

As Introduced

**130th General Assembly
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S. B. No. 335

Senators Seitz, Kearney

**Cosponsors: Senators Uecker, Eklund, Beagle, Manning, Brown, Hite,
Lehner, Jones, Patton**

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A B I L L

To amend sections 5501.44, 5501.70, 5501.71, 5501.73, 1
5501.78, 5531.11, 5531.12, 5531.13, 5531.14, 2
5531.15, 5531.16, and 5739.02 and to enact 3
sections 5531.141, 5531.142, 5531.143, 5531.144, 4
5531.145, 5531.146, 5531.147, 5531.148, and 5
5531.149 of the Revised Code to provide that a 6
toll project may include the substantial 7
reconstruction or replacement of an existing 8
toll-free highway, bridge, or tunnel, to amend the 9
law governing public-private agreements relative 10
to transportation facilities, and to provide for 11
the collection of user fees on toll projects by 12
toll project operators. 13

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

Section 1. That sections 5501.44, 5501.70, 5501.71, 5501.73, 14
5501.78, 5531.11, 5531.12, 5531.13, 5531.14, 5531.15, 5531.16, and 15
5739.02 be amended and sections 5531.141, 5531.142, 5531.143, 16
5531.144, 5531.145, 5531.146, 5531.147, 5531.148, and 5531.149 of 17
the Revised Code be enacted to read as follows: 18

Sec. 5501.44. (A)(1) Notwithstanding section 5735.27 of the Revised Code, the director of transportation, when the director determines it in the interest of the welfare and safety of the citizens of Ohio, may enter into agreements with other states or subdivisions thereof or the United States relative to the cooperation in the repair, maintenance, or construction of a bridge crossing a stream that forms a boundary line of this state, and may expend state highway funds for said purpose.

~~(1) No~~ Except as provided in division (A)(3) of this section, no such agreement shall be made that obligates this state to expend more than the cost of the construction of such portion of said bridge as is located within the state, and not more than fifty per cent of the cost of maintenance of any such bridge, and no such agreement shall be made that obligates the state in excess of three hundred thousand dollars in any one year for maintenance.

(2) Notwithstanding division (A)(1) of this section, the director may expend funds for the design, construction, inspection, maintenance, repair, and replacement of bridge and bridge approaches for the bridge that were transferred from the Ohio bridge commission to the control of the state of Ohio, department of transportation, as provided in Section 4 of Amended Substitute House Bill No. 98 of the 114th general assembly. Following the replacement of that bridge, the director may expend funds for the design, construction, inspection, maintenance, repair, and replacement of bridge and bridge approaches.

(3) Notwithstanding division (A)(1) of this section, the director may enter into an agreement with another state for the replacement, improvement, rehabilitation, operation, and maintenance of a bridge or system of bridges that carries an interstate highway over the Ohio river to another state, and for the replacement, improvement, rehabilitation, operation, and

maintenance of roadways providing for ingress to and egress from 50
that bridge or system of bridges. However, no such agreement shall 51
obligate this state to expend more than fifty per cent of the 52
total project costs. 53

(4) Any ~~such agreements~~ agreement that is entered into under 54
this section shall be approved by the governor and attorney 55
general of the state before they become effective. 56

~~(4)~~(5) Each agreement entered into shall designate 57
responsibility for inspection, provide for annual inspection, and 58
require that a report of each inspection be filed with the 59
department of transportation. The director, with regard to all 60
existing bridges or other bridges on a stream that forms a 61
boundary line of this state, shall take all reasonable measures to 62
obtain and to secure the filing of a copy of each inspection 63
report for each bridge with the department of transportation. 64

~~(5)~~(6) The department, upon hearing that a bridge across the 65
Ohio river is scheduled to be closed by a contiguous state, shall 66
make all reasonable efforts to notify the Ohio residents likely to 67
be adversely affected by that closing. The department also shall 68
cooperate and communicate with contiguous states in trying to 69
resolve bridge closing problems. 70

(B)(1) The director, when the director considers it in the 71
interest of the welfare and safety of the citizens of Ohio, may 72
enter into agreements with other states, subdivisions thereof, 73
metropolitan planning organizations, or the United States, 74
relative to the design, construction, operation, maintenance, and 75
repair of a regional traffic management system, and may expend 76
state and federal highway funds for such purposes, notwithstanding 77
any other provision of the Revised Code. 78

(2) No such agreement shall be made that obligates this state 79
to expend more than the cost of construction of such portion of a 80

regional traffic management system as is located within the state, 81
and not more than a proportional amount, based upon the system 82
presence in this state, for costs of design, operation, 83
maintenance, and repair. 84

(3) Any such agreements shall be approved by the governor and 85
attorney general of the state before they become effective. 86

(4) As used in division (B) of this section, "regional 87
traffic management system" means an integrated, high-technology 88
system to provide remote control center surveillance and 89
monitoring of the regional freeways and main arterial routes in 90
order to reduce and eliminate major backups and delays to 91
motorists in the area. 92

Sec. 5501.70. As used in sections 5501.70 to 5501.83 of the 93
Revised Code: 94

(A) "Affected jurisdiction" means any unit of government 95
within the state in which all or part of a transportation facility 96
is located or any other public entity directly affected by the 97
transportation facility. 98

(B) "Force majeure" means an uncontrollable force or natural 99
disaster not within the power of the operator or the state. 100

(C) "Maintenance" includes routine maintenance, major 101
maintenance, and any other categories of maintenance that may be 102
designated by the department of transportation. 103

(D) "Material default" means any failure of an operator to 104
perform any duties under a public-private agreement that 105
jeopardizes delivery of adequate service to the public and remains 106
unsatisfied after a reasonable period of time and after the 107
operator has received written notice from the department of the 108
failure. 109

(E) "Operate" means any action to maintain, repair, improve, 110

equip, or modify a transportation facility.	111
(F) "Operator" means a private entity that has entered into a	112
public-private agreement under sections 5501.71 to 5501.83 of the	113
Revised Code.	114
(G) "Private entity" means any natural person, corporation,	115
general partnership, limited liability company, limited	116
partnership, joint venture, business trust, public benefit	117
corporation, nonprofit entity, or other business entity.	118
(H) "Public-private agreement" means the agreement between a	119
private entity and the department that relates to the development,	120
financing, maintenance, or operation of a transportation facility	121
subject to sections 5501.70 to 5501.83 of the Revised Code.	122
(I) "Public-private initiative" means an arrangement between	123
the department and one or more private entities, the terms of	124
which are stated in a public-private agreement, that provides for	125
all of the following:	126
(1) Acceptance of a private contribution, including a money	127
payment, for a project or service for a transportation facility;	128
(2) Sharing of resources and the means of providing a project	129
or service for a transportation facility;	130
(3) Cooperation in researching, developing, and implementing	131
projects or services for a transportation facility.	132
(J) "Transportation facility" has the same meaning as in	133
section 5501.01 of the Revised Code and also includes a tunnel,	134
ferry, port facility on navigable waters that are used for	135
commerce, intermodal facility, or similar facility open to the	136
public and used for the transportation of persons or goods, and	137
any building, structure, parking area, or other appurtenances or	138
property needed to operate a transportation facility that is	139
subject to a public-private agreement.	140

(K) "User fee" means a rate, toll, fee, or other charge 141
established under section 5531.14 of the Revised Code and 142
by an operator for use of all or part of a transportation facility 143
in accordance with that section. 144

(L) "Utility" means a privately, publicly, or cooperatively 145
owned line, facility, or system for producing, transmitting, or 146
distributing communications, cable television, power, electricity, 147
light, heat, gas, oil, crude products, water, steam, waste, storm 148
water not connected with highway drainage, alternative or 149
renewable energy sources such as wind or solar, or any other 150
similar commodity, including a fire or police signal system or 151
street lighting system that directly or indirectly serves the 152
public. 153

Sec. 5501.71. (A) The department of transportation may 154
solicit, receive, consider, evaluate, and accept a proposal for a 155
public-private initiative. 156

(B) In soliciting and selecting a private entity with which 157
to enter into a public-private initiative, the department shall 158
use one or both of the following: 159

(1) Sealed bidding; 160

(2) Selection of proposals, with or without negotiations, 161
based on qualifications, best value, or both. 162

(C) The department shall consider the following factors in 163
evaluating and selecting a bid or proposal to enter into a 164
public-private initiative: 165

(1) The ability of the transportation facility to improve 166
safety, reduce congestion, increase capacity, and promote economic 167
growth; 168

(2) The extent that the private entity's proposal addresses 169
the needs identified in the appropriate state, regional, or local 170

transportation plan by improving safety, reducing congestion,	171
increasing capacity, or enhancing economic efficiency and the	172
private entity's proposal is on the transportation improvement	173
program for the affected metropolitan planning organization or the	174
state transportation improvement program;	175
(3) The proposed cost of and financial plan for the	176
transportation facility;	177
(4) The general reputation, qualifications, industry	178
experience, and financial capacity of the private entity;	179
(5) The proposed design, operation, and feasibility of the	180
transportation facility;	181
(6) Comments from local citizens and affected jurisdictions;	182
(7) Benefits to the public and the affected transportation	183
facility;	184
(8) The safety record of the private entity;	185
(9) Any other criteria that the department considers	186
appropriate.	187
(D) The department may select multiple private entities with	188
which to enter a public-private agreement for a transportation	189
facility if it is in the public interest to do so.	190
(E) The department shall select a private entity or entities	191
for a public-private initiative on a competitive basis.	192
(F) Any materials or data submitted to, made available to, or	193
received by the director of transportation, to the extent that the	194
material or data consist of trade secrets, as defined in section	195
1333.61 of the Revised Code, are confidential and are not public	196
records for the purposes of section 149.43 of the Revised Code.	197
Financial information received by the director that is related to	198
a proposal is confidential and not a public record for purposes of	199
section 149.43 of the Revised Code until such time as a proposal	200

is selected. Prior to submission of a solicited proposal, a 201
private entity may request a review by the department of 202
information that the private entity has identified as 203
confidential, to determine whether such information would be 204
subject to disclosure under section 149.43 of the Revised Code. 205

(G)(1) The department may reimburse a private entity for a 206
portion of the actual costs the entity incurred in submitting a 207
proposal for a public-private initiative that was solicited by the 208
department under this section. When considering the reimbursement 209
of such costs, the director shall describe in the request for 210
proposals for a specific public-private initiative the specific 211
terms and conditions for reimbursing a private entity. The 212
director may include in the terms and conditions a requirement 213
that the private entity execute an agreement to transfer to the 214
department the rights to the use of the work product contained in 215
the proposal in exchange for receiving the reimbursement. 216

(2) The director shall make all decisions related to the 217
reimbursement of a specific private entity and related to the 218
maximum amount of the reimbursement. However, the department shall 219
not reimburse a private entity if that entity enters into the 220
public-private agreement that is the subject of the solicited 221
proposal. The reimbursement of costs under division (G) of this 222
section is exempt from the requirements of Chapter 125. of the 223
Revised Code and sections 127.16 and 127.162 of the Revised Code. 224

(3) Except as otherwise provided in writing by the 225
department, if the solicitation or negotiation process is 226
suspended, discontinued, or terminated, a private entity has no 227
right to reimbursement of any costs associated directly or 228
indirectly with the solicited proposal. 229

Sec. 5501.73. (A) After selecting a solicited or unsolicited 230
proposal for a public-private initiative, the department of 231

transportation shall enter into a public-private agreement for a 232
transportation facility with the selected private entity or any 233
configuration of private entities. An affected jurisdiction may be 234
a party to a public-private agreement entered into by the 235
department and a selected private entity or combination of private 236
entities. 237

(B) A public-private agreement under this section shall 238
provide for all of the following: 239

