

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 150

Representatives Grossman, Scherer

**Cosponsors: Representatives Boose, Perales, Stinziano, Burkley, Lepore-Hagan,
Kraus, Sprague, Sheehy, Phillips**

A BILL

To amend sections 351.021, 353.06, 5739.01, 1
5739.09, 5739.12, 5739.13, 5741.01, 5741.12, and 2
5741.13 and to enact section 5739.081 of the 3
Revised Code to require hotel intermediaries to 4
collect and remit applicable sales and use tax 5
on the full amount paid for hotel lodging, to 6
require hotel intermediaries to supply customers 7
with itemized invoices, to specify that a hotel 8
intermediary is presumed to have "substantial 9
nexus" with Ohio if the intermediary arranges 10
lodging at Ohio hotels, and to specify that 11
hotels are not liable for the failure of a hotel 12
intermediary to properly collect or remit 13
applicable taxes. 14

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

Section 1. That sections 351.021, 353.06, 5739.01, 15
5739.09, 5739.12, 5739.13, 5741.01, 5741.12, and 5741.13 be 16
amended and section 5739.081 of the Revised Code be enacted to 17
read as follows: 18

Sec. 351.021. (A) The resolution of the county 19
commissioners creating a convention facilities authority, or any 20
amendment or supplement to that resolution, may authorize the 21
authority to levy one or both of the excise taxes authorized by 22
division (B) of this section to pay the cost of one or more 23
facilities; to pay principal, interest, and premium on 24
convention facilities authority tax anticipation bonds issued to 25
pay those costs; to pay the operating costs of the authority; to 26
pay operating and maintenance costs of those facilities; and to 27
pay the costs of administering the excise tax. 28

(B) The board of directors of a convention facilities 29
authority that has been authorized pursuant to resolution 30
adopted, amended, or supplemented by the board of county 31
commissioners pursuant to division (A) of this section may levy, 32
by resolution adopted on or before December 31, 1988, either or 33
both of the following: 34

(1) Within the territory of the authority, an additional 35
excise tax not to exceed four per cent on each transaction. The 36
excise tax authorized by division (B)(1) of this section shall 37
be in addition to any excise tax levied pursuant to section 38
5739.08 or 5739.09 of the Revised Code, or division (B)(2) of 39
this section. 40

(2) Within that portion of any municipal corporation that 41
is located within the territory of the authority or within the 42
boundaries of any township that is located within the territory 43
of the authority, which municipal corporation or township is 44
levying any portion of the excise tax authorized by division (A) 45
of section 5739.08 of the Revised Code, and with the approval, 46
by ordinance or resolution, of the legislative authority of that 47
municipal corporation or township, an additional excise tax not 48

to exceed nine-tenths of one per cent on each transaction. The 49
excise tax authorized by division (B) (2) of this section may be 50
levied only if, on the effective date of the levy specified in 51
the resolution making the levy, the amount being levied pursuant 52
to division (A) of section 5739.08 of the Revised Code by each 53
municipal corporation or township in which the tax authorized by 54
division (B) (2) of this section will be levied, when added to 55
the amount levied under division (B) (2) of this section, does 56
not exceed three per cent on each transaction. The excise tax 57
authorized by division (B) (2) of this section shall be in 58
addition to any excise tax that is levied pursuant to section 59
5739.08 or 5739.09 of the Revised Code, or division (B) (1) of 60
this section. 61

(C) (1) The board of directors of a convention facilities 62
authority that is located in an eligible Appalachian county; 63
that has been authorized pursuant to resolution adopted, 64
amended, or supplemented by the board of county commissioners 65
pursuant to division (A) of this section; and that is not 66
levying a tax under division (B) (1) or (2) of this section may 67
levy within the territory of the authority, by resolution 68
adopted on or before December 31, 2005, an additional excise tax 69
not to exceed three per cent on each transaction. The excise tax 70
authorized under division (C) (1) of this section shall be in 71
addition to any excise tax levied pursuant to section 5739.08 or 72
5739.09 of the Revised Code. 73

As used in division (C) (1) of this section, "eligible 74
Appalachian county" means a county in this state designated as 75
being in the "Appalachian region" under the "Appalachian 76
Regional Development Act of 1965," 79 Stat. 4, 40 U.S.C. App. 77
403, and having a population less than eighty thousand according 78
to the most recent federal decennial census. 79

(2) Division (C) (2) of this section applies only to a 80
convention facilities authority located in a county with a 81
population, according to the 2000 federal decennial census, of 82
at least one hundred thirty-five thousand and not more than one 83
hundred fifty thousand and containing entirely within its 84
boundaries the territory of a municipal corporation with a 85
population according to that census of more than fifty thousand. 86
The board of directors of such a convention facilities 87
authority, by resolution adopted on or before November 1, 2009, 88
may levy within the territory of the authority an excise tax on 89
transactions by which lodging by a hotel is or is to be 90
furnished to transient guests at a rate not to exceed three per 91
cent on such transactions for the same purposes for which a tax 92
may be levied under division (B) of this section. The resolution 93
may be adopted only if the board of county commissioners of the 94
county, by resolution, authorizes the levy of the tax. The 95
resolution of the board of county commissioners is subject to 96
referendum as prescribed by sections 305.31 to 305.41 of the 97
Revised Code. If, pursuant to those procedures, a referendum is 98
to be held, the board's resolution does not take effect until 99
approved by a majority of electors voting on the question. The 100
convention facilities authority may adopt the resolution 101
authorized by division (C) (2) of this section before the 102
election, but the authority's resolution shall not take effect 103
if the board of commissioners' resolution is not approved at the 104
election. A tax levied under division (C) (2) of this section is 105
in addition to any tax levied under section 5739.09 of the 106
Revised Code. 107

(D) The authority shall provide for the administration and 108
allocation of an excise tax levied pursuant to division (B) or 109
(C) of this section. All receipts arising from those excise 110

taxes shall be expended for the purposes provided in, and in 111
accordance with this section and section 351.141 of the Revised 112
Code. An excise tax levied under division (B) or (C) of this 113
section shall remain in effect at the rate at which it is levied 114
for at least the duration of the period for which the receipts 115
from the tax have been anticipated and pledged pursuant to 116
section 351.141 of the Revised Code. 117

(E) Except as provided in division (B) (2) of this section, 118
the levy of an excise tax on each transaction pursuant to 119
sections 5739.08 and 5739.09 of the Revised Code does not 120
prevent a convention facilities authority from levying an excise 121
tax pursuant to division (B) or (C) of this section. 122

(F) A convention facilities authority located in a county 123
with a population greater than eighty thousand but less than 124
ninety thousand according to the 2010 federal decennial census 125
that levies a tax under division (B) of this section may amend 126
the resolution levying the tax to allocate a portion of the 127
revenue from the tax for support of tourism-related sites or 128
facilities and programs operated by the county or a municipal 129
corporation within the county in which the authority is located 130
or for the purpose of leasing lands for county fairs, erecting 131
buildings for county fair purposes, making improvements on a 132
county fairground, or for any purpose connected with the use of 133
a county fairground or with the management thereof by the county 134
in which the authority is located. The revenue allocated by the 135
authority for such purposes in a calendar year shall not exceed 136
fifteen per cent of the total revenue from the tax in the 137
preceding calendar year. 138

(G) The requirements under section 5739.081 of the Revised 139
Code that apply to a tax levied by a municipal corporation 140

pursuant to section 5739.08 of the Revised Code and to hotel 141
intermediaries responsible for collecting and remitting that tax 142
also apply with respect to a tax levied by a convention 143
facilities authority under this section. 144

Sec. 353.06. As used in this section, "hotel" and 145
"transient guests" have the same meanings as in section 5739.01 146
of the Revised Code. 147

A resolution creating a lake facilities authority under 148
section 353.02 of the Revised Code, or any amendments or 149
supplements thereto, may authorize the authority to levy an 150
excise tax on transactions by which lodging in a hotel is or is 151
to be furnished to transient guests to pay any costs authorized 152
under this chapter; to pay principal, interest, and premium on 153
lake facilities authority tax anticipation bonds issued to pay 154
those costs; to pay the operating costs of the authority; and to 155
pay the costs of administering the tax. 156

Upon the affirmative vote of at least a majority of the 157
qualified electors in a primary or general election within the 158
impacted lake district voting at an election held for the 159
purpose of authorizing the tax, the board of directors of a lake 160
facilities authority authorized to levy a tax under this section 161
may, by resolution, levy an additional excise tax within the 162
territory of the impacted lake district on all transactions by 163
which lodging in a hotel is or is to be furnished to transient 164
guests. The rate of the tax, when added to the aggregate rate of 165
excise taxes levied in the impacted lake district pursuant to 166
section 351.021, 5739.08, or 5739.09 of the Revised Code, shall 167
not cause the total aggregate rate to exceed five per cent on 168
any such transaction. 169

The lake facilities authority shall provide for the 170

administration and allocation of a tax levied pursuant to this 171
section. All receipts arising from the tax shall be expended for 172
the purposes provided in, and in accordance with, this section. 173
An excise tax levied under this section shall remain in effect 174
at the rate at which it is levied for at least the duration of 175
the period for which the receipts from the tax have been 176
anticipated and pledged pursuant to section 353.08 of the 177
Revised Code. 178

The form of the ballot in an election held on the question 179
of levying a tax proposed pursuant to this section shall be as 180
follows or in any other form acceptable to the secretary of 181
state: 182

"An excise tax on all transactions by which lodging in a 183
hotel is or is to be furnished to transient guests within the 184
territory of the (name of impacted lake district) 185
for the purpose of at a rate of 186
for (number of years the tax is to be levied). 187

For the Excise Tax
Against the Excise Tax

"

