frozen, dried, or dehydrated form, that are 924
sold for ingestion or chewing by humans and are consumed for their 925
taste or nutritional value. "Food" does not include alcoholic 926
beverages, dietary supplements, soft drinks, or tobacco. 927

(2) As used in division (EEE)(1) of this section: 928

(a) "Alcoholic beverages" means beverages that are suitable 929
for human consumption and contain one-half of one per cent or more 930
of alcohol by volume. 931

(b) "Dietary supplements" means any product, other than 932
tobacco, that is intended to supplement the diet and that is 933
intended for ingestion in tablet, capsule, powder, softgel, 934
gelcap, or liquid form, or, if not intended for ingestion in such 935
a form, is not represented as conventional food for use as a sole 936
item of a meal or of the diet; that is required to be labeled as a 937
dietary supplement, identifiable by the "supplement facts" box 938
found on the label, as required by 21 C.F.R. 101.36; and that 939
contains one or more of the following dietary ingredients: 940

(i) A vitamin; 941

(ii) A mineral; 942

(iii) An herb or other botanical; 943

(iv) An amino acid; 944

(v) A dietary substance for use by humans to supplement the 945
diet by increasing the total dietary intake; 946

(vi) A concentrate, metabolite, constituent, extract, or 947
combination of any ingredient described in divisions 948
(EEE)(2)(b)(i) to (v) of this section. 949

(c) "Soft drinks" means nonalcoholic beverages that contain 950
natural or artificial sweeteners. "Soft drinks" does not include 951
beverages that contain milk or milk products, soy, rice, or 952

similar milk substitutes, or that contains greater than fifty per 953
cent vegetable or fruit juice by volume. 954

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 955
tobacco, or any other item that contains tobacco. 956

(FFF) "Drug" means a compound, substance, or preparation, and 957
any component of a compound, substance, or preparation, other than 958
food, dietary supplements, or alcoholic beverages that is 959
recognized in the official United States pharmacopoeia, official 960
homeopathic pharmacopoeia of the United States, or official 961
national formulary, and supplements to them; is intended for use 962
in the diagnosis, cure, mitigation, treatment, or prevention of 963
disease; or is intended to affect the structure or any function of 964
the body. 965

(GGG) "Prescription" means an order, formula, or recipe 966
issued in any form of oral, written, electronic, or other means of 967
transmission by a duly licensed practitioner authorized by the 968
laws of this state to issue a prescription. 969

(HHH) "Durable medical equipment" means equipment, including 970
repair and replacement parts for such equipment, that can 971
withstand repeated use, is primarily and customarily used to serve 972
a medical purpose, generally is not useful to a person in the 973
absence of illness or injury, and is not worn in or on the body. 974
"Durable medical equipment" does not include mobility enhancing 975
equipment. 976

(III) "Mobility enhancing equipment" means equipment, 977
including repair and replacement parts for such equipment, that is 978
primarily and customarily used to provide or increase the ability 979
to move from one place to another and is appropriate for use 980
either in a home or a motor vehicle, that is not generally used by 981
persons with normal mobility, and that does not include any motor 982
vehicle or equipment on a motor vehicle normally provided by a 983

motor vehicle manufacturer. "Mobility enhancing equipment" does 984
not include durable medical equipment. 985

(JJJ) "Prosthetic device" means a replacement, corrective, or 986
supportive device, including repair and replacement parts for the 987
device, worn on or in the human body to artificially replace a 988
missing portion of the body, prevent or correct physical deformity 989
or malfunction, or support a weak or deformed portion of the body. 990
As used in this division, "prosthetic device" does not include 991
corrective eyeglasses, contact lenses, or dental prosthesis. 992

(KKK)(1) "Fractional aircraft ownership program" means a 993
program in which persons within an affiliated group sell and 994
manage fractional ownership program aircraft, provided that at 995
least one hundred airworthy aircraft are operated in the program 996
and the program meets all of the following criteria: 997

(a) Management services are provided by at least one program 998
manager within an affiliated group on behalf of the fractional 999
owners. 1000

(b) Each program aircraft is owned or possessed by at least 1001
one fractional owner. 1002

(c) Each fractional owner owns or possesses at least a 1003
one-sixteenth interest in at least one fixed-wing program 1004
aircraft. 1005

(d) A dry-lease aircraft interchange arrangement is in effect 1006
among all of the fractional owners. 1007

(e) Multi-year program agreements are in effect regarding the 1008
fractional ownership, management services, and dry-lease aircraft 1009
interchange arrangement aspects of the program. 1010