(1) Planning, acquisition, financing, development, design, 240
construction, reconstruction, replacement, improvement, 241
maintenance, management, repair, leasing, or operation of a 242
transportation facility; 243

(2) Term of the public-private agreement; 244

(3) Type of property interest, if any, the private entity 245
will have in the transportation facility; 246

(4) A specific plan to ensure proper maintenance of the 247
transportation facility throughout the term of the agreement and a 248
return of the facility to the department, if applicable, in good 249
condition and repair; 250

(5) Whether user fees, administrative fees, or other charges 251
will be collected ~~on~~ for use of the transportation facility in 252
accordance with sections 5531.11 to 5531.18 of the Revised Code 253
and the basis by which such user fees, administrative fees, or 254
other charges shall be determined and modified; 255

(6) Compliance with applicable federal, state, and local 256
laws; 257

(7) Grounds for termination of the public-private agreement 258
by the department or operator; 259

(8) Disposition of the facility upon completion of the 260
agreement; 261

(9) Procedures for amendment of the agreement-;i	262
<u>(10) A contract performance bond in an amount specified by</u>	263
<u>the director of transportation, conditioned upon the private</u>	264
<u>entity performing the work in accordance with the agreed upon</u>	265
<u>terms, within the time prescribed, and in conformance with any</u>	266
<u>other such terms and conditions as are specified by the director;</u>	267
<u>(11) A payment bond in an amount specified by the director,</u>	268
<u>conditioned upon the payment for all labor, work performed, and</u>	269
<u>materials furnished in connection with the agreement and any other</u>	270
<u>such terms and conditions as are specified by the director.</u>	271
(C) A public-private agreement under this section may provide	272
for any of the following:	273
(1) Review and approval by the department of the operator's	274
plans for the development and operation of the transportation	275
facility;	276
(2) Inspection by the department of construction of or	277
improvements to the transportation facility;	278
(3) Maintenance by the operator of a policy of liability	279
insurance or self-insurance;	280
(4) Filing by the operator, on a periodic basis, of	281
appropriate financial statements in a form acceptable to the	282
department;	283
(5) Filing by the operator, on a periodic basis, of traffic	284
reports in a form acceptable to the department;	285
(6) Financing obligations of the operator and the department;	286
(7) Apportionment of expenses between the operator and the	287
department;	288
(8) Rights and duties of the operator, the department, and	289
other state and local governmental entities with respect to use of	290
the transportation facility;	291

(9) Rights and remedies available in the event of default or delay;	292 293
(10) Terms and conditions of indemnification of the operator by the department;	294 295
(11) Assignment, subcontracting, or other delegation of responsibilities of the operator or the department under the agreement to third parties, including other private entities and other state agencies;	296 297 298 299
(12) Sale or lease to the operator of private property related to the transportation facility;	300 301
(13) Traffic enforcement and other policing issues, including any reimbursement by the private entity for such services.	302 303
(D)(1) The director of transportation may include in any public-private agreement under sections 5501.70 to 5501.83 of the Revised Code a provision authorizing a binding dispute resolution method for any controversy subsequently arising out of the contract. The binding dispute resolution method may proceed only upon agreement of all parties to the controversy. If all parties do not agree to proceed to a binding dispute resolution, a party having a claim against the department shall exhaust its administrative remedies specified in the public-private agreement prior to filing any action against the department in the court of claims.	304 305 306 307 308 309 310 311 312 313 314
No appeal from the determination of a technical expert lies to any court, except that the court of common pleas of Franklin County may issue an order vacating such a determination upon the application of any party to the binding dispute resolution if any of the following applies:	315 316 317 318 319
(a) The determination was procured by corruption, fraud, or undue means.	320 321

(b) There was evidence of partiality or corruption on the 322
part of the technical expert. 323

(c) The technical expert was guilty of misconduct in refusing 324
to postpone the hearing, upon sufficient cause shown, or in 325
refusing to hear evidence pertinent and material to the 326
controversy, or of any other misbehavior by which the rights of 327
any party have been prejudiced. 328

(2) As used in this division, "binding dispute resolution" 329
means a binding determination after review by a technical expert 330
of all relevant items, which may include documents, and by 331
interviewing appropriate personnel and visiting the project site 332
involved in the controversy. "Binding dispute resolution" does not 333
involve representation by legal counsel or advocacy by any person 334
on behalf of any party to the controversy. 335

(E) No public-private agreement entered into under this 336
section shall be construed to transfer to a private entity the 337
director's authority to appropriate property under Chapters 163., 338
5501., and 5519. of the Revised Code. 339

(F) Money collected by the department pursuant to an 340
agreement entered into under this section shall be deposited into 341
the state treasury to the credit of the highway operating fund 342
unless the agreement is related to a toll project under sections 343
5531.11 to 5531.18 of the Revised Code, in which case the money 344
shall be deposited as specified in the agreement. 345

(G) Chapter 5525. of the Revised Code does not apply to 346
public-private agreements under sections 5501.70 to 5501.83 of the 347
Revised Code. 348

Sec. 5501.78. A transportation facility and any tangible 349
personal property used exclusively with a transportation facility 350
that is owned by the department of transportation and leased, 351

licensed, financed, or otherwise conveyed to an operator, or that 352
is acquired, constructed, or otherwise provided by an operator on 353
behalf of the department, is exempt from all ad valorem property 354
taxes and special assessments levied against property by the state 355
or any political subdivision of the state. Building and 356
construction materials that will be incorporated into a 357
transportation facility pursuant to a public-private agreement are 358
exempt from the taxes imposed under Chapters 5739. and 5741. of 359
the Revised Code. 360

Sec. 5531.11. As used in sections 5531.11 to 5531.18 of the 361
Revised Code: 362

(A) "Administrative fee" means a fee imposed by a toll 363
project operator for toll collection, processing, and related 364
activities. 365

(B) "Cost" means all costs of constructing, improving, 366
repairing, maintaining, administering, financing, and operating 367
the Ohio transportation system, including all costs payable with 368
respect to permanent improvements as described in division (B) of 369
section 133.15 of the Revised Code. 370

(C) "Electronic-monitoring system" means any form of 371
electronic or other vehicle sensor or identifying device that 372
automatically produces one or more photographs, one or more 373
microphotographs, a videotape, recorded images, or other form of 374
identifying data of each vehicle at the time it is used or 375
operated on a toll project. 376

(D) "Governmental agency" means any state agency, federal 377
agency, political subdivision, or other local, interstate, or 378
regional governmental agency, and any combination of those 379
agencies. 380

(E) "Highway project" means any project intended for the 381

highway purpose of supporting the state highway system. A highway 382
project, whether publicly or privately owned, is a state 383
infrastructure project as defined in section 5531.10 of the 384
Revised Code for all purposes of that section and section 5531.09 385
of the Revised Code and also is a transportation facility as 386
defined in section 5501.01 of the Revised Code. 387

~~"State highway system" or "system" means all existing and 388
future transportation projects constructed, operated, repaired, 389
maintained, administered, and operated under the jurisdiction of 390
the department of transportation, including toll projects and 391
highway projects. 392~~

(F) "Motor vehicle certificate of registration issuance 393
prevention order" means, relative to the registered owner of a 394
motor vehicle, an order that prohibits the registrar of motor 395
vehicles and any deputy registrar from doing both of the 396
following: 397

(1) Accepting any application for a new or renewal motor 398
vehicle certificate of registration in the name of the registered 399
owner; 400

(2) Issuing or renewing any motor vehicle certificate of 401
registration for a motor vehicle that utilized a toll project for 402
which the required user fee or associated administrative fee was 403
not paid by the registered owner of that motor vehicle. 404

(G) "Public roads" means all public highways, roads, and 405
streets in the state, whether maintained by a state agency or any 406
other governmental agency. 407

(H) "Public utility facilities" means tracks, pipes, mains, 408
conduits, cables, wires, towers, poles, and other equipment and 409
appliances of any public utility. 410

(I) "Registered owner" means all of the following: 411

(1) Any person or entity identified by the bureau of motor vehicles or any other state motor vehicle bureau, department, or office as the owner of a motor vehicle; 412
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(2) The lessee of a motor vehicle pursuant to a lease of six months or longer; 415
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(3) The renter of a motor vehicle pursuant to a written rental agreement with a motor vehicle renting dealer. 417
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(J) "Revenues" means all nontax revenues coming into the possession of or under the control of the department by virtue of sections 5531.11 to 5531.18 of the Revised Code. "Revenues" does not include proceeds from the sale of obligations but does include ~~tolls~~ user fees, service revenues, investment income on the Ohio toll fund established in section 5531.14 of the Revised Code, rentals, gifts, and grants. 419
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(K) "Service facilities" means service stations, restaurants, and other facilities for food service, roadside parks and rest areas, parking, camping, tenting, rest, and sleeping facilities, hotels or motels, and all similar and other facilities providing services to the traveling public in connection with the use of a toll project and owned, leased, licensed, or operated by the department ~~of transportation~~. 426
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(L) "Service revenues" means those revenues of the department derived from its ownership, leasing, licensing, or operation of service facilities. 433
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(M) "State highway system" or "system" means all existing and future transportation projects constructed, operated, repaired, maintained, administered, and operated under the jurisdiction of the department of transportation, including toll projects and highway projects. 436
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(N) "Toll project" means any project that adds new capacity, including construction on existing highways, bridges, or tunnels 441
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where construction increases the total number of lanes, including 443
toll and nontoll lanes, and does not decrease the total number of 444
nontoll lanes at each mile. "Toll project" also means, subject to 445
division (C) of section 5531.12 of the Revised Code, any project 446
that involves substantial reconstruction, resurfacing, 447
restoration, rehabilitation, or replacement of a toll or toll-free 448
highway, bridge, or tunnel, including an existing highway, bridge, 449
or tunnel, and conversion of the highway, bridge, or tunnel to a 450
toll project; conversion of an existing highway, bridge, or tunnel 451
to a toll project; initial construction of a highway, bridge, or 452
tunnel as a toll project; or conversion of a high occupancy 453
vehicle lane on a highway, bridge, or tunnel to a toll project. 454
"Toll project" also includes new interchanges constructed for 455
economic development purposes connecting an interstate highway or 456
a multi-lane, ~~fully controlled access~~ highway that was not 457
connected previously with other interstates, state highways and 458
local roads, and any new high occupancy lane or new highways 459
connecting an intermodal facility established, constructed, 460
reconstructed, maintained, repaired, administered, operated, or 461
improved, under the jurisdiction of the department of 462
~~transportation and~~. "Toll project" also includes, pursuant to 463
sections 5531.11 to 5531.18 of the Revised Code, at a location or 464
locations determined by the director of transportation, including 465
all bridges, tunnels, overpasses, underpasses, interchanges, 466
entrance plazas, approaches, and those portions of connecting 467
public roads that serve interchanges and are determined by the 468
director to be necessary for the safe merging of traffic between 469
the toll project and those nontolled public roads, toll booths, 470
service facilities, and administration, storage, and other 471
buildings, property, and facilities that the department considers 472
necessary for the operation or policing of the toll project, 473
together with all property and rights that may be acquired by the 474
department for the construction, maintenance, repair, 475

administration, improvement, or operation of the toll project, ~~and~~ 476
~~includes any sections or extensions of a toll project designated~~ 477
~~by the department as such for the particular purpose. Nothing in~~ 478
~~this section shall be construed to permit tolls to be charged on~~ 479
~~existing nontoll highways.~~ 480

(O) "Toll project operator" means the department or any 481
agency, political subdivision, authority, or other entity that 482
operates a toll project, including a private entity that operates 483
a toll project pursuant to a public-private agreement authorized 484
by sections 5501.70 to 5501.83 of the Revised Code. 485

(P) "Tolls User fee" means tolls a rate, special fees or 486
permit fees toll, fee, or other charges by the department to the 487
owners, lessors, lessees, operators of motor vehicles, or other 488
users of charge imposed by a toll project for the operation or use 489
of or the right to operate on operator for use of all or part of a 490
transportation facility, including a toll project. "User fee" also 491
includes any such rate, toll, fee, or other charge imposed by a 492
toll project operator pursuant to a public-private agreement 493
authorized by sections 5501.70 to 5501.83 of the Revised Code. 494

Sec. 5531.12. (A) In order to remove present and anticipated 495
handicaps and potential hazards on the highways in this state, to 496
facilitate vehicular traffic throughout the state, to promote the 497
agricultural, commercial, recreational, tourism, and industrial 498
development of the state, and to provide for the general welfare 499
of its citizens, the director of transportation may approve toll 500
projects. Any revenue derived from toll projects shall be used 501
only for purposes of the toll project, including a toll project or 502
any aspect of a toll project pursuant to a public-private 503
agreement authorized by sections 5501.70 to 5501.83 of the Revised 504
Code, and shall not be expended for any purpose other than as 505
provided in Section 5a of Article XII, Ohio Constitution. The toll 506

projects authorized by sections 5531.11 to 5531.18 of the Revised Code are part of the state highway system.