The requirements under section 5739.081 of the Revised 192
Code that apply to a tax levied by a municipal corporation 193
pursuant to section 5739.08 of the Revised Code and to hotel 194
intermediaries responsible for collecting and remitting that tax 195
also apply with respect to a tax levied by a lake facilities 196
authority under this section. 197

Sec. 5739.01. As used in this chapter: 198

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

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

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

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests, including transactions conducted through a hotel intermediary;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;

(c) The service of washing, cleaning, waxing, polishing,

or painting a motor vehicle is or is to be furnished; 228

(d) Until August 1, 2003, industrial laundry cleaning 229
services are or are to be provided and, on and after August 1, 230
2003, laundry and dry cleaning services are or are to be 231
provided; 232

(e) Automatic data processing, computer services, or 233
electronic information services are or are to be provided for 234
use in business when the true object of the transaction is the 235
receipt by the consumer of automatic data processing, computer 236
services, or electronic information services rather than the 237
receipt of personal or professional services to which automatic 238
data processing, computer services, or electronic information 239
services are incidental or supplemental. Notwithstanding any 240
other provision of this chapter, such transactions that occur 241
between members of an affiliated group are not sales. An 242
"affiliated group" means two or more persons related in such a 243
way that one person owns or controls the business operation of 244
another member of the group. In the case of corporations with 245
stock, one corporation owns or controls another if it owns more 246
than fifty per cent of the other corporation's common stock with 247
voting rights. 248

(f) Telecommunications service, including prepaid calling 249
service, prepaid wireless calling service, or ancillary service, 250
is or is to be provided, but not including coin-operated 251
telephone service; 252

(g) Landscaping and lawn care service is or is to be 253
provided; 254

(h) Private investigation and security service is or is to 255
be provided; 256

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	257 258
(j) Building maintenance and janitorial service is or is to be provided;	259 260
(k) Employment service is or is to be provided;	261
(l) Employment placement service is or is to be provided;	262
(m) Exterminating service is or is to be provided;	263
(n) Physical fitness facility service is or is to be provided;	264 265
(o) Recreation and sports club service is or is to be provided;	266 267
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	268 269
(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	270 271 272 273 274 275 276 277 278
(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States	279 280 281 282 283 284

holding a certificate of public convenience and necessity issued 285
under 49 U.S.C. 41102; 286

(s) On and after August 1, 2003, motor vehicle towing 287
service is or is to be provided. As used in this division, 288
"motor vehicle towing service" means the towing or conveyance of 289
a wrecked, disabled, or illegally parked motor vehicle. 290

(t) On and after August 1, 2003, snow removal service is 291
or is to be provided. As used in this division, "snow removal 292
service" means the removal of snow by any mechanized means, but 293
does not include the providing of such service by a person that 294
has less than five thousand dollars in sales of such service 295
during the calendar year. 296

(u) Electronic publishing service is or is to be provided 297
to a consumer for use in business, except that such transactions 298
occurring between members of an affiliated group, as defined in 299
division (B) (3) (e) of this section, are not sales. 300

(4) All transactions by which printed, imprinted, 301
overprinted, lithographic, multilithic, blueprinted, 302
photostatic, or other productions or reproductions of written or 303
graphic matter are or are to be furnished or transferred; 304

(5) The production or fabrication of tangible personal 305
property for a consideration for consumers who furnish either 306
directly or indirectly the materials used in the production of 307
fabrication work; and include the furnishing, preparing, or 308
serving for a consideration of any tangible personal property 309
consumed on the premises of the person furnishing, preparing, or 310
serving such tangible personal property. Except as provided in 311
section 5739.03 of the Revised Code, a construction contract 312
pursuant to which tangible personal property is or is to be 313

incorporated into a structure or improvement on and becoming a 314
part of real property is not a sale of such tangible personal 315
property. The construction contractor is the consumer of such 316
tangible personal property, provided that the sale and 317
installation of carpeting, the sale and installation of 318
agricultural land tile, the sale and erection or installation of 319
portable grain bins, or the provision of landscaping and lawn 320
care service and the transfer of property as part of such 321
service is never a construction contract. 322

As used in division (B) (5) of this section: 323

(a) "Agricultural land tile" means fired clay or concrete 324
tile, or flexible or rigid perforated plastic pipe or tubing, 325
incorporated or to be incorporated into a subsurface drainage 326
system appurtenant to land used or to be used primarily in 327
production by farming, agriculture, horticulture, or 328
floriculture. The term does not include such materials when they 329
are or are to be incorporated into a drainage system appurtenant 330
to a building or structure even if the building or structure is 331
used or to be used in such production. 332

(b) "Portable grain bin" means a structure that is used or 333
to be used by a person engaged in farming or agriculture to 334
shelter the person's grain and that is designed to be 335
disassembled without significant damage to its component parts. 336

(6) All transactions in which all of the shares of stock 337
of a closely held corporation are transferred, or an ownership 338
interest in a pass-through entity, as defined in section 5733.04 339
of the Revised Code, is transferred, if the corporation or pass- 340
through entity is not engaging in business and its entire assets 341
consist of boats, planes, motor vehicles, or other tangible 342
personal property operated primarily for the use and enjoyment 343

of the shareholders or owners; 344

(7) All transactions in which a warranty, maintenance or 345
service contract, or similar agreement by which the vendor of 346
the warranty, contract, or agreement agrees to repair or 347
maintain the tangible personal property of the consumer is or is 348
to be provided; 349

(8) The transfer of copyrighted motion picture films used 350
solely for advertising purposes, except that the transfer of 351
such films for exhibition purposes is not a sale; 352

(9) On and after August 1, 2003, all transactions by which 353
tangible personal property is or is to be stored, except such 354
property that the consumer of the storage holds for sale in the 355
regular course of business; 356

(10) All transactions in which "guaranteed auto 357
protection" is provided whereby a person promises to pay to the 358
consumer the difference between the amount the consumer receives 359
from motor vehicle insurance and the amount the consumer owes to 360
a person holding title to or a lien on the consumer's motor 361
vehicle in the event the consumer's motor vehicle suffers a 362
total loss under the terms of the motor vehicle insurance policy 363
or is stolen and not recovered, if the protection and its price 364
are included in the purchase or lease agreement; 365

(11) (a) Except as provided in division (B) (11) (b) of this 366
section, on and after October 1, 2009, all transactions by which 367
health care services are paid for, reimbursed, provided, 368
delivered, arranged for, or otherwise made available by a 369
medicaid health insuring corporation pursuant to the 370
corporation's contract with the state. 371

(b) If the centers for medicare and medicaid services of 372

the United States department of health and human services 373
determines that the taxation of transactions described in 374
division (B) (11) (a) of this section constitutes an impermissible 375
health care-related tax under the "Social Security Act," section 376
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 377
the medicaid director shall notify the tax commissioner of that 378
determination. Beginning with the first day of the month 379
following that notification, the transactions described in 380
division (B) (11) (a) of this section are not sales for the 381
purposes of this chapter or Chapter 5741. of the Revised Code. 382
The tax commissioner shall order that the collection of taxes 383
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 384
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 385
for transactions occurring on or after that date. 386

(12) All transactions by which a specified digital product 387
is provided for permanent use or less than permanent use, 388
regardless of whether continued payment is required. 389

Except as provided in this section, "sale" and "selling" 390
do not include transfers of interest in leased property where 391
the original lessee and the terms of the original lease 392
agreement remain unchanged, or professional, insurance, or 393
personal service transactions that involve the transfer of 394
tangible personal property as an inconsequential element, for 395
which no separate charges are made. 396

(C) "Vendor" means the person providing the service or by 397
whom the transfer effected or license given by a sale is or is 398
to be made or given and, for sales described in division (B) (3) 399
(i) of this section, the telecommunications service vendor that 400
provides the nine hundred telephone service; if two or more 401
persons are engaged in business at the same place of business 402

under a single trade name in which all collections on account of 403
sales by each are made, such persons shall constitute a single 404
vendor. 405

Physicians, dentists, hospitals, and veterinarians who are 406
engaged in selling tangible personal property as received from 407
others, such as eyeglasses, mouthwashes, dentifrices, or similar 408
articles, are vendors. Veterinarians who are engaged in 409
transferring to others for a consideration drugs, the dispensing 410
of which does not require an order of a licensed veterinarian or 411
physician under federal law, are vendors. 412

(D) (1) "Consumer" means the person for whom the service is 413
provided, to whom the transfer effected or license given by a 414
sale is or is to be made or given, to whom the service described 415
in division (B) (3) (f) or (i) of this section is charged, or to 416
whom the admission is granted. 417

(2) Physicians, dentists, hospitals, and blood banks 418
operated by nonprofit institutions and persons licensed to 419
practice veterinary medicine, surgery, and dentistry are 420
consumers of all tangible personal property and services 421
purchased by them in connection with the practice of medicine, 422
dentistry, the rendition of hospital or blood bank service, or 423
the practice of veterinary medicine, surgery, and dentistry. In 424
addition to being consumers of drugs administered by them or by 425
their assistants according to their direction, veterinarians 426
also are consumers of drugs that under federal law may be 427
dispensed only by or upon the order of a licensed veterinarian 428
or physician, when transferred by them to others for a 429
consideration to provide treatment to animals as directed by the 430
veterinarian. 431

(3) A person who performs a facility management, or 432

similar service contract for a contractee is a consumer of all 433
tangible personal property and services purchased for use in 434
connection with the performance of such contract, regardless of 435
whether title to any such property vests in the contractee. The 436
purchase of such property and services is not subject to the 437
exception for resale under division (E)(1) of this section. 438

(4) (a) In the case of a person who purchases printed 439
matter for the purpose of distributing it or having it 440
distributed to the public or to a designated segment of the 441
public, free of charge, that person is the consumer of that 442
printed matter, and the purchase of that printed matter for that 443
purpose is a sale. 444