(2) As used in division (KKK)(1) of this section: 1011

(a) "Affiliated group" has the same meaning as in division 1012
(B)(3)(e) of this section. 1013

(b) "Fractional owner" means a person that owns or possesses 1014
at least a one-sixteenth interest in a program aircraft and has 1015
entered into the agreements described in division (KKK)(1)(e) of 1016
this section. 1017

(c) "Fractional ownership program aircraft" or "program 1018
aircraft" means a turbojet aircraft that is owned or possessed by 1019
a fractional owner and that has been included in a dry-lease 1020
aircraft interchange arrangement and agreement under divisions 1021
(KKK)(1)(d) and (e) of this section, or an aircraft a program 1022
manager owns or possesses primarily for use in a fractional 1023
aircraft ownership program. 1024

(d) "Management services" means administrative and aviation 1025
support services furnished under a fractional aircraft ownership 1026
program in accordance with a management services agreement under 1027
division (KKK)(1)(e) of this section, and offered by the program 1028
manager to the fractional owners, including, at a minimum, the 1029
establishment and implementation of safety guidelines; the 1030
coordination of the scheduling of the program aircraft and crews; 1031
program aircraft maintenance; program aircraft insurance; crew 1032
training for crews employed, furnished, or contracted by the 1033
program manager or the fractional owner; the satisfaction of 1034
record-keeping requirements; and the development and use of an 1035
operations manual and a maintenance manual for the fractional 1036
aircraft ownership program. 1037

(e) "Program manager" means the person that offers management 1038
services to fractional owners pursuant to a management services 1039
agreement under division (KKK)(1)(e) of this section. 1040

(LLL) "Electronic publishing" means providing access to one 1041
or more of the following primarily for business customers, 1042
including the federal government or a state government or a 1043
political subdivision thereof, to conduct research: news; 1044
business, financial, legal, consumer, or credit materials; 1045

editorials, columns, reader commentary, or features; photos or 1046
images; archival or research material; legal notices, identity 1047
verification, or public records; scientific, educational, 1048
instructional, technical, professional, trade, or other literary 1049
materials; or other similar information which has been gathered 1050
and made available by the provider to the consumer in an 1051
electronic format. Providing electronic publishing includes the 1052
functions necessary for the acquisition, formatting, editing, 1053
storage, and dissemination of data or information that is the 1054
subject of a sale. 1055

(MMM) "Medicaid health insuring corporation" means a health 1056
insuring corporation that holds a certificate of authority under 1057
Chapter 1751. of the Revised Code and is under contract with the 1058
department of job and family services pursuant to section 5111.17 1059
of the Revised Code. 1060

(NNN) "Managed care premium" means any premium, capitation, 1061
or other payment a medicaid health insuring corporation receives 1062
for providing or arranging for the provision of health care 1063
services to its members or enrollees residing in this state. 1064

(OOO) "Captive deer" means deer and other cervidae that have 1065
been legally acquired, or their offspring, that are privately 1066
owned for agricultural or farming purposes. 1067

(PPP) "Gift card" means a document, card, certificate, or 1068
other record, whether tangible or intangible, that may be redeemed 1069
by a consumer for a dollar value when making a purchase of 1070
tangible personal property or services. 1071

(QQQ) "Specified digital product" means an electronically 1072
transferred digital audiovisual work, digital audio work, or 1073
digital book. 1074

As used in division (QQQ) of this section: 1075

(1) "Digital audiovisual work" means a series of related 1076

images that, when shown in succession, impart an impression of 1077
motion, together with accompanying sounds, if any. 1078

(2) "Digital audio work" means a work that results from the 1079
fixation of a series of musical, spoken, or other sounds, 1080
including digitized sound files that are downloaded onto a device 1081
and that may be used to alert the customer with respect to a 1082
communication. 1083

(3) "Digital book" means a work that is generally recognized 1084
in the ordinary and usual sense as a book. 1085

(4) "Electronically transferred" means obtained by the 1086
purchaser by means other than tangible storage media. 1087

(RRR) "Internet access service" means providing internet 1088
access the taxation of which is prohibited under the "Internet Tax 1089
Freedom Act," 47 U.S.C. 151 note, as that section existed on July 1090
1, 2014, without accounting for any exception to that prohibition 1091
contained elsewhere in that section as it existed on that date. 1092

Section 2. That existing section 5739.01 of the Revised Code 1093
is hereby repealed. 1094