(B) Any toll project shall be developed and submitted for selection in accordance with the policies and procedures of the ~~major new capacity~~ selection process of the transportation review advisory council, created under Chapter 5512. of the Revised Code. Each toll project may be separately designated, by name or number, and may be constructed, improved, or reconstructed as the department of transportation may from time to time determine pursuant to sections 5531.11 to 5531.18 of the Revised Code. A toll project shall be considered a state infrastructure project as defined in section 5531.10 of the Revised Code for all purposes of that section and section 5531.09 of the Revised Code and also is a transportation facility as defined in section 5501.01 of the Revised Code.

(C) Nothing in this chapter shall be construed to permit ~~tolls~~ user fees to be charged on existing nontoll public roads. This division does not apply to user fees charged for the use of a toll project that consists of the replacement, improvement, rehabilitation, operation, and maintenance of a bridge or system of bridges that carries an interstate freeway over the Ohio river to another state, and for the replacement, improvement, rehabilitation, operation, and maintenance of the roadways that provide ingress to and egress from such a bridge or system of bridges, generally following the route of that interstate freeway.

Sec. 5531.13. (A) The director of transportation may acquire or dispose of any public or private property or interests therein that the director determines to be necessary, convenient, or proper for the construction, improvement, repair, maintenance, administration, or operation of toll projects in the same manner as the director may acquire or dispose of such property for

transportation facilities or highway purposes, under sections 538
5501.311 to 5501.34 and 5501.45 and Chapter 5519. of the Revised 539
Code. 540

(B) The director may enter into any contracts the director 541
determines to be necessary, convenient, or proper for the 542
construction, improvement, repair, maintenance, administration, or 543
operation of toll projects in the manner provided in Chapter 5525. 544
of the Revised Code or pursuant to a public-private agreement 545
under sections 5501.70 to 5501.83 of the Revised Code. 546

(C) The director may enter into any professional contracts 547
the director determines to be necessary, convenient, or proper for 548
the construction, improvement, repair, maintenance, 549
administration, or operation of toll projects in the manner 550
provided in Chapter 5526. of the Revised Code or pursuant to a 551
public-private agreement under sections 5501.70 to 5501.83 of the 552
Revised Code. 553

(D) ~~Tolls~~ User fees and accounts within the Ohio toll fund 554
established in section 5531.14 of the Revised Code may be used for 555
the acquisition of property under division (A) of this section or 556
pursuant to contracts entered into under division (B) or (C) of 557
this section to the same extent permitted by section 5531.14 of 558
the Revised Code with respect to obligations. 559

Sec. 5531.14. (A) To the extent permitted by federal law, the 560
director of transportation may fix, revise, charge, and collect 561
~~tolls~~ user fees for each toll project, and contract with any 562
person or governmental agency desiring the use of any part 563
thereof, including the right-of-way adjoining the paved portion, 564
for placing thereon telephone, electric light, or power lines, 565
service facilities, or for any other purpose, and fix the terms, 566
conditions, rents, and rates of charge for such use; provided, 567

that no ~~toll~~ user fee, charge, or rental may be made for placing 568
in, on, along, over, or under the toll project, equipment or 569
public utility facilities that are necessary to serve service 570
facilities or to interconnect any public utility facilities. 571

A toll project operator shall display signs that identify the 572
applicable user fees, including fees for motor vehicles that do 573
not have an active, functioning electronic toll collection device 574
registered for and in use in the vehicle. The toll project 575
operator shall erect or otherwise display signs in advance of the 576
toll project at locations that are of distances that are 577
sufficient to notify motor vehicle operators of the opportunity to 578
exit the street or highway on which they are traveling before the 579
street or highway becomes, becomes part of, or otherwise leads to 580
the toll project and for the use of which user fees apply. 581

(B) In accordance with Chapter 119. of the Revised Code, the 582
director shall establish a plan, schedule, or system of ~~tolls~~ user 583
fees or charges and shall declare the purpose, amount, and 584
duration of the ~~tolls~~ user fees or charges. Any proposal to 585
implement a ~~toll~~ user fee or other charge under this section may 586
include a plan, schedule, or system of tolls or charges that is 587
subject to adjustment by the director within and in accordance 588
with that plan, schedule, or system. 589

~~(B) For any toll imposed under this section, the department 590
of transportation may use a system for toll collection that is 591
capable of charging an account holder the appropriate toll or 592
charge by transmission of information from an electronic device on 593
a motor vehicle to the toll lane, which information is used to 594
charge the account holder the appropriate toll or charge.~~ 595

~~(C) One or more tolls, or a portion of any toll, may be 596
pledged to the repayment of obligations in the bond proceedings 597
for those obligations and shall be a pledged receipt for those 598~~

~~obligations to the extent pledged in those bond proceedings.~~ 599

~~(D) Tells The director, in accordance with Chapter 119. of 600
the Revised Code, also may adopt such additional rules as the 601
director determines necessary for the establishment, collection, 602
and enforcement of user fees and administrative fees, including 603
the purpose, amount, and duration of the fees. 604~~

~~(C) One or more user fees, or a portion of any user fees, may 605
be pledged to the repayment of obligations in the bond proceedings 606
for those obligations and shall be a pledged receipt for those 607
obligations to the extent pledged in those bond proceedings. One 608
or more user fees, or a portion of any user fees, also may be 609
pledged to the repayment of obligations under any public-private 610
agreement or related financing as provided in sections 5501.70 to 611
5501.83 of the Revised Code. 612~~

~~(D) User fees shall be so fixed and adjusted by the director 613
as to provide funds at least sufficient with other revenues of the 614
Ohio transportation system, if any, to pay all of the following: 615~~

~~(1) Any ~~bond debt~~ service charges on obligations issued to 616
pay costs of one or more toll projects as such charges become due 617
and payable; 618~~

~~(2) Together with any other amounts available for such 619
purpose, any obligations under any public-private agreement 620
entered into in connection with a toll project as such amounts 621
become due and payable; 622~~

~~(3) The cost of maintaining, improving, repairing, 623
constructing, financing and operating toll projects within the 624
interstate system or the state highway system and its different 625
parts and sections, and to create and maintain any reserves for 626
those purposes. 627~~

~~(E) Except as provided in division (F) of this section, money 628
received from ~~tolls imposed under this section~~ user fees, other 629~~

than those received pursuant to a public-private agreement, which 630
shall be deposited in accordance with such agreement, shall be 631
deposited to the credit of the Ohio toll fund, which is hereby 632
created in the state treasury. The treasurer of state may 633
establish separate subaccounts within the Ohio toll fund as 634
determined to be necessary or convenient to pay costs of 635
constructing, improving, repairing, maintaining, administering, 636
and operating toll projects within the state highway system. Any 637
remaining money deposited into the Ohio toll fund shall be used at 638
the discretion of the director to support construction, 639
improvement, repair, maintenance, administration, and operation 640
costs for approved toll projects and highway projects within one 641
mile of a toll project. All investment earnings of the fund shall 642
be credited to the fund. 643

(F) The issuing authority ~~shall~~, by the fifteenth day of July 644
of each fiscal year, shall certify or cause to be certified to the 645
department of transportation and the office of budget and 646
management the total amount of money required during the current 647
fiscal year to meet in full all ~~bond~~ debt service charges and 648
otherwise comply with the requirements of any applicable bond 649
proceedings and all obligations under any public-private agreement 650
relating to a toll project as provided in sections 5501.70 to 651
5501.83 of the Revised Code. The issuing authority shall make or 652
cause to be made supplemental certifications to the department ~~of~~ 653
~~transportation~~ and the office of budget and management for each 654
bond service payment date and at such other times during each 655
fiscal year as may be provided in the applicable bond ~~proceedings~~ 656
proceeding or public-private agreement or required by that 657
department or office. Bond service charges, costs of credit 658
enhancement facilities, other financing costs, and any other 659
amounts required under the applicable bond proceedings and all 660
amounts required under any applicable public-private agreement 661
shall be set forth separately in each certification. Money 662

received from ~~tolls~~ user fees and other pledged receipts shall be 663
deposited to the credit of the bond service fund at such times and 664
in such amounts as are necessary to satisfy all those payment 665
requirements of the applicable bond proceedings. When all or to 666
the credit of any fund established for such purpose under any 667
public-private agreement. At such time that bond service charges 668
on all outstanding bonds issued in connection with any toll 669
project and the interest on the bonds have been paid, or a 670
sufficient amount for the payment of all such bonds and the 671
interest on the bonds to the maturity of the bonds has been set 672
aside in trust for the benefit of the bondholders, as provided in 673
the applicable bond proceedings, and at such time as all amounts 674
due and to become due pursuant to a public-private agreement, 675
which are payable from user fees, have been paid, the project 676
shall be operated, improved, and maintained by the department of 677
transportation as a part of the state highway system and shall be 678
free of ~~tolls~~ user fees. 679

Sec. 5531.141. (A) The department of transportation may 680
collect a user fee by utilizing a system of collection that is 681
capable of charging an account holder the appropriate user fee by 682
transmission of information from an electronic toll collection 683
device on a motor vehicle. In addition, for any motor vehicle that 684
does not use an electronic toll collection device, the department 685
may utilize an electronic-monitoring system for user fee 686
collection. 687

(B)(1) If a motor vehicle uses a toll project and the user 688
fee is not paid through an electronic toll collection device or 689
otherwise, the toll project operator first shall use the 690
electronic-monitoring system for the toll project to determine if 691
the registered owner of the motor vehicle has established an 692
account for the payment of the user fee. If such an account has 693
been established, the toll project operator shall charge the 694

account holder the appropriate user fee. If the toll project 695
operator cannot locate an established account, or if the toll 696
project operator locates an established account but the account 697
cannot be charged the appropriate user fee, the toll project 698
operator may send by regular first class mail an invoice for the 699
unpaid user fee. The toll project operator shall include with the 700
invoice the information described in section 5531.143 of the 701
Revised Code. The toll project operator shall send the invoice to 702
the registered owner of the motor vehicle as shown in the records 703
of either of the following: 704

(a) The bureau of motor vehicles; 705

(b) The department, division, bureau, office, or other unit 706
of government of any other state or jurisdiction that is 707
functionally equivalent to the bureau of motor vehicles. 708

(2) With respect to any user fee and any associated 709
administrative fee, the toll project operator, in the toll project 710
operator's sole discretion, may determine not to pursue collection 711
of that user fee or administrative fee or to terminate collection 712
measures in relation to that user fee or administrative fee. 713

Sec. 5531.142. (A) A person or entity that receives an 714
invoice under section 5531.141 of the Revised Code or a late 715
notice under division (C) of this section shall do one of the 716
following: 717