(b) In the case of a person who produces, rather than 445
purchases, printed matter for the purpose of distributing it or 446
having it distributed to the public or to a designated segment 447
of the public, free of charge, that person is the consumer of 448
all tangible personal property and services purchased for use or 449
consumption in the production of that printed matter. That 450
person is not entitled to claim exemption under division (B)(42) 451
(f) of section 5739.02 of the Revised Code for any material 452
incorporated into the printed matter or any equipment, supplies, 453
or services primarily used to produce the printed matter. 454

(c) The distribution of printed matter to the public or to 455
a designated segment of the public, free of charge, is not a 456
sale to the members of the public to whom the printed matter is 457
distributed or to any persons who purchase space in the printed 458
matter for advertising or other purposes. 459

(5) A person who makes sales of any of the services listed 460
in division (B)(3) of this section is the consumer of any 461
tangible personal property used in performing the service. The 462

purchase of that property is not subject to the resale exception 463
under division (E) (1) of this section. 464

(6) A person who engages in highway transportation for 465
hire is the consumer of all packaging materials purchased by 466
that person and used in performing the service, except for 467
packaging materials sold by such person in a transaction 468
separate from the service. 469

(7) In the case of a transaction for health care services 470
under division (B) (11) of this section, a medicaid health 471
insuring corporation is the consumer of such services. The 472
purchase of such services by a medicaid health insuring 473
corporation is not subject to the exception for resale under 474
division (E) (1) of this section or to the exemptions provided 475
under divisions (B) (12), (18), (19), and (22) of section 5739.02 476
of the Revised Code. 477

(E) "Retail sale" and "sales at retail" include all sales, 478
except those in which the purpose of the consumer is to resell 479
the thing transferred or benefit of the service provided, by a 480
person engaging in business, in the form in which the same is, 481
or is to be, received by the person. 482

(F) "Business" includes any activity engaged in by any 483
person with the object of gain, benefit, or advantage, either 484
direct or indirect. "Business" does not include the activity of 485
a person in managing and investing the person's own funds. 486

(G) "Engaging in business" means commencing, conducting, 487
or continuing in business, and liquidating a business when the 488
liquidator thereof holds itself out to the public as conducting 489
such business. Making a casual sale is not engaging in business. 490

(H) (1) (a) "Price," except as provided in divisions (H) (2), 491

(3), ~~and (4)~~, and (5) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

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

(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;

(iii) Charges by the vendor for any services necessary to complete the sale;

(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item

to the consumer; and one of the following criteria is met: 521

(i) The consumer presents a coupon, certificate, or other 522
document to the vendor to claim a price reduction or discount 523
where the coupon, certificate, or document is authorized, 524
distributed, or granted by a third party with the understanding 525
that the third party will reimburse any vendor to whom the 526
coupon, certificate, or document is presented; 527

(ii) The consumer identifies the consumer's self to the 528
seller as a member of a group or organization entitled to a 529
price reduction or discount. A preferred customer card that is 530
available to any patron does not constitute membership in such a 531
group or organization. 532

(iii) The price reduction or discount is identified as a 533
third party price reduction or discount on the invoice received 534
by the consumer, or on a coupon, certificate, or other document 535
presented by the consumer. 536

(c) "Price" does not include any of the following: 537

(i) Discounts, including cash, term, or coupons that are 538
not reimbursed by a third party that are allowed by a vendor and 539
taken by a consumer on a sale; 540

(ii) Interest, financing, and carrying charges from credit 541
extended on the sale of tangible personal property or services, 542
if the amount is separately stated on the invoice, bill of sale, 543
or similar document given to the purchaser; 544

(iii) Any taxes legally imposed directly on the consumer 545
that are separately stated on the invoice, bill of sale, or 546
similar document given to the consumer. For the purpose of this 547
division, the tax imposed under Chapter 5751. of the Revised 548
Code is not a tax directly on the consumer, even if the tax or a 549

portion thereof is separately stated. 550

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 551
this section, any discount allowed by an automobile manufacturer 552
to its employee, or to the employee of a supplier, on the 553
purchase of a new motor vehicle from a new motor vehicle dealer 554
in this state. 555

(v) The dollar value of a gift card that is not sold by a 556
vendor or purchased by a consumer and that is redeemed by the 557
consumer in purchasing tangible personal property or services if 558
the vendor is not reimbursed and does not receive compensation 559
from a third party to cover all or part of the gift card value. 560
For the purposes of this division, a gift card is not sold by a 561
vendor or purchased by a consumer if it is distributed pursuant 562
to an awards, loyalty, or promotional program. Past and present 563
purchases of tangible personal property or services by the 564
consumer shall not be treated as consideration exchanged for a 565
gift card. 566

(2) In the case of a sale of any new motor vehicle by a 567
new motor vehicle dealer, as defined in section 4517.01 of the 568
Revised Code, in which another motor vehicle is accepted by the 569
dealer as part of the consideration received, "price" has the 570
same meaning as in division (H) (1) of this section, reduced by 571
the credit afforded the consumer by the dealer for the motor 572
vehicle received in trade. 573

(3) In the case of a sale of any watercraft or outboard 574
motor by a watercraft dealer licensed in accordance with section 575
1547.543 of the Revised Code, in which another watercraft, 576
watercraft and trailer, or outboard motor is accepted by the 577
dealer as part of the consideration received, "price" has the 578
same meaning as in division (H) (1) of this section, reduced by 579

the credit afforded the consumer by the dealer for the 580
watercraft, watercraft and trailer, or outboard motor received 581
in trade. As used in this division, "watercraft" includes an 582
outdrive unit attached to the watercraft. 583

(4) In the case of transactions for health care services 584
under division (B)(11) of this section, "price" means the amount 585
of managed care premiums received each month by a medicaid 586
health insuring corporation. 587

(5) In the case of transactions in which the vendor is a 588
hotel intermediary, "price" means the total amount paid by the 589
consumer for hotel lodging as advertised by the intermediary. 590

(I) "Receipts" means the total amount of the prices of the 591
sales of vendors, provided that the dollar value of gift cards 592
distributed pursuant to an awards, loyalty, or promotional 593
program, and cash discounts allowed and taken on sales at the 594
time they are consummated are not included, minus any amount 595
deducted as a bad debt pursuant to section 5739.121 of the 596
Revised Code. "Receipts" does not include the sale price of 597
property returned or services rejected by consumers when the 598
full sale price and tax are refunded either in cash or by 599
credit. 600

(J) "Place of business" means any location at which a 601
person engages in business. 602

(K) "Premises" includes any real property or portion 603
thereof upon which any person engages in selling tangible 604
personal property at retail or making retail sales and also 605
includes any real property or portion thereof designated for, or 606
devoted to, use in conjunction with the business engaged in by 607
such person. 608

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

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

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

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or

personnel to or from a place where a service is performed. 639

(P) "Used directly in the rendition of a public utility 640
service" means that property that is to be incorporated into and 641
will become a part of the consumer's production, transmission, 642
transportation, or distribution system and that retains its 643
classification as tangible personal property after such 644
incorporation; fuel or power used in the production, 645
transmission, transportation, or distribution system; and 646
tangible personal property used in the repair and maintenance of 647
the production, transmission, transportation, or distribution 648
system, including only such motor vehicles as are specially 649
designed and equipped for such use. Tangible personal property 650
and services used primarily in providing highway transportation 651
for hire are not used directly in the rendition of a public 652
utility service. In this definition, "public utility" includes a 653
citizen of the United States holding, and required to hold, a 654
certificate of public convenience and necessity issued under 49 655
U.S.C. 41102. 656

(Q) "Refining" means removing or separating a desirable 657
product from raw or contaminated materials by distillation or 658
physical, mechanical, or chemical processes. 659

(R) "Assembly" and "assembling" mean attaching or fitting 660
together parts to form a product, but do not include packaging a 661
product. 662

(S) "Manufacturing operation" means a process in which 663
materials are changed, converted, or transformed into a 664
different state or form from which they previously existed and 665
includes refining materials, assembling parts, and preparing raw 666
materials and parts by mixing, measuring, blending, or otherwise 667
committing such materials or parts to the manufacturing process. 668

"Manufacturing operation" does not include packaging. 669

(T) "Fiscal officer" means, with respect to a regional 670
transit authority, the secretary-treasurer thereof, and with 671
respect to a county that is a transit authority, the fiscal 672
officer of the county transit board if one is appointed pursuant 673
to section 306.03 of the Revised Code or the county auditor if 674
the board of county commissioners operates the county transit 675
system. 676

(U) "Transit authority" means a regional transit authority 677
created pursuant to section 306.31 of the Revised Code or a 678
county in which a county transit system is created pursuant to 679
section 306.01 of the Revised Code. For the purposes of this 680
chapter, a transit authority must extend to at least the entire 681
area of a single county. A transit authority that includes 682
territory in more than one county must include all the area of 683
the most populous county that is a part of such transit 684
authority. County population shall be measured by the most 685
recent census taken by the United States census bureau. 686

(V) "Legislative authority" means, with respect to a 687
regional transit authority, the board of trustees thereof, and 688
with respect to a county that is a transit authority, the board 689
of county commissioners. 690

(W) "Territory of the transit authority" means all of the 691
area included within the territorial boundaries of a transit 692
authority as they from time to time exist. Such territorial 693
boundaries must at all times include all the area of a single 694
county or all the area of the most populous county that is a 695
part of such transit authority. County population shall be 696
measured by the most recent census taken by the United States 697
census bureau. 698

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

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

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

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

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

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

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

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

(2) As used in divisions (B) (3) (e) and (Y) (1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

- (a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;
- (b) Analyzing business policies and procedures;
- (c) Identifying management information needs;
- (d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;
- (e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;
- (f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;
- (g) Testing of business procedures;
- (h) Training personnel in business procedure applications;
- (i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not

limited to gathering, organizing, analyzing, recording, and 756
furnishing such information by any oral, written, graphic, or 757
electronic medium; 758