(1) Pay the user fee and any administrative fee set forth in 718
the invoice or late notice directly to the toll project operator 719
within thirty-five days after the date of mailing of the invoice 720
or late notice; 721

(2) File with the toll project operator a notice to contest 722
liability for the unpaid user fee within thirty-five days after 723
the date of the mailing of the invoice or late notice by utilizing 724

the form provided with the invoice or late notice under section 725
5531.143 of the Revised Code; 726

(3) If the registered owner is a motor vehicle leasing dealer 727
or a motor vehicle renting dealer, notify the toll project 728
operator within thirty-five days after the date of mailing of the 729
invoice or late notice of the name and address of the person who 730
was the lessee or renter of the motor vehicle at the time the user 731
fee was incurred. A motor vehicle leasing dealer or a motor 732
vehicle renting dealer that receives an invoice or late notice 733
shall not pay a user fee or any administrative fee and 734
subsequently attempt to collect a fee or assess the lessee or 735
renter a charge in excess of the amount actually paid on behalf of 736
the lessee or renter. 737

(B) Upon receipt of the name and address of the lessee or 738
renter of a motor vehicle provided by a motor vehicle leasing 739
dealer or motor vehicle renting dealer under division (A)(3) of 740
this section, the toll project operator shall send an invoice to 741
the lessee or renter of the motor vehicle as described in section 742
5531.141 of the Revised Code. The toll project operator shall send 743
all subsequent late notices for the unpaid user fees to the lessee 744
or renter, and the motor vehicle renting or leasing dealer has no 745
further liability for unpaid user fees or administrative fees 746
under this chapter. 747

(C) If a registered owner fails to pay or contest an invoice 748
within thirty-five days after the date of mailing of the invoice, 749
the toll project operator may send to the registered owner by 750
regular first class mail a late notice containing the information 751
described in section 5531.143 of the Revised Code. The toll 752
project operator may charge an administrative fee for each late 753
notice, the purpose of which is to enable the toll project 754
operator to recover the expenses of collecting the unpaid user 755
fee. The director of transportation shall establish the amount of 756

the administrative fee by rule. 757

Sec. 5531.143. A toll project operator shall include with 758
each invoice and late notice all of the following: 759

(A) The registered owner's name and current known address; 760

(B) Descriptions and amounts of all user fees and 761
administrative fees assessed; 762

(C) A request for payment within thirty-five days after the 763
date of mailing of such invoice or late notice; 764

(D) A warning of the potential consequences for failing to 765
pay the total amount due as indicated in such invoice or late 766
notice, including additional fees and penalties, potential court 767
summons, and inability to renew motor vehicle registrations; 768

(E) Information for disputing the invoice or late notice and 769
a form that a person may use to file a notice to contest liability 770
for a user fee or administrative fee; 771

(F) Contact information for the customer service center for 772
the applicable toll project; and 773

(G) Information about obtaining an electronic toll collection 774
device and establishing an electronic toll collection account. 775

Sec. 5531.144. (A) The registered owner of a motor vehicle 776
that utilizes a toll project is liable for payment of the 777
applicable user fee. 778

(B)(1) If the registered owner, in response to an invoice 779
mailed to the registered owner under section 5531.141 of the 780
Revised Code or a late notice mailed under section 5531.142 of the 781
Revised Code, submits a notice to contest liability for the user 782
fee or any administrative fee, the toll project operator shall 783
schedule a hearing at which the registered owner may contest 784
liability for the user fee or administrative fee. The toll project 785

operator shall send written notice by regular first class mail to 786
the registered owner listing the time and date of the hearing. A 787
hearing officer of the toll project operator shall preside over 788
the hearing and shall hold the hearing not later than thirty-five 789
days after the date of mailing of the hearing notice. The hearing 790
officer shall conduct the hearing at a location within the county 791
in which the toll project is located. The registered owner may 792
present evidence at the hearing as to the reasons why the 793
registered owner is not liable for payment of the user fee or 794
administrative fee. 795

At the hearing, the hearing officer shall determine if the 796
registered owner is liable for the payment of any user fee or 797
administrative fee. 798

(2) Upon a finding by the hearing officer that the registered 799
owner is not liable for payment of the user fee or administrative 800
fee, the hearing officer shall enter that finding into the records 801
of the toll project operator and cancel the invoice. 802

(3) If the hearing officer finds that the registered owner is 803
liable for payment of the user fee or any administrative fee, the 804
hearing officer shall enter that finding into the records of the 805
toll project operator. If payment in full is not made upon 806
completion of the hearing, the hearing officer shall notify the 807
registrar of motor vehicles of the hearing officer's decision that 808
the registered owner is liable for payment of the user fee or any 809
administrative fee. The hearing officer also shall include with 810
the notification to the registrar a motor vehicle certificate of 811
registration issuance prevention order. The hearing officer shall 812
give the registered owner a copy of the order. The order remains 813
in effect until the toll project operator notifies the registrar 814
that all unpaid user fees and administrative fees have been paid 815
in full. 816

If the hearing officer finds that the registered owner is 817

liable for payment of the user fee or any administrative fee and 818
the registered owner resides in another state, the hearing officer 819
shall send notice of the hearing officer's decision to the 820
department, division, bureau, office, or other unit of government 821
that is functionally equivalent to the bureau of motor vehicles. 822
The hearing officer shall include with the notice the registration 823
prevention order, which shall have the same effect in another 824
state or jurisdiction as in this state. 825

(4) If the registered owner does not pay all unpaid user fees 826
and administrative fees within thirty-five days after the date of 827
the hearing officer's decision that the registered owner is liable 828
for payment of such fees, and the registered owner does not file 829
an appeal described in division (C) of this section within that 830
same thirty-five-day time period, the toll project operator may 831
file a civil suit against the registered owner in the municipal 832
court or county court having jurisdiction over the location of the 833
toll project as provided in section 5531.146 of the Revised Code. 834

(C)(1) The registered owner may appeal an adverse finding by 835
the hearing officer to the municipal court or county court having 836
jurisdiction over the location of the toll project within 837
thirty-five days after the date of the hearing officer's decision 838
that the registered owner is liable for payment of such fees. If 839
the registered owner fails to file an appeal with the municipal 840
court or county court within that time period, the registered 841
owner is considered to have waived the registered owner's right to 842
appeal the decision of the hearing officer. After that time period 843
has expired, the toll project operator may file a civil suit 844
against the registered owner in the municipal court or county 845
court having jurisdiction over the location of the toll project as 846
provided in section 5531.146 of the Revised Code. 847

Upon the filing of a timely appeal by the registered owner, 848
the clerk of the municipal court or county court shall notify the 849

registrar of the filing of the appeal by the registered owner. The 850
motor vehicle certificate of registration issuance prevention 851
order is automatically stayed pending the results of the appeal in 852
the municipal court or county court. 853

(2) At the appeal hearing, the municipal court or county 854
court shall determine whether the registered owner is liable for 855
the payment of any user fee or administrative fee. If the court 856
finds that the registered owner is not liable for payment of the 857
user fee or administrative fee, the court shall issue a ruling to 858
that effect and cancel the invoice. The toll project operator 859
immediately shall inform the registrar of the ruling and shall 860
direct the registrar to cancel the motor vehicle certificate of 861
registration issuance prevention order issued under division 862
(B)(3) of this section. 863

If the court finds that the registered owner is liable for 864
payment of the user fee or any administrative fee, the court shall 865
issue a ruling to that effect. If the court issues such a ruling 866
and payment in full is not made to the toll project operator upon 867
completion of the appeal hearing, the toll project operator shall 868
inform the registrar of motor vehicles of the ruling and the 869
failure by the registered owner to make payment in full. In that 870
circumstance, the stay of the motor vehicle certificate of 871
registration issuance prevention order described in division 872
(C)(1) of this section terminates and the order becomes effective. 873
In addition, if the registered owner fails to pay in full the user 874
fee and any administrative fee within thirty-five days after the 875
date the court issues the ruling, the toll project operator may 876
file a civil suit against the registered owner in the municipal 877
court or county court having jurisdiction over the location of the 878
toll project as provided in section 5531.146 of the Revised Code. 879

If, upon completion of the appeal hearing, the registered 880
owner makes payment in full to the toll project operator of all 881

user fees and administrative fees that the court ruled the 882
registered owner was liable for payment, the toll project operator 883
shall inform the registrar of motor vehicles of the ruling and the 884
payment in full by the registered owner and direct the registrar 885
to cancel the motor vehicle certificate of registration issuance 886
prevention order. 887

(D) If the registered owner fails to pay an invoice and any 888
administrative fee and fails to submit a notice to contest 889
liability for any of those fees within thirty-five days after the 890
date of mailing of the invoice, the toll project operator may send 891
a late notice to the registered owner as provided in division (C) 892
of section 5531.142 of the Revised Code. If, in response to the 893
late notice, the registered owner submits a notice to contest 894
liability for the user fee and any administrative fee within 895
thirty-five days after the date of mailing of the late notice, the 896
toll project operator shall schedule and hold a hearing as 897
described in division (B)(1) of this section. Divisions (B)(2), 898
(3), and (4) and (C)(1) and (2) of this section apply to such a 899
hearing. 900

Sec. 5531.145. (A) If the toll project operator sends a late 901
notice to the registered owner and the registered owner, within 902
thirty-five days after the date of mailing of the late notice, 903
fails to pay the user fee and any administrative fee contained in 904
the late notice and fails to submit a notice to contest liability 905
for any of those fees, the toll project operator may do either of 906
the following: 907

(1) Issue a motor vehicle certificate of registration 908
issuance prevention order to the registrar of motor vehicles and 909
send a copy of the order to the registered owner. If the 910
registered owner resides in another state or jurisdiction, the 911
toll project operator shall send the order to the department, 912

division, bureau, office, or other unit of government that is 913
functionally equivalent to the bureau of motor vehicles. The order 914
shall have the same effect in another state or jurisdiction as in 915
this state. 916

(2) File a civil suit against the registered owner in the 917
municipal court or county court having jurisdiction over the 918
location of the toll project as provided in section 5531.146 of 919
the Revised Code. 920

(B) If the toll project operator sends a motor vehicle 921
certificate of registration issuance prevention order to the 922
registrar under division (A)(1) of this section, the registered 923
owner may file a request for a hearing in the municipal court or 924
county having jurisdiction over the location of the toll project 925
within thirty-five days after the date the toll project operator 926
sends the order to the registrar. The order shall remain in effect 927
pending the results of the hearing in the municipal court or 928
county court. If the registered owner fails to file an appeal with 929
the municipal court or county court within that thirty-five-day 930
period, the registered owner is considered to have waived the 931
registered owner's right to appeal the issuance of the motor 932
vehicle certificate of registration issuance prevention order. The 933
toll project operator may file a civil suit against the registered 934
owner in the municipal court or county court having jurisdiction 935
over the location of the toll project as provided in section 936
5531.146 of the Revised Code. 937

(C)(1) If an appeal hearing is requested under division (B) 938
of this section, the municipal court or county court shall 939
determine whether the registered owner is liable for the payment 940
of any user fee or administrative fee and whether the issuance by 941
the toll project operator of the motor vehicle certificate of 942
registration issuance prevention order was valid. If the court 943
finds that the registered owner is not liable for payment of the 944

user fee or administrative fee, the court shall issue a ruling to 945
that effect and dismiss the late notice. The toll project operator 946
immediately shall inform the registrar of the ruling and shall 947
direct the registrar to cancel the motor vehicle certificate of 948
registration issuance prevention order issued under division 949
(A)(1) of this section. 950

(2) If the court finds that the registered owner is liable 951
for payment of the user fee or any administrative fee and that the 952
issuance by the toll project operator of the motor vehicle 953
certificate of registration issuance prevention order was valid, 954
the court shall issue a ruling to that effect. If the court issues 955
such a ruling and payment in full is not made to the toll project 956
operator upon completion of the appeal hearing, the toll project 957
operator shall inform the registrar of motor vehicles of the 958
ruling and the failure by the registered owner to make payment in 959
full, and the motor vehicle certificate of registration issuance 960
prevention order issued under division (A)(1) of this section 961
remains in effect. 962

(3) If the court finds that the registered owner is liable 963
for payment of the user fee or any administrative fee but the 964
issuance by the toll project operator of the motor vehicle 965
certificate of registration issuance prevention order was not 966
valid, the court shall issue a ruling to that effect. If the court 967
issues such a ruling, the toll project operator shall inform the 968
registrar of the ruling and direct the registrar to cancel the 969
motor vehicle certificate of registration issuance prevention 970
order. The registered owner remains liable for payment of the user 971
fee or any administrative fee. The toll project operator may 972
reissue the motor vehicle certificate of registration issuance 973
prevention order. If the toll project operator reissues the order, 974
the registered owner may appeal the order as provided in division 975
(B) of this section. 976

(4) If, upon completion of the appeal hearing, the registered owner pays in full to the toll project operator all user fees and administrative fees for which the court ruled the registered owner was liable, the toll project operator shall inform the registrar of the ruling and the payment in full by the registered owner. The toll project operator also shall direct the registrar to cancel the motor vehicle certificate of registration issuance prevention order. 977
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(5) If the court rules under division (C)(2) or (3) of this section that the registered owner is liable for payment of the user fee or any administrative fee, and the registered owner does not pay all such fees within thirty-five days after the court issues the ruling, the toll project operator may file a civil suit against the registered owner in the municipal court or county court having jurisdiction over the location of the toll project as provided in section 5531.146 of the Revised Code. 985
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(D) At any time after a toll project operator issues an order under division (A)(1) of this section, the registered owner may pay all user fees and administrative fees owed to the toll project operator. If such payment is made, the toll project operator shall inform the registrar of the payment and shall direct the registrar to cancel the motor vehicle certificate of registration prevention order. 993
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Sec. 5531.146. (A)(1) As provided in sections 5531.144 and 5531.145 of the Revised Code, a toll project operator may file a civil suit against a registered owner in the municipal court or county court having jurisdiction over the location of the toll project. The toll project operator also shall file all related documentation and information described in section 5531.143 of the Revised Code with the clerk of the municipal court or county court. 1000
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Except as otherwise provided in division (A)(2) of this section, the toll project operator shall not file such a suit earlier than thirty-five days after the date of mailing of a late notice to the registered owner. 1008
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(2) In a circumstance in which a registered owner is liable for multiple user fees and any associated administrative fees involving one or more motor vehicles, the toll project operator may file a civil suit addressing all such user fees and administrative fees; provided, no such suit shall include fees incurred more than one hundred twenty-five days prior to the date of filing of such suit. 1012
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(3) The clerk of the municipal court or county court shall execute a summons regarding a suit filed under division (A)(1) of this section by sending a copy of the summons in accordance with the rules of civil procedure to the address of the registered owner of the vehicle as shown in the records of the bureau of motor vehicles, as identified and provided by a motor vehicle leasing dealer or motor vehicle renting dealer, or as shown in the records of the department, division, bureau, office, or other unit of government of any other state or jurisdiction that is functionally equivalent to the bureau of motor vehicles. The issuance of such a summons constitutes sufficient notice to the registered owner. 1019
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The summons shall compel the appearance of the registered owner to appear in the municipal court or county court, and shall include notice of the time and place of the trial as well as the potential civil penalty and costs for such violation. The summons also shall include a statement that the registered owner's motor vehicle utilized a toll project and therefore the registered owner incurred liability for payment of the applicable user fee as provided in division (A) of section 5531.144 of the Revised Code and also shall list the Revised Code citation for that section. 1031
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The summons constitutes sufficient notice to the registered owner 1040
that the vehicle was used on a toll project and, as a result, the 1041
registered owner is liable for payment of the user fee. 1042

(B) Proof that a motor vehicle utilized a toll project and 1043
therefore the registered owner of the motor vehicle is liable for 1044
payment of the applicable user fee shall be evidenced by either or 1045
both of the following: 1046

(1) Information and documentation obtained from an 1047
electronic-monitoring system or electronic toll collection system; 1048

(2) A certificate confirming the identification of the 1049
vehicle issued by a toll project operator that is based on an 1050
inspection of photographs, microphotographs, videotapes, other 1051
recorded images or identifying data produced by an 1052
electronic-monitoring system, or through electronic data collected 1053
by an electronic toll collection system. 1054

The certificate and the documentation attached thereto are 1055
prima facie evidence of the facts contained therein. The court 1056
shall ensure that the certificate and any photographs, 1057
microphotographs, videotapes, or other recorded images or 1058
electronic data evidencing liability for payment of the applicable 1059
user fee are available for inspection in any proceeding to 1060
adjudicate the liability for payment of the user fee. 1061

(C)(1) A registered owner is not liable for a user fee and it 1062
is a complete defense to a cause of action asserting such 1063
liability if within thirty-five days after the mailing of the 1064
invoice, late notice, or a summons, the registered owner of the 1065
motor vehicle produces for the toll project operator or the court 1066
a certified copy of a report of a law enforcement agency showing 1067
both of the following: 1068

(a) The motor vehicle had been reported stolen prior to the 1069
time that the motor vehicle utilized the toll project. 1070

(b) The motor vehicle had remained stolen at the time of the 1071
alleged violation. 1072

(2) The court shall dismiss the case against a registered 1073
owner when divisions (C)(1)(a) and (b) apply. 1074

(D) The toll project operator may offer to the registered 1075
owner the option to pay the unpaid user fee and any administrative 1076
fee, as specified in the summons, plus a reduced civil penalty, 1077
provided that the registered owner actually pays to the toll 1078
project operator the entire amount so calculated not less than 1079
fourteen days prior to the scheduled trial date. The toll project 1080
operator shall establish a schedule for reduced civil penalties 1081
that are offered to registered owners pursuant to this division, 1082
and the toll project operator shall adhere to the schedule when 1083
making such offers. The toll project operator may revise the 1084
schedule from time to time as the toll project operator determines 1085
necessary. 1086

If the registered owner accepts the offer and the toll 1087
project operator receives the entire amount not less than fourteen 1088
days prior to the scheduled trial date, the toll project operator 1089
shall move the court, not less than five business days prior to 1090
the trial date, to dismiss the summons issued to the registered 1091
owner. Upon such a motion, the court shall dismiss the summons and 1092
dismiss the case. 1093

(E)(1) Upon a finding by the municipal court or county court 1094
that the registered owner is liable for payment of the user fee as 1095
provided in division (A) of section 5531.144 of the Revised Code, 1096
the court shall order the registered owner to pay all applicable 1097
court costs, user fees due, and administrative fees. The court 1098
also shall impose a civil penalty upon the registered owner, as 1099
follows: 1100

(a) For a first instance, as shown in the records of the toll 1101

project operator, in which the registered owner was liable for 1102
payment of a user fee and the registered owner did not pay the 1103
user fee and did not submit a timely notice to contest the user 1104
fee and the toll project operator sent both an invoice and a late 1105
notice to the registered owner, seventy-five dollars; 1106

(b) For a second instance as described in division (E)(1)(a) 1107
of this section within one year of a first such instance, one 1108
hundred fifty dollars; 1109

(c) For a third instance as described in division (E)(1)(a) 1110
of this section within two years of a second such instance, two 1111
hundred fifty dollars; 1112

(d) For a fourth or subsequent instance as described in 1113
division (E)(1)(a) of this section within three years of a third 1114
such instance, five hundred dollars. 1115

(2) The clerk of the municipal court or county court shall 1116
pay all user fees, administrative fees, and penalties the court 1117
assesses and collects under this section to the department of 1118
transportation for deposit into the state treasury to the credit 1119
of the highway operating fund or for payment by the department in 1120
accordance with a public-private agreement pursuant to sections 1121
5501.70 to 5501.83 of the Revised Code. 1122

(F)(1) Upon a finding by a court that the registered owner is 1123
liable for payment of a user fee as provided in division (A) of 1124
section 5531.144 of the Revised Code, the court shall issue a 1125
motor vehicle certificate of registration issuance prevention 1126
order. The order shall remain in effect until the court has 1127
notified the registrar that all unpaid user fees, administrative 1128
fees, and civil penalties have been paid in full and the court has 1129
issued a new order rescinding its previous order. The registrar 1130
and all deputy registrars shall comply with the order. 1131

(2) If the registered owner resides in another state or 1132

jurisdiction, the court shall issue a motor vehicle certificate of 1133
registration issuance prevention order and send a copy of the 1134
order to the department, division, bureau, office, or other unit 1135
of government of another state or jurisdiction that is 1136
functionally equivalent to the bureau of motor vehicles for 1137
enforcement in that other state or jurisdiction. The order shall 1138
have the same effect in another state or jurisdiction as in this 1139
state. 1140

(G)(1) A civil penalty imposed pursuant to this section shall 1141
not be made part of the driving record of the person upon whom 1142
such civil penalty is imposed, nor shall it be considered in any 1143
manner for insurance purposes in the provision of motor vehicle 1144
insurance coverage. 1145

(2) No person shall be subject to both this section and to 1146
criminal prosecution under any provision of the Revised Code or 1147
any rule adopted thereunder for nonpayment of user fees or related 1148
administrative fees. 1149

Sec. 5531.147. A toll project operator shall not initiate 1150
collection procedures that are regulated by federal law against a 1151
registered owner in any of the following circumstances: 1152

(A) During the thirty-five-day period after the date of 1153
mailing of an invoice or a late notice to the registered owner; 1154

(B) The registered owner has timely submitted a notice to 1155
contest liability for a user fee or any administrative fee to the 1156
toll project operator. The toll project operator may initiate 1157
collection procedures that are regulated by federal law against 1158
such a registered owner if, at the hearing conducted by the 1159
hearing officer described in section 5533.144 of the Revised Code, 1160
the hearing officer finds that the registered owner is liable for 1161
payment of the user fee or administrative fee at issue and the 1162
registered owner does not pay the fee at issue in full within 1163

thirty-five days after the hearing officer makes the finding. 1164

(C) The registered owner has filed a request for an appeal 1165
hearing with the municipal court or county court having 1166
jurisdiction over the location of the toll project. The toll 1167
project operator may initiate collection procedures that are 1168
regulated by federal law against such a registered owner if, at 1169
the appeal hearing conducted by the municipal court or county 1170
court described in section 5533.144 of the Revised Code, the court 1171
finds that the registered owner is liable for payment of the user 1172
fee or administrative fee at issue and the registered owner does 1173
not pay the fee at issue in full within thirty-five days after the 1174
court issues a ruling to that effect. 1175

(D) The toll project operator has filed a civil suit against 1176
the registered owner in the municipal court or county court having 1177
jurisdiction over the location of the toll project. 1178

Sec. 5531.148. (A) A toll project operator may enter into an 1179
agreement with the bureau of motor vehicles and the department, 1180
division, bureau, office, or other unit of government of any other 1181
state or jurisdiction that is functionally equivalent to the 1182
bureau of motor vehicles to obtain motor vehicle owner and 1183
registration information that is necessary to conduct electronic 1184
toll collection and electronic monitoring. 1185