(j) Providing debt collection services by any oral, 759
written, graphic, or electronic means. 760

The services listed in divisions (Y) (2) (a) to (j) of this 761
section are not automatic data processing or computer services. 762

(Z) "Highway transportation for hire" means the 763
transportation of personal property belonging to others for 764
consideration by any of the following: 765

(1) The holder of a permit or certificate issued by this 766
state or the United States authorizing the holder to engage in 767
transportation of personal property belonging to others for 768
consideration over or on highways, roadways, streets, or any 769
similar public thoroughfare; 770

(2) A person who engages in the transportation of personal 771
property belonging to others for consideration over or on 772
highways, roadways, streets, or any similar public thoroughfare 773
but who could not have engaged in such transportation on 774
December 11, 1985, unless the person was the holder of a permit 775
or certificate of the types described in division (Z) (1) of this 776
section; 777

(3) A person who leases a motor vehicle to and operates it 778
for a person described by division (Z) (1) or (2) of this 779
section. 780

(AA) (1) "Telecommunications service" means the electronic 781
transmission, conveyance, or routing of voice, data, audio, 782
video, or any other information or signals to a point, or 783
between or among points. "Telecommunications service" includes 784

such transmission, conveyance, or routing in which computer 785
processing applications are used to act on the form, code, or 786
protocol of the content for purposes of transmission, 787
conveyance, or routing without regard to whether the service is 788
referred to as voice-over internet protocol service or is 789
classified by the federal communications commission as enhanced 790
or value-added. "Telecommunications service" does not include 791
any of the following: 792

(a) Data processing and information services that allow 793
data to be generated, acquired, stored, processed, or retrieved 794
and delivered by an electronic transmission to a consumer where 795
the consumer's primary purpose for the underlying transaction is 796
the processed data or information; 797

(b) Installation or maintenance of wiring or equipment on 798
a customer's premises; 799

(c) Tangible personal property; 800

(d) Advertising, including directory advertising; 801

(e) Billing and collection services provided to third 802
parties; 803

(f) Internet access service; 804

(g) Radio and television audio and video programming 805
services, regardless of the medium, including the furnishing of 806
transmission, conveyance, and routing of such services by the 807
programming service provider. Radio and television audio and 808
video programming services include, but are not limited to, 809
cable service, as defined in 47 U.S.C. 522(6), and audio and 810
video programming services delivered by commercial mobile radio 811
service providers, as defined in 47 C.F.R. 20.3; 812

(h) Ancillary service;	813
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	814 815
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	816 817 818 819 820 821
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	822 823 824 825 826
(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.	827 828 829
(c) "Directory assistance" means an ancillary service of providing telephone number or address information.	830 831
(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.	832 833 834 835 836
(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.	837 838 839 840 841

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

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

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

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

(7) "Coin-operated telephone service" means a 872
telecommunications service paid for by inserting money into a 873
telephone accepting direct deposits of money to operate. 874

(8) "Customer" has the same meaning as in section 5739.034 875
of the Revised Code. 876

(BB) "Laundry and dry cleaning services" means removing 877
soil or dirt from towels, linens, articles of clothing, or other 878
fabric items that belong to others and supplying towels, linens, 879
articles of clothing, or other fabric items. "Laundry and dry 880
cleaning services" does not include the provision of self- 881
service facilities for use by consumers to remove soil or dirt 882
from towels, linens, articles of clothing, or other fabric 883
items. 884

(CC) "Magazines distributed as controlled circulation 885
publications" means magazines containing at least twenty-four 886
pages, at least twenty-five per cent editorial content, issued 887
at regular intervals four or more times a year, and circulated 888
without charge to the recipient, provided that such magazines 889
are not owned or controlled by individuals or business concerns 890
which conduct such publications as an auxiliary to, and 891
essentially for the advancement of the main business or calling 892
of, those who own or control them. 893

(DD) "Landscaping and lawn care service" means the 894
services of planting, seeding, sodding, removing, cutting, 895
trimming, pruning, mulching, aerating, applying chemicals, 896
watering, fertilizing, and providing similar services to 897
establish, promote, or control the growth of trees, shrubs, 898
flowers, grass, ground cover, and other flora, or otherwise 899
maintaining a lawn or landscape grown or maintained by the owner 900
for ornamentation or other nonagricultural purpose. However, 901

"landscaping and lawn care service" does not include the 902
providing of such services by a person who has less than five 903
thousand dollars in sales of such services during the calendar 904
year. 905

(EE) "Private investigation and security service" means 906
the performance of any activity for which the provider of such 907
service is required to be licensed pursuant to Chapter 4749. of 908
the Revised Code, or would be required to be so licensed in 909
performing such services in this state, and also includes the 910
services of conducting polygraph examinations and of monitoring 911
or overseeing the activities on or in, or the condition of, the 912
consumer's home, business, or other facility by means of 913
electronic or similar monitoring devices. "Private investigation 914
and security service" does not include special duty services 915
provided by off-duty police officers, deputy sheriffs, and other 916
peace officers regularly employed by the state or a political 917
subdivision. 918

(FF) "Information services" means providing conversation, 919
giving consultation or advice, playing or making a voice or 920
other recording, making or keeping a record of the number of 921
callers, and any other service provided to a consumer by means 922
of a nine hundred telephone call, except when the nine hundred 923
telephone call is the means by which the consumer makes a 924
contribution to a recognized charity. 925

(GG) "Research and development" means designing, creating, 926
or formulating new or enhanced products, equipment, or 927
manufacturing processes, and also means conducting scientific or 928
technological inquiry and experimentation in the physical 929
sciences with the goal of increasing scientific knowledge which 930
may reveal the bases for new or enhanced products, equipment, or 931

manufacturing processes. 932

(HH) "Qualified research and development equipment" means 933
capitalized tangible personal property, and leased personal 934
property that would be capitalized if purchased, used by a 935
person primarily to perform research and development. Tangible 936
personal property primarily used in testing, as defined in 937
division (A)(4) of section 5739.011 of the Revised Code, or used 938
for recording or storing test results, is not qualified research 939
and development equipment unless such property is primarily used 940
by the consumer in testing the product, equipment, or 941
manufacturing process being created, designed, or formulated by 942
the consumer in the research and development activity or in 943
recording or storing such test results. 944

(II) "Building maintenance and janitorial service" means 945
cleaning the interior or exterior of a building and any tangible 946
personal property located therein or thereon, including any 947
services incidental to such cleaning for which no separate 948
charge is made. However, "building maintenance and janitorial 949
service" does not include the providing of such service by a 950
person who has less than five thousand dollars in sales of such 951
service during the calendar year. 952

(JJ) "Employment service" means providing or supplying 953
personnel, on a temporary or long-term basis, to perform work or 954
labor under the supervision or control of another, when the 955
personnel so provided or supplied receive their wages, salary, 956
or other compensation from the provider or supplier of the 957
employment service or from a third party that provided or 958
supplied the personnel to the provider or supplier. "Employment 959
service" does not include: 960

(1) Acting as a contractor or subcontractor, where the 961

personnel performing the work are not under the direct control 962
of the purchaser. 963

(2) Medical and health care services. 964

(3) Supplying personnel to a purchaser pursuant to a 965
contract of at least one year between the service provider and 966
the purchaser that specifies that each employee covered under 967
the contract is assigned to the purchaser on a permanent basis. 968

(4) Transactions between members of an affiliated group, 969
as defined in division (B) (3) (e) of this section. 970

(5) Transactions where the personnel so provided or 971
supplied by a provider or supplier to a purchaser of an 972
employment service are then provided or supplied by that 973
purchaser to a third party as an employment service, except 974
"employment service" does include the transaction between that 975
purchaser and the third party. 976

(KK) "Employment placement service" means locating or 977
finding employment for a person or finding or locating an 978
employee to fill an available position. 979

(LL) "Exterminating service" means eradicating or 980
attempting to eradicate vermin infestations from a building or 981
structure, or the area surrounding a building or structure, and 982
includes activities to inspect, detect, or prevent vermin 983
infestation of a building or structure. 984

(MM) "Physical fitness facility service" means all 985
transactions by which a membership is granted, maintained, or 986
renewed, including initiation fees, membership dues, renewal 987
fees, monthly minimum fees, and other similar fees and dues, by 988
a physical fitness facility such as an athletic club, health 989
spa, or gymnasium, which entitles the member to use the facility 990

for physical exercise. 991

(NN) "Recreation and sports club service" means all 992
transactions by which a membership is granted, maintained, or 993
renewed, including initiation fees, membership dues, renewal 994
fees, monthly minimum fees, and other similar fees and dues, by 995
a recreation and sports club, which entitles the member to use 996
the facilities of the organization. "Recreation and sports club" 997
means an organization that has ownership of, or controls or 998
leases on a continuing, long-term basis, the facilities used by 999
its members and includes an aviation club, gun or shooting club, 1000
yacht club, card club, swimming club, tennis club, golf club, 1001
country club, riding club, amateur sports club, or similar 1002
organization. 1003

(OO) "Livestock" means farm animals commonly raised for 1004
food, food production, or other agricultural purposes, 1005
including, but not limited to, cattle, sheep, goats, swine, 1006
poultry, and captive deer. "Livestock" does not include 1007
invertebrates, amphibians, reptiles, domestic pets, animals for 1008
use in laboratories or for exhibition, or other animals not 1009
commonly raised for food or food production. 1010

(PP) "Livestock structure" means a building or structure 1011
used exclusively for the housing, raising, feeding, or 1012
sheltering of livestock, and includes feed storage or handling 1013
structures and structures for livestock waste handling. 1014

(QQ) "Horticulture" means the growing, cultivation, and 1015
production of flowers, fruits, herbs, vegetables, sod, 1016
mushrooms, and nursery stock. As used in this division, "nursery 1017
stock" has the same meaning as in section 927.51 of the Revised 1018
Code. 1019

(RR) "Horticulture structure" means a building or 1020
structure used exclusively for the commercial growing, raising, 1021
or overwintering of horticultural products, and includes the 1022
area used for stocking, storing, and packing horticultural 1023
products when done in conjunction with the production of those 1024
products. 1025

(SS) "Newspaper" means an unbound publication bearing a 1026
title or name that is regularly published, at least as 1027
frequently as biweekly, and distributed from a fixed place of 1028
business to the public in a specific geographic area, and that 1029
contains a substantial amount of news matter of international, 1030
national, or local events of interest to the general public. 1031

(TT) "Professional racing team" means a person that 1032
employs at least twenty full-time employees for the purpose of 1033
conducting a motor vehicle racing business for profit. The 1034
person must conduct the business with the purpose of racing one 1035
or more motor racing vehicles in at least ten competitive 1036
professional racing events each year that comprise all or part 1037
of a motor racing series sanctioned by one or more motor racing 1038
sanctioning organizations. A "motor racing vehicle" means a 1039
vehicle for which the chassis, engine, and parts are designed 1040
exclusively for motor racing, and does not include a stock or 1041
production model vehicle that may be modified for use in racing. 1042
For the purposes of this division: 1043

(1) A "competitive professional racing event" is a motor 1044
vehicle racing event sanctioned by one or more motor racing 1045
sanctioning organizations, at which aggregate cash prizes in 1046
excess of eight hundred thousand dollars are awarded to the 1047
competitors. 1048

(2) "Full-time employee" means an individual who is 1049

employed for consideration for thirty-five or more hours a week, 1050
or who renders any other standard of service generally accepted 1051
by custom or specified by contract as full-time employment. 1052

(UU) (1) "Lease" or "rental" means any transfer of the 1053
possession or control of tangible personal property for a fixed 1054
or indefinite term, for consideration. "Lease" or "rental" 1055
includes future options to purchase or extend, and agreements 1056
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 1057
trailers where the amount of consideration may be increased or 1058
decreased by reference to the amount realized upon the sale or 1059
disposition of the property. "Lease" or "rental" does not 1060
include: 1061

(a) A transfer of possession or control of tangible 1062
personal property under a security agreement or a deferred 1063
payment plan that requires the transfer of title upon completion 1064
of the required payments; 1065

(b) A transfer of possession or control of tangible 1066
personal property under an agreement that requires the transfer 1067
of title upon completion of required payments and payment of an 1068
option price that does not exceed the greater of one hundred 1069
dollars or one per cent of the total required payments; 1070

(c) Providing tangible personal property along with an 1071
operator for a fixed or indefinite period of time, if the 1072
operator is necessary for the property to perform as designed. 1073
For purposes of this division, the operator must do more than 1074
maintain, inspect, or set up the tangible personal property. 1075

(2) "Lease" and "rental," as defined in division (UU) of 1076
this section, shall not apply to leases or rentals that exist 1077
before June 26, 2003. 1078

(3) "Lease" and "rental" have the same meaning as in 1079
division (UU) (1) of this section regardless of whether a 1080
transaction is characterized as a lease or rental under 1081
generally accepted accounting principles, the Internal Revenue 1082
Code, Title XIII of the Revised Code, or other federal, state, 1083
or local laws. 1084

(VV) "Mobile telecommunications service" has the same 1085
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 1086
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 1087
amended, and, on and after August 1, 2003, includes related fees 1088
and ancillary services, including universal service fees, 1089
detailed billing service, directory assistance, service 1090
initiation, voice mail service, and vertical services, such as 1091
caller ID and three-way calling. 1092

(WW) "Certified service provider" has the same meaning as 1093
in section 5740.01 of the Revised Code. 1094

(XX) "Satellite broadcasting service" means the 1095
distribution or broadcasting of programming or services by 1096
satellite directly to the subscriber's receiving equipment 1097
without the use of ground receiving or distribution equipment, 1098
except the subscriber's receiving equipment or equipment used in 1099
the uplink process to the satellite, and includes all service 1100
and rental charges, premium channels or other special services, 1101
installation and repair service charges, and any other charges 1102
having any connection with the provision of the satellite 1103
broadcasting service. 1104

(YY) "Tangible personal property" means personal property 1105
that can be seen, weighed, measured, felt, or touched, or that 1106
is in any other manner perceptible to the senses. For purposes 1107
of this chapter and Chapter 5741. of the Revised Code, "tangible 1108

personal property" includes motor vehicles, electricity, water, 1109
gas, steam, and prewritten computer software. 1110

(ZZ) "Direct mail" means printed material delivered or 1111
distributed by United States mail or other delivery service to a 1112
mass audience or to addressees on a mailing list provided by the 1113
consumer or at the direction of the consumer when the cost of 1114
the items are not billed directly to the recipients. "Direct 1115
mail" includes tangible personal property supplied directly or 1116
indirectly by the consumer to the direct mail vendor for 1117
inclusion in the package containing the printed material. 1118
"Direct mail" does not include multiple items of printed 1119
material delivered to a single address. 1120

(AAA) "Computer" means an electronic device that accepts 1121
information in digital or similar form and manipulates it for a 1122
result based on a sequence of instructions. 1123

(BBB) "Computer software" means a set of coded 1124
instructions designed to cause a computer or automatic data 1125
processing equipment to perform a task. 1126

(CCC) "Delivered electronically" means delivery of 1127
computer software from the seller to the purchaser by means 1128
other than tangible storage media. 1129

(DDD) "Prewritten computer software" means computer 1130
software, including prewritten upgrades, that is not designed 1131
and developed by the author or other creator to the 1132
specifications of a specific purchaser. The combining of two or 1133
more prewritten computer software programs or prewritten 1134
portions thereof does not cause the combination to be other than 1135
prewritten computer software. "Prewritten computer software" 1136
includes software designed and developed by the author or other 1137

creator to the specifications of a specific purchaser when it is 1138
sold to a person other than the purchaser. If a person modifies 1139
or enhances computer software of which the person is not the 1140
author or creator, the person shall be deemed to be the author 1141
or creator only of such person's modifications or enhancements. 1142
Prewritten computer software or a prewritten portion thereof 1143
that is modified or enhanced to any degree, where such 1144
modification or enhancement is designed and developed to the 1145
specifications of a specific purchaser, remains prewritten 1146
computer software; provided, however, that where there is a 1147
reasonable, separately stated charge or an invoice or other 1148
statement of the price given to the purchaser for the 1149
modification or enhancement, the modification or enhancement 1150
shall not constitute prewritten computer software. 1151

(EEE) (1) "Food" means substances, whether in liquid, 1152
concentrated, solid, frozen, dried, or dehydrated form, that are 1153
sold for ingestion or chewing by humans and are consumed for 1154
their taste or nutritional value. "Food" does not include 1155
alcoholic beverages, dietary supplements, soft drinks, or 1156
tobacco. 1157

(2) As used in division (EEE) (1) of this section: 1158

(a) "Alcoholic beverages" means beverages that are 1159
suitable for human consumption and contain one-half of one per 1160
cent or more of alcohol by volume. 1161

(b) "Dietary supplements" means any product, other than 1162
tobacco, that is intended to supplement the diet and that is 1163
intended for ingestion in tablet, capsule, powder, softgel, 1164
gelcap, or liquid form, or, if not intended for ingestion in 1165
such a form, is not represented as conventional food for use as 1166
a sole item of a meal or of the diet; that is required to be 1167

labeled as a dietary supplement, identifiable by the "supplement
facts" box found on the label, as required by 21 C.F.R. 101.36;
and that contains one or more of the following dietary
ingredients:

(i) A vitamin; 1172

(ii) A mineral; 1173

(iii) An herb or other botanical; 1174

(iv) An amino acid; 1175

(v) A dietary substance for use by humans to supplement
the diet by increasing the total dietary intake; 1176
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(vi) A concentrate, metabolite, constituent, extract, or
combination of any ingredient described in divisions (EEE) (2) (b)
(i) to (v) of this section. 1178
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(c) "Soft drinks" means nonalcoholic beverages that
contain natural or artificial sweeteners. "Soft drinks" does not
include beverages that contain milk or milk products, soy, rice,
or similar milk substitutes, or that contains greater than fifty
per cent vegetable or fruit juice by volume. 1181
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(d) "Tobacco" means cigarettes, cigars, chewing or pipe
tobacco, or any other item that contains tobacco. 1186
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(FFF) "Drug" means a compound, substance, or preparation,
and any component of a compound, substance, or preparation,
other than food, dietary supplements, or alcoholic beverages
that is recognized in the official United States pharmacopoeia,
official homeopathic pharmacopoeia of the United States, or
official national formulary, and supplements to them; is
intended for use in the diagnosis, cure, mitigation, treatment,
or prevention of disease; or is intended to affect the structure
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or any function of the body. 1196

(GGG) "Prescription" means an order, formula, or recipe 1197
issued in any form of oral, written, electronic, or other means 1198
of transmission by a duly licensed practitioner authorized by 1199
the laws of this state to issue a prescription. 1200

(HHH) "Durable medical equipment" means equipment, 1201
including repair and replacement parts for such equipment, that 1202
can withstand repeated use, is primarily and customarily used to 1203
serve a medical purpose, generally is not useful to a person in 1204
the absence of illness or injury, and is not worn in or on the 1205
body. "Durable medical equipment" does not include mobility 1206
enhancing equipment. 1207

(III) "Mobility enhancing equipment" means equipment, 1208
including repair and replacement parts for such equipment, that 1209
is primarily and customarily used to provide or increase the 1210
ability to move from one place to another and is appropriate for 1211
use either in a home or a motor vehicle, that is not generally 1212
used by persons with normal mobility, and that does not include 1213
any motor vehicle or equipment on a motor vehicle normally 1214
provided by a motor vehicle manufacturer. "Mobility enhancing 1215
equipment" does not include durable medical equipment. 1216