(B)(1) A toll project operator shall ensure that information 1186
collected by an electronic toll collection device, an 1187
electronic-monitoring system in conjunction with an electronic 1188
toll collection system, or under division (A) of this section is 1189
limited solely to that information that is necessary for the 1190
collection of unpaid user fees and administrative fees; necessary 1191
to establish liability of the registered owner of a motor vehicle 1192
for payment of a user fee as provided in division (A) of section 1193
5531.144 of the Revised Code; or necessary in any proceeding to 1194

establish or confirm such liability. 1195

(2) A toll project operator shall ensure that all images or other data collected by an electronic toll collection device, an electronic-monitoring system, or under division (A) of this section are: 1196
1197
1198
1199

(a) Maintained in a protected database with security that is at least comparable to the security used for databases operated by the department of transportation; 1200
1201
1202

(b) Used solely for the collection of unpaid user fees and administrative fees. 1203
1204

(3) All of the following apply to the images and other data described in division (B)(2) of this section: 1205
1206

(a) The images and other data are not public records under section 149.43 of the Revised Code. 1207
1208

(b) A toll project operator or any other person shall not sell or use the images and data for sales, solicitation, or marketing purposes. Division (B)(3)(b) of this section does not prohibit the department of transportation or the toll project operator from using the images and data to facilitate collection or payment of user fees and administrative fees. 1209
1210
1211
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(c) A toll project operator or any other person shall not disclose the images and data to any other entity except to a registered owner who contests liability for and challenges the imposition of a user fee or administrative fee; or except as may be necessary for the collection of unpaid user fees or administrative fees. 1215
1216
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(d) The images and data shall not be used in any court in a pending action or proceeding except upon an order from a court of competent jurisdiction or unless the action or proceeding relates to the liability of the registered owner of a motor vehicle for 1221
1222
1223
1224

payment of a user fee as provided in division (A) of section 1225
5531.144 of the Revised Code. 1226

(4)(a) Except as otherwise provided in this section, a toll 1227
project operator shall not retain any images or other data 1228
collected by an electronic toll collection device, an 1229
electronic-monitoring system, or under division (A) of this 1230
section and shall purge, write over, or otherwise eliminate, from 1231
existence the images or other data not later than one hundred 1232
eighty days after the collection of any unpaid user fees or 1233
administrative fees. Upon request from the director of 1234
transportation, any entity operating an electronic toll collection 1235
system or electronic-monitoring system in conjunction with an 1236
electronic toll collection system shall certify compliance with 1237
this section and, upon request, shall make all records pertaining 1238
to such system available for inspection and audit by the director 1239
or the director's designee. 1240

(b) No entity operating an electronic toll collection system 1241
or electronic-monitoring system in conjunction with an electronic 1242
toll collection system shall fail to certify compliance with this 1243
section or fail, upon request, to make all records pertaining to 1244
such system available for inspection and audit by the director or 1245
the director's designee. 1246

(5) Whoever violates division (B)(4)(b) of this section is 1247
guilty of a minor misdemeanor on a first offense and a misdemeanor 1248
of the fourth degree on each subsequent offense. 1249

Sec. 5531.149. The director of transportation may enter into 1250
an agreement with the department, division, bureau, office, or 1251
other unit of government of any other state or jurisdiction that 1252
is functionally equivalent to the department of transportation or 1253
the bureau of motor vehicles for the purpose of enforcing sections 1254
5531.11 to 5531.18 of the Revised Code with respect to the 1255

registered owner of a motor vehicle that is titled or registered 1256
in such other state or jurisdiction and utilizes a toll project. 1257
The agreement may provide for the denial in such other state or 1258
jurisdiction of the issuance of a new or renewal motor vehicle 1259
certificate of registration in the name of that person and the 1260
denial of any motor vehicle certificate of registration for the 1261
motor vehicle that utilized a toll project for which the required 1262
user fee or associated administrative fee was not paid by the 1263
registered owner. 1264

Sec. 5531.15. (A) The director of transportation, in 1265
accordance with Chapter 119. of the Revised Code, may adopt such 1266
rules as the director considers advisable for the control and 1267
regulation of traffic on any toll project, for the protection and 1268
preservation of property under the jurisdiction and control of the 1269
department of transportation, for the maintenance and preservation 1270
of good order within the property under its control, and for the 1271
purpose of establishing owner or operator liability for failure to 1272
comply with toll collection rules. 1273

(B) The rules shall provide that ~~public police officers~~ all 1274
of the following persons shall be afforded ready access, while in 1275
the performance of their official duties, to all property under 1276
the jurisdiction of the department of transportation and without 1277
the payment of ~~tolls~~ any user fee: 1278

(1) Public police officers; 1279

(2) Operators of municipal, township, county, and state 1280
maintenance vehicles; 1281

(3) Operators of United States military vehicles traveling in 1282
a convoy; 1283

(4) Operators of official emergency response vehicles. 1284

(C) No person shall violate any such rules of the department 1285

of transportation. 1286

(D)(1) All fines collected for the violation of applicable 1287
laws of the state and the rules of the department of 1288
transportation or money arising from bonds forfeited for such 1289
violation shall be disposed of in accordance with section 5503.04 1290
of the Revised Code. 1291

(2) All fees or charges assessed by the department of 1292
transportation in accordance with this section against an owner or 1293
operator of a vehicle as a civil violation for failure to comply 1294
with toll collection rules shall be revenues of the department. 1295

Sec. 5531.16. (A) Each toll project shall be maintained and 1296
kept in good condition and repair by the department of 1297
transportation or in accordance with the terms of a public-private 1298
agreement pursuant to sections 5501.70 to 5501.83 of the Revised 1299
Code. Toll projects shall be operated by toll collectors and other 1300
employees and agents that the department employs or contracts for. 1301
Toll projects shall be policed by the state highway patrol in 1302
accordance with section 5503.02 of the Revised Code; provided, 1303
that the state highway patrol also shall enforce all rules of the 1304
department adopted under division (A) of section 5531.15 of the 1305
Revised Code that relate to the operation and use of vehicles on a 1306
toll project and that are punishable under division (A) of section 1307
5531.99 of the Revised Code. 1308

(B) An action for damages against the state for any public or 1309
private property damaged or destroyed in carrying out the powers 1310
granted by sections 5531.11 to 5531.18 of the Revised Code shall 1311
be filed in the court of claims pursuant to Chapter 2743. of the 1312
Revised Code. 1313

(C) All governmental agencies may lease, lend, grant, or 1314
convey to the department of transportation at its request, upon 1315
terms that the proper authorities of the governmental agencies 1316

consider reasonable and fair and without the necessity for an 1317
advertisement, order of court, or other action or formality, other 1318
than the regular and formal action of the authorities concerned, 1319
any property that is necessary or convenient to the effectuation 1320
of the purposes of sections 5531.11 to 5531.18 of the Revised 1321
Code, including public roads and other property already devoted to 1322
public use. 1323

(D) Each bridge constituting part of a toll project shall be 1324
considered a bridge on the state highway system for purposes of 1325
sections 5501.47 and 5501.49 of the Revised Code. 1326

(E) In accordance with Chapter 5501. of the Revised Code, the 1327
department of transportation shall make an annual report of its 1328
toll project activities for the preceding calendar year to the 1329
governor and the general assembly. 1330

Sec. 5739.02. For the purpose of providing revenue with which 1331
to meet the needs of the state, for the use of the general revenue 1332
fund of the state, for the purpose of securing a thorough and 1333
efficient system of common schools throughout the state, for the 1334
purpose of affording revenues, in addition to those from general 1335
property taxes, permitted under constitutional limitations, and 1336
from other sources, for the support of local governmental 1337
functions, and for the purpose of reimbursing the state for the 1338
expense of administering this chapter, an excise tax is hereby 1339
levied on each retail sale made in this state. 1340

(A)(1) The tax shall be collected as provided in section 1341
5739.025 of the Revised Code. The rate of the tax shall be five 1342
and three-fourths per cent. The tax applies and is collectible 1343
when the sale is made, regardless of the time when the price is 1344
paid or delivered. 1345

(2) In the case of the lease or rental, with a fixed term of 1346
more than thirty days or an indefinite term with a minimum period 1347

of more than thirty days, of any motor vehicles designed by the 1348
manufacturer to carry a load of not more than one ton, watercraft, 1349
outboard motor, or aircraft, or of any tangible personal property, 1350
other than motor vehicles designed by the manufacturer to carry a 1351
load of more than one ton, to be used by the lessee or renter 1352
primarily for business purposes, the tax shall be collected by the 1353
vendor at the time the lease or rental is consummated and shall be 1354
calculated by the vendor on the basis of the total amount to be 1355
paid by the lessee or renter under the lease agreement. If the 1356
total amount of the consideration for the lease or rental includes 1357
amounts that are not calculated at the time the lease or rental is 1358
executed, the tax shall be calculated and collected by the vendor 1359
at the time such amounts are billed to the lessee or renter. In 1360
the case of an open-end lease or rental, the tax shall be 1361
calculated by the vendor on the basis of the total amount to be 1362
paid during the initial fixed term of the lease or rental, and for 1363
each subsequent renewal period as it comes due. As used in this 1364
division, "motor vehicle" has the same meaning as in section 1365
4501.01 of the Revised Code, and "watercraft" includes an outdrive 1366
unit attached to the watercraft. 1367

A lease with a renewal clause and a termination penalty or 1368
similar provision that applies if the renewal clause is not 1369
exercised is presumed to be a sham transaction. In such a case, 1370
the tax shall be calculated and paid on the basis of the entire 1371
length of the lease period, including any renewal periods, until 1372
the termination penalty or similar provision no longer applies. 1373
The taxpayer shall bear the burden, by a preponderance of the 1374
evidence, that the transaction or series of transactions is not a 1375
sham transaction. 1376

(3) Except as provided in division (A)(2) of this section, in 1377
the case of a sale, the price of which consists in whole or in 1378
part of the lease or rental of tangible personal property, the tax 1379

shall be measured by the installments of that lease or rental. 1380

(4) In the case of a sale of a physical fitness facility 1381
service or recreation and sports club service, the price of which 1382
consists in whole or in part of a membership for the receipt of 1383
the benefit of the service, the tax applicable to the sale shall 1384
be measured by the installments thereof. 1385

(B) The tax does not apply to the following: 1386

(1) Sales to the state or any of its political subdivisions, 1387
or to any other state or its political subdivisions if the laws of 1388
that state exempt from taxation sales made to this state and its 1389
political subdivisions; 1390

(2) Sales of food for human consumption off the premises 1391
where sold; 1392

(3) Sales of food sold to students only in a cafeteria, 1393
dormitory, fraternity, or sorority maintained in a private, 1394
public, or parochial school, college, or university; 1395

(4) Sales of newspapers and sales or transfers of magazines 1396
distributed as controlled circulation publications; 1397

(5) The furnishing, preparing, or serving of meals without 1398
charge by an employer to an employee provided the employer records 1399
the meals as part compensation for services performed or work 1400
done; 1401

(6) Sales of motor fuel upon receipt, use, distribution, or 1402
sale of which in this state a tax is imposed by the law of this 1403
state, but this exemption shall not apply to the sale of motor 1404
fuel on which a refund of the tax is allowable under division (A) 1405
of section 5735.14 of the Revised Code; and the tax commissioner 1406
may deduct the amount of tax levied by this section applicable to 1407
the price of motor fuel when granting a refund of motor fuel tax 1408
pursuant to division (A) of section 5735.14 of the Revised Code 1409

and shall cause the amount deducted to be paid into the general 1410
revenue fund of this state; 1411

(7) Sales of natural gas by a natural gas company, of water 1412
by a water-works company, or of steam by a heating company, if in 1413
each case the thing sold is delivered to consumers through pipes 1414
or conduits, and all sales of communications services by a 1415
telegraph company, all terms as defined in section 5727.01 of the 1416
Revised Code, and sales of electricity delivered through wires; 1417