(JJJ) "Prosthetic device" means a replacement, corrective, 1217
or supportive device, including repair and replacement parts for 1218
the device, worn on or in the human body to artificially replace 1219
a missing portion of the body, prevent or correct physical 1220
deformity or malfunction, or support a weak or deformed portion 1221
of the body. As used in this division, "prosthetic device" does 1222
not include corrective eyeglasses, contact lenses, or dental 1223
prosthesis. 1224

(KKK) (1) "Fractional aircraft ownership program" means a 1225
program in which persons within an affiliated group sell and 1226
manage fractional ownership program aircraft, provided that at 1227
least one hundred airworthy aircraft are operated in the program 1228
and the program meets all of the following criteria: 1229

(a) Management services are provided by at least one 1230
program manager within an affiliated group on behalf of the 1231
fractional owners. 1232

(b) Each program aircraft is owned or possessed by at 1233
least one fractional owner. 1234

(c) Each fractional owner owns or possesses at least a 1235
one-sixteenth interest in at least one fixed-wing program 1236
aircraft. 1237

(d) A dry-lease aircraft interchange arrangement is in 1238
effect among all of the fractional owners. 1239

(e) Multi-year program agreements are in effect regarding 1240
the fractional ownership, management services, and dry-lease 1241
aircraft interchange arrangement aspects of the program. 1242

(2) As used in division (KKK) (1) of this section: 1243

(a) "Affiliated group" has the same meaning as in division 1244
(B) (3) (e) of this section. 1245

(b) "Fractional owner" means a person that owns or 1246
possesses at least a one-sixteenth interest in a program 1247
aircraft and has entered into the agreements described in 1248
division (KKK) (1) (e) of this section. 1249

(c) "Fractional ownership program aircraft" or "program 1250
aircraft" means a turbojet aircraft that is owned or possessed 1251
by a fractional owner and that has been included in a dry-lease 1252

aircraft interchange arrangement and agreement under divisions 1253
(KKK) (1) (d) and (e) of this section, or an aircraft a program 1254
manager owns or possesses primarily for use in a fractional 1255
aircraft ownership program. 1256

(d) "Management services" means administrative and 1257
aviation support services furnished under a fractional aircraft 1258
ownership program in accordance with a management services 1259
agreement under division (KKK) (1) (e) of this section, and 1260
offered by the program manager to the fractional owners, 1261
including, at a minimum, the establishment and implementation of 1262
safety guidelines; the coordination of the scheduling of the 1263
program aircraft and crews; program aircraft maintenance; 1264
program aircraft insurance; crew training for crews employed, 1265
furnished, or contracted by the program manager or the 1266
fractional owner; the satisfaction of record-keeping 1267
requirements; and the development and use of an operations 1268
manual and a maintenance manual for the fractional aircraft 1269
ownership program. 1270

(e) "Program manager" means the person that offers 1271
management services to fractional owners pursuant to a 1272
management services agreement under division (KKK) (1) (e) of this 1273
section. 1274

(LLL) "Electronic publishing" means providing access to 1275
one or more of the following primarily for business customers, 1276
including the federal government or a state government or a 1277
political subdivision thereof, to conduct research: news; 1278
business, financial, legal, consumer, or credit materials; 1279
editorials, columns, reader commentary, or features; photos or 1280
images; archival or research material; legal notices, identity 1281
verification, or public records; scientific, educational, 1282

instructional, technical, professional, trade, or other literary 1283
materials; or other similar information which has been gathered 1284
and made available by the provider to the consumer in an 1285
electronic format. Providing electronic publishing includes the 1286
functions necessary for the acquisition, formatting, editing, 1287
storage, and dissemination of data or information that is the 1288
subject of a sale. 1289

(MMM) "Medicaid health insuring corporation" means a 1290
health insuring corporation that holds a certificate of 1291
authority under Chapter 1751. of the Revised Code and is under 1292
contract with the department of job and family services pursuant 1293
to section 5111.17 of the Revised Code. 1294

(NNN) "Managed care premium" means any premium, 1295
capitation, or other payment a medicaid health insuring 1296
corporation receives for providing or arranging for the 1297
provision of health care services to its members or enrollees 1298
residing in this state. 1299

(OOO) "Captive deer" means deer and other cervidae that 1300
have been legally acquired, or their offspring, that are 1301
privately owned for agricultural or farming purposes. 1302

(PPP) "Gift card" means a document, card, certificate, or 1303
other record, whether tangible or intangible, that may be 1304
redeemed by a consumer for a dollar value when making a purchase 1305
of tangible personal property or services. 1306

(QQQ) "Specified digital product" means an electronically 1307
transferred digital audiovisual work, digital audio work, or 1308
digital book. 1309

As used in division (QQQ) of this section: 1310

(1) "Digital audiovisual work" means a series of related 1311

images that, when shown in succession, impart an impression of 1312
motion, together with accompanying sounds, if any. 1313

(2) "Digital audio work" means a work that results from 1314
the fixation of a series of musical, spoken, or other sounds, 1315
including digitized sound files that are downloaded onto a 1316
device and that may be used to alert the customer with respect 1317
to a communication. 1318

(3) "Digital book" means a work that is generally 1319
recognized in the ordinary and usual sense as a book. 1320

(4) "Electronically transferred" means obtained by the 1321
purchaser by means other than tangible storage media. 1322

(RRR) "Hotel intermediary" means a person, other than a 1323
hotel or a person receiving a commission from a hotel, that 1324
brokers, coordinates, or otherwise arranges for the purchase, 1325
sale, use, or possession of lodging at hotels to or by transient 1326
guests. 1327

Sec. 5739.081. (A) A tax levied by the legislative 1328
authority of a municipal corporation pursuant to section 5739.08 1329
of the Revised Code on transactions by which lodging by a hotel 1330
is or is to be furnished to transient guests, if the transaction 1331
is conducted through a hotel intermediary, shall be levied on 1332
the total amount paid by the consumer for hotel lodging as 1333
advertised by the intermediary. The hotel intermediary shall 1334
collect the tax due from the purchaser and remit it to the 1335
municipal corporation. 1336

(B) If any person responsible for collecting the tax fails 1337
to remit the tax to the municipal corporation, the person shall 1338
be personally liable for any tax collected and not remitted, 1339
including any hotel intermediary that does not remit the correct 1340

amount of tax as required under division (A) of this section. 1341
The municipal corporation may make an assessment against such a 1342
person based on any information in the municipal corporation's 1343
possession. 1344

(C) If a person responsible for collecting the tax fails 1345
to collect the tax on any transaction subject to the tax, the 1346
person shall be personally liable for the amount of the tax 1347
applicable to the transaction, including any hotel intermediary 1348
that does not collect and remit the correct amount of tax as 1349
required under division (A) of this section. The municipal 1350
corporation may make an assessment against such a person based 1351
upon any information in the municipal corporation's possession. 1352

(D) A hotel intermediary responsible for collecting the 1353
tax shall give the purchaser an invoice or other statement of 1354
the price displaying the total amount the purchaser paid to the 1355
intermediary for the hotel lodging transaction and the amount of 1356
tax the intermediary collected on such amount. This invoice or 1357
statement shall be delivered to the purchaser before the 1358
transient guest completes the guest's hotel stay and may be 1359
combined with the invoice required under division (H) of section 1360
5739.12 or division (D) of section 5741.12 of the Revised Code. 1361

Sec. 5739.09. (A) (1) A board of county commissioners may, 1362
by resolution adopted by a majority of the members of the board, 1363
levy an excise tax not to exceed three per cent on transactions 1364
by which lodging by a hotel is or is to be furnished to 1365
transient guests. The board shall establish all regulations 1366
necessary to provide for the administration and allocation of 1367
the tax. The regulations may prescribe the time for payment of 1368
the tax, and may provide for the imposition of a penalty or 1369
interest, or both, for late payments, provided that the penalty 1370

does not exceed ten per cent of the amount of tax due, and the 1371
rate at which interest accrues does not exceed the rate per 1372
annum prescribed pursuant to section 5703.47 of the Revised 1373
Code. Except as provided in divisions (A) (2), (3), (4), (5), 1374
(6), and (7) of this section, the regulations shall provide, 1375
after deducting the real and actual costs of administering the 1376
tax, for the return to each municipal corporation or township 1377
that does not levy an excise tax on the transactions, a uniform 1378
percentage of the tax collected in the municipal corporation or 1379
in the unincorporated portion of the township from each 1380
transaction, not to exceed thirty-three and one-third per cent. 1381
The remainder of the revenue arising from the tax shall be 1382
deposited in a separate fund and shall be spent solely to make 1383
contributions to the convention and visitors' bureau operating 1384
within the county, including a pledge and contribution of any 1385
portion of the remainder pursuant to an agreement authorized by 1386
section 307.678 or 307.695 of the Revised Code, provided that if 1387
the board of county commissioners of an eligible county as 1388
defined in section 307.678 or 307.695 of the Revised Code adopts 1389
a resolution amending a resolution levying a tax under this 1390
division to provide that revenue from the tax shall be used by 1391
the board as described in either division (D) of section 307.678 1392
or division (H) of section 307.695 of the Revised Code, the 1393
remainder of the revenue shall be used as described in the 1394
resolution making that amendment. Except as provided in division 1395
(A) (2), (3), (4), (5), (6), or (7) or (H) of this section, on 1396
and after May 10, 1994, a board of county commissioners may not 1397
levy an excise tax pursuant to this division in any municipal 1398
corporation or township located wholly or partly within the 1399
county that has in effect an ordinance or resolution levying an 1400
excise tax pursuant to division (B) of this section. The board 1401
of a county that has levied a tax under division (C) of this 1402

section may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, amend the resolution levying a tax under this division to provide for a portion of that tax to be pledged and contributed in accordance with an agreement entered into under section 307.695 of the Revised Code. A tax, any revenue from which is pledged pursuant to such an agreement, shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been so pledged.

The board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code may, by resolution adopted by a majority of the members of the board, amend a resolution levying a tax under this division to provide that the revenue from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code, in which case the tax shall remain in effect at the rate at which it was imposed for the duration of any agreement entered into by the board under section 307.695 of the Revised Code, the duration during which any securities issued by the board under that section are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest.

The board of county commissioners of an eligible county as defined in section 307.678 of the Revised Code may, by resolution, amend a resolution levying a tax under this division to provide that revenue from the tax, not to exceed five hundred thousand dollars each year, may be used as described in division (D) of section 307.678 of the Revised Code.

(2) A board of county commissioners that levies an excise

tax under division (A) (1) of this section on June 30, 1997, at a 1433
rate of three per cent, and that has pledged revenue from the 1434
tax to an agreement entered into under section 307.695 of the 1435
Revised Code or, in the case of the board of county 1436
commissioners of an eligible county as defined in section 1437
307.695 of the Revised Code, has amended a resolution levying a 1438
tax under division (C) of this section to provide that proceeds 1439
from the tax shall be used by the board as described in division 1440
(H) of section 307.695 of the Revised Code, may, at any time by 1441
a resolution adopted by a majority of the members of the board, 1442
amend the resolution levying a tax under division (A) (1) of this 1443
section to provide for an increase in the rate of that tax up to 1444
seven per cent on each transaction; to provide that revenue from 1445
the increase in the rate shall be used as described in division 1446
(H) of section 307.695 of the Revised Code or be spent solely to 1447
make contributions to the convention and visitors' bureau 1448
operating within the county to be used specifically for 1449
promotion, advertising, and marketing of the region in which the 1450
county is located; and to provide that the rate in excess of the 1451
three per cent levied under division (A) (1) of this section 1452
shall remain in effect at the rate at which it is imposed for 1453
the duration of the period during which any agreement is in 1454
effect that was entered into under section 307.695 of the 1455
Revised Code by the board of county commissioners levying a tax 1456
under division (A) (1) of this section, the duration of the 1457
period during which any securities issued by the board under 1458
division (I) of section 307.695 of the Revised Code are 1459
outstanding, or the duration of the period during which the 1460
board owns a project as defined in section 307.695 of the 1461
Revised Code, whichever duration is longest. The amendment also 1462
shall provide that no portion of that revenue need be returned 1463
to townships or municipal corporations as would otherwise be 1464

required under division (A) (1) of this section. 1465

(3) A board of county commissioners that levies a tax 1466
under division (A) (1) of this section on March 18, 1999, at a 1467
rate of three per cent may, by resolution adopted not later than 1468
forty-five days after March 18, 1999, amend the resolution 1469
levying the tax to provide for all of the following: 1470

(a) That the rate of the tax shall be increased by not 1471
more than an additional four per cent on each transaction; 1472

(b) That all of the revenue from the increase in the rate 1473
shall be pledged and contributed to a convention facilities 1474
authority established by the board of county commissioners under 1475
Chapter 351. of the Revised Code on or before November 15, 1998, 1476
and used to pay costs of constructing, maintaining, operating, 1477
and promoting a facility in the county, including paying bonds, 1478
or notes issued in anticipation of bonds, as provided by that 1479
chapter; 1480

(c) That no portion of the revenue arising from the 1481
increase in rate need be returned to municipal corporations or 1482
townships as otherwise required under division (A) (1) of this 1483
section; 1484

(d) That the increase in rate shall not be subject to 1485
diminution by initiative or referendum or by law while any 1486
bonds, or notes in anticipation of bonds, issued by the 1487
authority under Chapter 351. of the Revised Code to which the 1488
revenue is pledged, remain outstanding in accordance with their 1489
terms, unless provision is made by law or by the board of county 1490
commissioners for an adequate substitute therefor that is 1491
satisfactory to the trustee if a trust agreement secures the 1492
bonds. 1493

Division (A) (3) of this section does not apply to the 1494
board of county commissioners of any county in which a 1495
convention center or facility exists or is being constructed on 1496
November 15, 1998, or of any county in which a convention 1497
facilities authority levies a tax pursuant to section 351.021 of 1498
the Revised Code on that date. 1499

As used in division (A) (3) of this section, "cost" and 1500
"facility" have the same meanings as in section 351.01 of the 1501
Revised Code, and "convention center" has the same meaning as in 1502
section 307.695 of the Revised Code. 1503

(4) (a) A board of county commissioners that levies a tax 1504
under division (A) (1) of this section on June 30, 2002, at a 1505
rate of three per cent may, by resolution adopted not later than 1506
September 30, 2002, amend the resolution levying the tax to 1507
provide for all of the following: 1508

(i) That the rate of the tax shall be increased by not 1509
more than an additional three and one-half per cent on each 1510
transaction; 1511

(ii) That all of the revenue from the increase in rate 1512
shall be pledged and contributed to a convention facilities 1513
authority established by the board of county commissioners under 1514
Chapter 351. of the Revised Code on or before May 15, 2002, and 1515
be used to pay costs of constructing, expanding, maintaining, 1516
operating, or promoting a convention center in the county, 1517
including paying bonds, or notes issued in anticipation of 1518
bonds, as provided by that chapter; 1519

(iii) That no portion of the revenue arising from the 1520
increase in rate need be returned to municipal corporations or 1521
townships as otherwise required under division (A) (1) of this 1522

section; 1523

(iv) That the increase in rate shall not be subject to 1524
diminution by initiative or referendum or by law while any 1525
bonds, or notes in anticipation of bonds, issued by the 1526
authority under Chapter 351. of the Revised Code to which the 1527
revenue is pledged, remain outstanding in accordance with their 1528
terms, unless provision is made by law or by the board of county 1529
commissioners for an adequate substitute therefor that is 1530
satisfactory to the trustee if a trust agreement secures the 1531
bonds. 1532

(b) Any board of county commissioners that, pursuant to 1533
division (A) (4) (a) of this section, has amended a resolution 1534
levying the tax authorized by division (A) (1) of this section 1535
may further amend the resolution to provide that the revenue 1536
referred to in division (A) (4) (a) (ii) of this section shall be 1537
pledged and contributed both to a convention facilities 1538
authority to pay the costs of constructing, expanding, 1539
maintaining, or operating one or more convention centers in the 1540
county, including paying bonds, or notes issued in anticipation 1541
of bonds, as provided in Chapter 351. of the Revised Code, and 1542
to a convention and visitors' bureau to pay the costs of 1543
promoting one or more convention centers in the county. 1544

As used in division (A) (4) of this section, "cost" has the 1545
same meaning as in section 351.01 of the Revised Code, and 1546
"convention center" has the same meaning as in section 307.695 1547
of the Revised Code. 1548

(5) (a) As used in division (A) (5) of this section: 1549

(i) "Port authority" means a port authority created under 1550
Chapter 4582. of the Revised Code. 1551

(ii) "Port authority military-use facility" means port 1552
authority facilities on which or adjacent to which is located an 1553
installation of the armed forces of the United States, a reserve 1554
component thereof, or the national guard and at least part of 1555
which is made available for use, for consideration, by the armed 1556
forces of the United States, a reserve component thereof, or the 1557
national guard. 1558

(b) For the purpose of contributing revenue to pay 1559
operating expenses of a port authority that operates a port 1560
authority military-use facility, the board of county 1561
commissioners of a county that created, participated in the 1562
creation of, or has joined such a port authority may do one or 1563
both of the following: 1564

(i) Amend a resolution previously adopted under division 1565
(A) (1) of this section to designate some or all of the revenue 1566
from the tax levied under the resolution to be used for that 1567
purpose, notwithstanding that division; 1568

(ii) Amend a resolution previously adopted under division 1569
(A) (1) of this section to increase the rate of the tax by not 1570
more than an additional two per cent and use the revenue from 1571
the increase exclusively for that purpose. 1572

(c) If a board of county commissioners amends a resolution 1573
to increase the rate of a tax as authorized in division (A) (5) 1574
(b) (ii) of this section, the board also may amend the resolution 1575
to specify that the increase in rate of the tax does not apply 1576
to "hotels," as otherwise defined in section 5739.01 of the 1577
Revised Code, having fewer rooms used for the accommodation of 1578
guests than a number of rooms specified by the board. 1579

(6) A board of county commissioners of a county organized 1580

under a county charter adopted pursuant to Article X, Section 3, 1581
Ohio Constitution, and that levies an excise tax under division 1582
(A) (1) of this section at a rate of three per cent and levies an 1583
additional excise tax under division (E) of this section at a 1584
rate of one and one-half per cent may, by resolution adopted not 1585
later than January 1, 2008, by a majority of the members of the 1586
board, amend the resolution levying a tax under division (A) (1) 1587
of this section to provide for an increase in the rate of that 1588
tax by not more than an additional one per cent on transactions 1589
by which lodging by a hotel is or is to be furnished to 1590
transient guests. Notwithstanding divisions (A) (1) and (E) of 1591
this section, the resolution shall provide that all of the 1592
revenue from the increase in rate, after deducting the real and 1593
actual costs of administering the tax, shall be used to pay the 1594
costs of improving, expanding, equipping, financing, or 1595
operating a convention center by a convention and visitors' 1596
bureau in the county. The increase in rate shall remain in 1597
effect for the period specified in the resolution, not to exceed 1598
ten years. The increase in rate shall be subject to the 1599
regulations adopted under division (A) (1) of this section, 1600
except that the resolution may provide that no portion of the 1601
revenue from the increase in the rate shall be returned to 1602
townships or municipal corporations as would otherwise be 1603
required under that division. 1604