(8) Casual sales by a person, or auctioneer employed directly 1418
by the person to conduct such sales, except as to such sales of 1419
motor vehicles, watercraft or outboard motors required to be 1420
titled under section 1548.06 of the Revised Code, watercraft 1421
documented with the United States coast guard, snowmobiles, and 1422
all-purpose vehicles as defined in section 4519.01 of the Revised 1423
Code; 1424

(9)(a) Sales of services or tangible personal property, other 1425
than motor vehicles, mobile homes, and manufactured homes, by 1426
churches, organizations exempt from taxation under section 1427
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 1428
organizations operated exclusively for charitable purposes as 1429
defined in division (B)(12) of this section, provided that the 1430
number of days on which such tangible personal property or 1431
services, other than items never subject to the tax, are sold does 1432
not exceed six in any calendar year, except as otherwise provided 1433
in division (B)(9)(b) of this section. If the number of days on 1434
which such sales are made exceeds six in any calendar year, the 1435
church or organization shall be considered to be engaged in 1436
business and all subsequent sales by it shall be subject to the 1437
tax. In counting the number of days, all sales by groups within a 1438
church or within an organization shall be considered to be sales 1439
of that church or organization. 1440

(b) The limitation on the number of days on which tax-exempt 1441

sales may be made by a church or organization under division 1442
(B)(9)(a) of this section does not apply to sales made by student 1443
clubs and other groups of students of a primary or secondary 1444
school, or a parent-teacher association, booster group, or similar 1445
organization that raises money to support or fund curricular or 1446
extracurricular activities of a primary or secondary school. 1447

(c) Divisions (B)(9)(a) and (b) of this section do not apply 1448
to sales by a noncommercial educational radio or television 1449
broadcasting station. 1450

(10) Sales not within the taxing power of this state under 1451
the Constitution or laws of the United States or the Constitution 1452
of this state; 1453

(11) Except for transactions that are sales under division 1454
(B)(3)(r) of section 5739.01 of the Revised Code, the 1455
transportation of persons or property, unless the transportation 1456
is by a private investigation and security service; 1457

(12) Sales of tangible personal property or services to 1458
churches, to organizations exempt from taxation under section 1459
501(c)(3) of the Internal Revenue Code of 1986, and to any other 1460
nonprofit organizations operated exclusively for charitable 1461
purposes in this state, no part of the net income of which inures 1462
to the benefit of any private shareholder or individual, and no 1463
substantial part of the activities of which consists of carrying 1464
on propaganda or otherwise attempting to influence legislation; 1465
sales to offices administering one or more homes for the aged or 1466
one or more hospital facilities exempt under section 140.08 of the 1467
Revised Code; and sales to organizations described in division (D) 1468
of section 5709.12 of the Revised Code. 1469

"Charitable purposes" means the relief of poverty; the 1470
improvement of health through the alleviation of illness, disease, 1471
or injury; the operation of an organization exclusively for the 1472

provision of professional, laundry, printing, and purchasing 1473
services to hospitals or charitable institutions; the operation of 1474
a home for the aged, as defined in section 5701.13 of the Revised 1475
Code; the operation of a radio or television broadcasting station 1476
that is licensed by the federal communications commission as a 1477
noncommercial educational radio or television station; the 1478
operation of a nonprofit animal adoption service or a county 1479
humane society; the promotion of education by an institution of 1480
learning that maintains a faculty of qualified instructors, 1481
teaches regular continuous courses of study, and confers a 1482
recognized diploma upon completion of a specific curriculum; the 1483
operation of a parent-teacher association, booster group, or 1484
similar organization primarily engaged in the promotion and 1485
support of the curricular or extracurricular activities of a 1486
primary or secondary school; the operation of a community or area 1487
center in which presentations in music, dramatics, the arts, and 1488
related fields are made in order to foster public interest and 1489
education therein; the production of performances in music, 1490
dramatics, and the arts; or the promotion of education by an 1491
organization engaged in carrying on research in, or the 1492
dissemination of, scientific and technological knowledge and 1493
information primarily for the public. 1494

Nothing in this division shall be deemed to exempt sales to 1495
any organization for use in the operation or carrying on of a 1496
trade or business, or sales to a home for the aged for use in the 1497
operation of independent living facilities as defined in division 1498
(A) of section 5709.12 of the Revised Code. 1499

(13) Building and construction materials and services sold to 1500
construction contractors for incorporation into a structure or 1501
improvement to real property under a construction contract with 1502
this state or a political subdivision of this state, or with the 1503
United States government or any of its agencies; building and 1504

construction materials and services sold to construction 1505
contractors for incorporation into a structure or improvement to 1506
real property that are accepted for ownership by this state or any 1507
of its political subdivisions, or by the United States government 1508
or any of its agencies at the time of completion of the structures 1509
or improvements; building and construction materials sold to 1510
construction contractors for incorporation into a horticulture 1511
structure or livestock structure for a person engaged in the 1512
business of horticulture or producing livestock; building 1513
materials and services sold to a construction contractor for 1514
incorporation into a house of public worship or religious 1515
education, or a building used exclusively for charitable purposes 1516
under a construction contract with an organization whose purpose 1517
is as described in division (B)(12) of this section; building 1518
materials and services sold to a construction contractor for 1519
incorporation into a building under a construction contract with 1520
an organization exempt from taxation under section 501(c)(3) of 1521
the Internal Revenue Code of 1986 when the building is to be used 1522
exclusively for the organization's exempt purposes; building and 1523
construction materials sold for incorporation into the original 1524
construction of a sports facility under section 307.696 of the 1525
Revised Code; building and construction materials and services 1526
sold to a construction contractor for incorporation into real 1527
property outside this state if such materials and services, when 1528
sold to a construction contractor in the state in which the real 1529
property is located for incorporation into real property in that 1530
state, would be exempt from a tax on sales levied by that state; 1531
building and construction materials for incorporation into a 1532
transportation facility pursuant to a public-private agreement 1533
entered into under sections 5501.70 to 5501.83 of the Revised 1534
Code; and, until one calendar year after the construction of a 1535
convention center that qualifies for property tax exemption under 1536
section 5709.084 of the Revised Code is completed, building and 1537

construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center;

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

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

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

(17) Sales to persons engaged in farming, agriculture,

horticulture, or floriculture, of tangible personal property for 1570
use or consumption primarily in the production by farming, 1571
agriculture, horticulture, or floriculture of other tangible 1572
personal property for use or consumption primarily in the 1573
production of tangible personal property for sale by farming, 1574
agriculture, horticulture, or floriculture; or material and parts 1575
for incorporation into any such tangible personal property for use 1576
or consumption in production; and of tangible personal property 1577
for such use or consumption in the conditioning or holding of 1578
products produced by and for such use, consumption, or sale by 1579
persons engaged in farming, agriculture, horticulture, or 1580
floriculture, except where such property is incorporated into real 1581
property; 1582

(18) Sales of drugs for a human being that may be dispensed 1583
only pursuant to a prescription; insulin as recognized in the 1584
official United States pharmacopoeia; urine and blood testing 1585
materials when used by diabetics or persons with hypoglycemia to 1586
test for glucose or acetone; hypodermic syringes and needles when 1587
used by diabetics for insulin injections; epoetin alfa when 1588
purchased for use in the treatment of persons with medical 1589
disease; hospital beds when purchased by hospitals, nursing homes, 1590
or other medical facilities; and medical oxygen and medical 1591
oxygen-dispensing equipment when purchased by hospitals, nursing 1592
homes, or other medical facilities; 1593

(19) Sales of prosthetic devices, durable medical equipment 1594
for home use, or mobility enhancing equipment, when made pursuant 1595
to a prescription and when such devices or equipment are for use 1596
by a human being. 1597

(20) Sales of emergency and fire protection vehicles and 1598
equipment to nonprofit organizations for use solely in providing 1599
fire protection and emergency services, including trauma care and 1600
emergency medical services, for political subdivisions of the 1601

state; 1602

(21) Sales of tangible personal property manufactured in this 1603
state, if sold by the manufacturer in this state to a retailer for 1604
use in the retail business of the retailer outside of this state 1605
and if possession is taken from the manufacturer by the purchaser 1606
within this state for the sole purpose of immediately removing the 1607
same from this state in a vehicle owned by the purchaser; 1608

(22) Sales of services provided by the state or any of its 1609
political subdivisions, agencies, instrumentalities, institutions, 1610
or authorities, or by governmental entities of the state or any of 1611
its political subdivisions, agencies, instrumentalities, 1612
institutions, or authorities; 1613

(23) Sales of motor vehicles to nonresidents of this state 1614
under the circumstances described in division (B) of section 1615
5739.029 of the Revised Code; 1616

(24) Sales to persons engaged in the preparation of eggs for 1617
sale of tangible personal property used or consumed directly in 1618
such preparation, including such tangible personal property used 1619
for cleaning, sanitizing, preserving, grading, sorting, and 1620
classifying by size; packages, including material and parts for 1621
packages, and machinery, equipment, and material for use in 1622
packaging eggs for sale; and handling and transportation equipment 1623
and parts therefor, except motor vehicles licensed to operate on 1624
public highways, used in intraplant or interplant transfers or 1625
shipment of eggs in the process of preparation for sale, when the 1626
plant or plants within or between which such transfers or 1627
shipments occur are operated by the same person. "Packages" 1628
includes containers, cases, baskets, flats, fillers, filler flats, 1629
cartons, closure materials, labels, and labeling materials, and 1630
"packaging" means placing therein. 1631

(25)(a) Sales of water to a consumer for residential use; 1632

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	1633 1634 1635 1636
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	1637 1638
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	1639 1640 1641 1642
(a) To prepare food for human consumption for sale;	1643
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	1644 1645 1646 1647
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	1648 1649
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	1650 1651
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	1652 1653 1654 1655
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	1656 1657 1658
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	1659 1660 1661
(32) The sale, lease, repair, and maintenance of, parts for,	1662

or items attached to or incorporated in, motor vehicles that are 1663
primarily used for transporting tangible personal property 1664
belonging to others by a person engaged in highway transportation 1665
for hire, except for packages and packaging used for the 1666
transportation of tangible personal property; 1667

(33) Sales to the state headquarters of any veterans' 1668
organization in this state that is either incorporated and issued 1669
a charter by the congress of the United States or is recognized by 1670
the United States veterans administration, for use by the 1671
headquarters; 1672

(34) Sales to a telecommunications service vendor, mobile 1673
telecommunications service vendor, or satellite broadcasting 1674
service vendor of tangible personal property and services used 1675
directly and primarily in transmitting, receiving, switching, or 1676
recording any interactive, one- or two-way electromagnetic 1677
communications, including voice, image, data, and information, 1678
through the use of any medium, including, but not limited to, 1679
poles, wires, cables, switching equipment, computers, and record 1680
storage devices and media, and component parts for the tangible 1681
personal property. The exemption provided in this division shall 1682
be in lieu of all other exemptions under division (B)(42)(a) or 1683
(n) of this section to which the vendor may otherwise be entitled, 1684
based upon the use of the thing purchased in providing the 1685
telecommunications, mobile telecommunications, or satellite 1686
broadcasting service. 1687

(35)(a) Sales where the purpose of the consumer is to use or 1688
consume the things transferred in making retail sales and 1689
consisting of newspaper inserts, catalogues, coupons, flyers, gift 1690
certificates, or other advertising material that prices and 1691
describes tangible personal property offered for retail sale. 1692

(b) Sales to direct marketing vendors of preliminary 1693
materials such as photographs, artwork, and typesetting that will 1694

be used in printing advertising material; and of printed matter 1695
that offers free merchandise or chances to win sweepstake prizes 1696
and that is mailed to potential customers with advertising 1697
material described in division (B)(35)(a) of this section; 1698

(c) Sales of equipment such as telephones, computers, 1699
facsimile machines, and similar tangible personal property 1700
primarily used to accept orders for direct marketing retail sales. 1701

(d) Sales of automatic food vending machines that preserve 1702
food with a shelf life of forty-five days or less by refrigeration 1703
and dispense it to the consumer. 1704

For purposes of division (B)(35) of this section, "direct 1705
marketing" means the method of selling where consumers order 1706
tangible personal property by United States mail, delivery 1707
service, or telecommunication and the vendor delivers or ships the 1708
tangible personal property sold to the consumer from a warehouse, 1709
catalogue distribution center, or similar fulfillment facility by 1710
means of the United States mail, delivery service, or common 1711
carrier. 1712

(36) Sales to a person engaged in the business of 1713
horticulture or producing livestock of materials to be 1714
incorporated into a horticulture structure or livestock structure; 1715

(37) Sales of personal computers, computer monitors, computer 1716
keyboards, modems, and other peripheral computer equipment to an 1717
individual who is licensed or certified to teach in an elementary 1718
or a secondary school in this state for use by that individual in 1719
preparation for teaching elementary or secondary school students; 1720

(38) Sales to a professional racing team of any of the 1721
following: 1722

(a) Motor racing vehicles; 1723

(b) Repair services for motor racing vehicles; 1724

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

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

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

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

providing taxable services under that section. 1757

(42) Sales where the purpose of the purchaser is to do any of 1758
the following: 1759

(a) To incorporate the thing transferred as a material or a 1760
part into tangible personal property to be produced for sale by 1761
manufacturing, assembling, processing, or refining; or to use or 1762
consume the thing transferred directly in producing tangible 1763
personal property for sale by mining, including, without 1764
limitation, the extraction from the earth of all substances that 1765
are classed geologically as minerals, production of crude oil and 1766
natural gas, or directly in the rendition of a public utility 1767
service, except that the sales tax levied by this section shall be 1768
collected upon all meals, drinks, and food for human consumption 1769
sold when transporting persons. Persons engaged in rendering 1770
services in the exploration for, and production of, crude oil and 1771
natural gas for others are deemed engaged directly in the 1772
exploration for, and production of, crude oil and natural gas. 1773
This paragraph does not exempt from "retail sale" or "sales at 1774
retail" the sale of tangible personal property that is to be 1775
incorporated into a structure or improvement to real property. 1776

(b) To hold the thing transferred as security for the 1777
performance of an obligation of the vendor; 1778

(c) To resell, hold, use, or consume the thing transferred as 1779
evidence of a contract of insurance; 1780

(d) To use or consume the thing directly in commercial 1781
fishing; 1782

(e) To incorporate the thing transferred as a material or a 1783
part into, or to use or consume the thing transferred directly in 1784
the production of, magazines distributed as controlled circulation 1785
publications; 1786

(f) To use or consume the thing transferred in the production 1787

and preparation in suitable condition for market and sale of 1788
printed, imprinted, overprinted, lithographic, multilithic, 1789
blueprinted, photostatic, or other productions or reproductions of 1790
written or graphic matter; 1791

(g) To use the thing transferred, as described in section 1792
5739.011 of the Revised Code, primarily in a manufacturing 1793
operation to produce tangible personal property for sale; 1794

(h) To use the benefit of a warranty, maintenance or service 1795
contract, or similar agreement, as described in division (B)(7) of 1796
section 5739.01 of the Revised Code, to repair or maintain 1797
tangible personal property, if all of the property that is the 1798
subject of the warranty, contract, or agreement would not be 1799
subject to the tax imposed by this section; 1800

(i) To use the thing transferred as qualified research and 1801
development equipment; 1802

(j) To use or consume the thing transferred primarily in 1803
storing, transporting, mailing, or otherwise handling purchased 1804
sales inventory in a warehouse, distribution center, or similar 1805
facility when the inventory is primarily distributed outside this 1806
state to retail stores of the person who owns or controls the 1807
warehouse, distribution center, or similar facility, to retail 1808
stores of an affiliated group of which that person is a member, or 1809
by means of direct marketing. This division does not apply to 1810
motor vehicles registered for operation on the public highways. As 1811
used in this division, "affiliated group" has the same meaning as 1812
in division (B)(3)(e) of section 5739.01 of the Revised Code and 1813
"direct marketing" has the same meaning as in division (B)(35) of 1814
this section. 1815

(k) To use or consume the thing transferred to fulfill a 1816
contractual obligation incurred by a warrantor pursuant to a 1817
warranty provided as a part of the price of the tangible personal 1818

property sold or by a vendor of a warranty, maintenance or service 1819
contract, or similar agreement the provision of which is defined 1820
as a sale under division (B)(7) of section 5739.01 of the Revised 1821
Code; 1822

(l) To use or consume the thing transferred in the production 1823
of a newspaper for distribution to the public; 1824

(m) To use tangible personal property to perform a service 1825
listed in division (B)(3) of section 5739.01 of the Revised Code, 1826
if the property is or is to be permanently transferred to the 1827
consumer of the service as an integral part of the performance of 1828
the service; 1829

(n) To use or consume the thing transferred primarily in 1830
producing tangible personal property for sale by farming, 1831
agriculture, horticulture, or floriculture. Persons engaged in 1832
rendering farming, agriculture, horticulture, or floriculture 1833
services for others are deemed engaged primarily in farming, 1834
agriculture, horticulture, or floriculture. This paragraph does 1835
not exempt from "retail sale" or "sales at retail" the sale of 1836
tangible personal property that is to be incorporated into a 1837
structure or improvement to real property. 1838

(o) To use or consume the thing transferred in acquiring, 1839
formatting, editing, storing, and disseminating data or 1840
information by electronic publishing. 1841

As used in division (B)(42) of this section, "thing" includes 1842
all transactions included in divisions (B)(3)(a), (b), and (e) of 1843
section 5739.01 of the Revised Code. 1844

(43) Sales conducted through a coin operated device that 1845
activates vacuum equipment or equipment that dispenses water, 1846
whether or not in combination with soap or other cleaning agents 1847
or wax, to the consumer for the consumer's use on the premises in 1848
washing, cleaning, or waxing a motor vehicle, provided no other 1849

personal property or personal service is provided as part of the 1850
transaction. 1851

(44) Sales of replacement and modification parts for engines, 1852
airframes, instruments, and interiors in, and paint for, aircraft 1853
used primarily in a fractional aircraft ownership program, and 1854
sales of services for the repair, modification, and maintenance of 1855
such aircraft, and machinery, equipment, and supplies primarily 1856
used to provide those services. 1857

(45) Sales of telecommunications service that is used 1858
directly and primarily to perform the functions of a call center. 1859
As used in this division, "call center" means any physical 1860
location where telephone calls are placed or received in high 1861
volume for the purpose of making sales, marketing, customer 1862
service, technical support, or other specialized business 1863
activity, and that employs at least fifty individuals that engage 1864
in call center activities on a full-time basis, or sufficient 1865
individuals to fill fifty full-time equivalent positions. 1866

(46) Sales by a telecommunications service vendor of 900 1867
service to a subscriber. This division does not apply to 1868
information services, as defined in division (FF) of section 1869
5739.01 of the Revised Code. 1870

(47) Sales of value-added non-voice data service. This 1871
division does not apply to any similar service that is not 1872
otherwise a telecommunications service. 1873

(48)(a) Sales of machinery, equipment, and software to a 1874
qualified direct selling entity for use in a warehouse or 1875
distribution center primarily for storing, transporting, or 1876
otherwise handling inventory that is held for sale to independent 1877
salespersons who operate as direct sellers and that is held 1878
primarily for distribution outside this state; 1879

(b) As used in division (B)(48)(a) of this section: 1880

(i) "Direct seller" means a person selling consumer products 1881
to individuals for personal or household use and not from a fixed 1882
retail location, including selling such product at in-home product 1883
demonstrations, parties, and other one-on-one selling. 1884

(ii) "Qualified direct selling entity" means an entity 1885
selling to direct sellers at the time the entity enters into a tax 1886
credit agreement with the tax credit authority pursuant to section 1887
122.17 of the Revised Code, provided that the agreement was 1888
entered into on or after January 1, 2007. Neither contingencies 1889
relevant to the granting of, nor later developments with respect 1890
to, the tax credit shall impair the status of the qualified direct 1891
selling entity under division (B)(48) of this section after 1892
execution of the tax credit agreement by the tax credit authority. 1893

(c) Division (B)(48) of this section is limited to machinery, 1894
equipment, and software first stored, used, or consumed in this 1895
state within the period commencing June 24, 2008, and ending on 1896
the date that is five years after that date. 1897

(49) Sales of materials, parts, equipment, or engines used in 1898
the repair or maintenance of aircraft or avionics systems of such 1899
aircraft, and sales of repair, remodeling, replacement, or 1900
maintenance services in this state performed on aircraft or on an 1901
aircraft's avionics, engine, or component materials or parts. As 1902
used in division (B)(49) of this section, "aircraft" means 1903
aircraft of more than six thousand pounds maximum certified 1904
takeoff weight or used exclusively in general aviation. 1905

(50) Sales of full flight simulators that are used for pilot 1906
or flight-crew training, sales of repair or replacement parts or 1907
components, and sales of repair or maintenance services for such 1908
full flight simulators. "Full flight simulator" means a replica of 1909
a specific type, or make, model, and series of aircraft cockpit. 1910
It includes the assemblage of equipment and computer programs 1911
necessary to represent aircraft operations in ground and flight 1912

conditions, a visual system providing an out-of-the-cockpit view, 1913
and a system that provides cues at least equivalent to those of a 1914
three-degree-of-freedom motion system, and has the full range of 1915
capabilities of the systems installed in the device as described 1916
in appendices A and B of part 60 of chapter 1 of title 14 of the 1917
Code of Federal Regulations. 1918

(51) Any transfer or lease of tangible personal property 1919
between the state and JobsOhio in accordance with section 4313.02 1920
of the Revised Code. 1921

(52)(a) Sales to a qualifying corporation. 1922

(b) As used in division (B)(52) of this section: 1923

(i) "Qualifying corporation" means a nonprofit corporation 1924
organized in this state that leases from an eligible county land, 1925
buildings, structures, fixtures, and improvements to the land that 1926
are part of or used in a public recreational facility used by a 1927
major league professional athletic team or a class A to class AAA 1928
minor league affiliate of a major league professional athletic 1929
team for a significant portion of the team's home schedule, 1930
provided the following apply: 1931

(I) The facility is leased from the eligible county pursuant 1932
to a lease that requires substantially all of the revenue from the 1933
operation of the business or activity conducted by the nonprofit 1934
corporation at the facility in excess of operating costs, capital 1935
expenditures, and reserves to be paid to the eligible county at 1936
least once per calendar year. 1937

(II) Upon dissolution and liquidation of the nonprofit 1938
corporation, all of its net assets are distributable to the board 1939
of commissioners of the eligible county from which the corporation 1940
leases the facility. 1941

(ii) "Eligible county" has the same meaning as in section 1942
307.695 of the Revised Code. 1943

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

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

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

(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

Section 2. That existing sections 5501.44, 5501.70, 5501.71,

5501.73, 5501.78, 5531.11, 5531.12, 5531.13, 5531.14, 5531.15, 1975
5531.16, and 5739.02 of the Revised Code are hereby repealed. 1976

Section 3. Section 5739.02 of the Revised Code is presented 1977
in this act as a composite of the section as amended by both Am. 1978
Sub. H.B. 51 and Am. Sub. H.B. 59 of the 130th General Assembly. 1979
The General Assembly, applying the principle stated in division 1980
(B) of section 1.52 of the Revised Code that amendments are to be 1981
harmonized if reasonably capable of simultaneous operation, finds 1982
that the composite is the resulting version of the section in 1983
effect prior to the effective date of the section as presented in 1984
this act. 1985