(7) Division (A) (7) of this section applies only to a 1605
county with a population greater than sixty-five thousand and 1606
less than seventy thousand according to the most recent federal 1607
decennial census and in which, on December 31, 2006, an excise 1608
tax is levied under division (A) (1) of this section at a rate 1609
not less than and not greater than three per cent, and in which 1610
the most recent increase in the rate of that tax was enacted or 1611

took effect in November 1984. 1612

The board of county commissioners of a county to which 1613
this division applies, by resolution adopted by a majority of 1614
the members of the board, may increase the rate of the tax by 1615
not more than one per cent on transactions by which lodging by a 1616
hotel is or is to be furnished to transient guests. The increase 1617
in rate shall be for the purpose of paying expenses deemed 1618
necessary by the convention and visitors' bureau operating in 1619
the county to promote travel and tourism. The increase in rate 1620
shall remain in effect for the period specified in the 1621
resolution, not to exceed twenty years, provided that the 1622
increase in rate may not continue beyond the time when the 1623
purpose for which the increase is levied ceases to exist. If 1624
revenue from the increase in rate is pledged to the payment of 1625
debt charges on securities, the increase in rate is not subject 1626
to diminution by initiative or referendum or by law for so long 1627
as the securities are outstanding, unless provision is made by 1628
law or by the board of county commissioners for an adequate 1629
substitute for that revenue that is satisfactory to the trustee 1630
if a trust agreement secures payment of the debt charges. The 1631
increase in rate shall be subject to the regulations adopted 1632
under division (A) (1) of this section, except that the 1633
resolution may provide that no portion of the revenue from the 1634
increase in the rate shall be returned to townships or municipal 1635
corporations as would otherwise be required under division (A) 1636
(1) of this section. A resolution adopted under division (A) (7) 1637
of this section is subject to referendum under sections 305.31 1638
to 305.99 of the Revised Code. 1639

(B) (1) The legislative authority of a municipal 1640
corporation or the board of trustees of a township that is not 1641
wholly or partly located in a county that has in effect a 1642

resolution levying an excise tax pursuant to division (A) (1) of 1643
this section may, by ordinance or resolution, levy an excise tax 1644
not to exceed three per cent on transactions by which lodging by 1645
a hotel is or is to be furnished to transient guests. The 1646
legislative authority of the municipal corporation or the board 1647
of trustees of the township shall deposit at least fifty per 1648
cent of the revenue from the tax levied pursuant to this 1649
division into a separate fund, which shall be spent solely to 1650
make contributions to convention and visitors' bureaus operating 1651
within the county in which the municipal corporation or township 1652
is wholly or partly located, and the balance of that revenue 1653
shall be deposited in the general fund. The municipal 1654
corporation or township shall establish all regulations 1655
necessary to provide for the administration and allocation of 1656
the tax. The regulations may prescribe the time for payment of 1657
the tax, and may provide for the imposition of a penalty or 1658
interest, or both, for late payments, provided that the penalty 1659
does not exceed ten per cent of the amount of tax due, and the 1660
rate at which interest accrues does not exceed the rate per 1661
annum prescribed pursuant to section 5703.47 of the Revised 1662
Code. The levy of a tax under this division is in addition to 1663
any tax imposed on the same transaction by a municipal 1664
corporation or a township as authorized by division (A) of 1665
section 5739.08 of the Revised Code. 1666

(2) (a) The legislative authority of the most populous 1667
municipal corporation located wholly or partly in a county in 1668
which the board of county commissioners has levied a tax under 1669
division (A) (4) of this section may amend, on or before 1670
September 30, 2002, that municipal corporation's ordinance or 1671
resolution that levies an excise tax on transactions by which 1672
lodging by a hotel is or is to be furnished to transient guests, 1673

to provide for all of the following: 1674

(i) That the rate of the tax shall be increased by not 1675
more than an additional one per cent on each transaction; 1676

(ii) That all of the revenue from the increase in rate 1677
shall be pledged and contributed to a convention facilities 1678
authority established by the board of county commissioners under 1679
Chapter 351. of the Revised Code on or before May 15, 2002, and 1680
be used to pay costs of constructing, expanding, maintaining, 1681
operating, or promoting a convention center in the county, 1682
including paying bonds, or notes issued in anticipation of 1683
bonds, as provided by that chapter; 1684

(iii) That the increase in rate shall not be subject to 1685
diminution by initiative or referendum or by law while any 1686
bonds, or notes in anticipation of bonds, issued by the 1687
authority under Chapter 351. of the Revised Code to which the 1688
revenue is pledged, remain outstanding in accordance with their 1689
terms, unless provision is made by law, by the board of county 1690
commissioners, or by the legislative authority, for an adequate 1691
substitute therefor that is satisfactory to the trustee if a 1692
trust agreement secures the bonds. 1693

(b) The legislative authority of a municipal corporation 1694
that, pursuant to division (B) (2) (a) of this section, has 1695
amended its ordinance or resolution to increase the rate of the 1696
tax authorized by division (B) (1) of this section may further 1697
amend the ordinance or resolution to provide that the revenue 1698
referred to in division (B) (2) (a) (ii) of this section shall be 1699
pledged and contributed both to a convention facilities 1700
authority to pay the costs of constructing, expanding, 1701
maintaining, or operating one or more convention centers in the 1702
county, including paying bonds, or notes issued in anticipation 1703

of bonds, as provided in Chapter 351. of the Revised Code, and 1704
to a convention and visitors' bureau to pay the costs of 1705
promoting one or more convention centers in the county. 1706

As used in division (B) (2) of this section, "cost" has the 1707
same meaning as in section 351.01 of the Revised Code, and 1708
"convention center" has the same meaning as in section 307.695 1709
of the Revised Code. 1710

(C) For the purposes described in section 307.695 of the 1711
Revised Code and to cover the costs of administering the tax, a 1712
board of county commissioners of a county where a tax imposed 1713
under division (A) (1) of this section is in effect may, by 1714
resolution adopted within ninety days after July 15, 1985, by a 1715
majority of the members of the board, levy an additional excise 1716
tax not to exceed three per cent on transactions by which 1717
lodging by a hotel is or is to be furnished to transient guests. 1718
The tax authorized by this division shall be in addition to any 1719
tax that is levied pursuant to division (A) of this section, but 1720
it shall not apply to transactions subject to a tax levied by a 1721
municipal corporation or township pursuant to the authorization 1722
granted by division (A) of section 5739.08 of the Revised Code. 1723
The board shall establish all regulations necessary to provide 1724
for the administration and allocation of the tax. The 1725
regulations may prescribe the time for payment of the tax, and 1726
may provide for the imposition of a penalty or interest, or 1727
both, for late payments, provided that the penalty does not 1728
exceed ten per cent of the amount of tax due, and the rate at 1729
which interest accrues does not exceed the rate per annum 1730
prescribed pursuant to section 5703.47 of the Revised Code. All 1731
revenues arising from the tax shall be expended in accordance 1732
with section 307.695 of the Revised Code. The board of county 1733
commissioners of an eligible county as defined in section 1734

307.695 of the Revised Code may, by resolution adopted by a 1735
majority of the members of the board, amend the resolution 1736
levying a tax under this division to provide that the revenue 1737
from the tax shall be used by the board as described in division 1738
(H) of section 307.695 of the Revised Code. A tax imposed under 1739
this division shall remain in effect at the rate at which it is 1740
imposed for the duration of the period during which any 1741
agreement entered into by the board under section 307.695 of the 1742
Revised Code is in effect, the duration of the period during 1743
which any securities issued by the board under division (I) of 1744
section 307.695 of the Revised Code are outstanding, or the 1745
duration of the period during which the board owns a project as 1746
defined in section 307.695 of the Revised Code, whichever 1747
duration is longest. 1748

(D) For the purpose of providing contributions under 1749
division (B)(1) of section 307.671 of the Revised Code to enable 1750
the acquisition, construction, and equipping of a port authority 1751
educational and cultural facility in the county and, to the 1752
extent provided for in the cooperative agreement authorized by 1753
that section, for the purpose of paying debt service charges on 1754
bonds, or notes in anticipation of bonds, described in division 1755
(B)(1)(b) of that section, a board of county commissioners, by 1756
resolution adopted within ninety days after December 22, 1992, 1757
by a majority of the members of the board, may levy an 1758
additional excise tax not to exceed one and one-half per cent on 1759
transactions by which lodging by a hotel is or is to be 1760
furnished to transient guests. The excise tax authorized by this 1761
division shall be in addition to any tax that is levied pursuant 1762
to divisions (A), (B), and (C) of this section, to any excise 1763
tax levied pursuant to section 5739.08 of the Revised Code, and 1764
to any excise tax levied pursuant to section 351.021 of the 1765

Revised Code. The board of county commissioners shall establish 1766
all regulations necessary to provide for the administration and 1767
allocation of the tax that are not inconsistent with this 1768
section or section 307.671 of the Revised Code. The regulations 1769
may prescribe the time for payment of the tax, and may provide 1770
for the imposition of a penalty or interest, or both, for late 1771
payments, provided that the penalty does not exceed ten per cent 1772
of the amount of tax due, and the rate at which interest accrues 1773
does not exceed the rate per annum prescribed pursuant to 1774
section 5703.47 of the Revised Code. All revenues arising from 1775
the tax shall be expended in accordance with section 307.671 of 1776
the Revised Code and division (D) of this section. The levy of a 1777
tax imposed under this division may not commence prior to the 1778
first day of the month next following the execution of the 1779
cooperative agreement authorized by section 307.671 of the 1780
Revised Code by all parties to that agreement. The tax shall 1781
remain in effect at the rate at which it is imposed for the 1782
period of time described in division (C) of section 307.671 of 1783
the Revised Code for which the revenue from the tax has been 1784
pledged by the county to the corporation pursuant to that 1785
section, but, to any extent provided for in the cooperative 1786
agreement, for no lesser period than the period of time required 1787
for payment of the debt service charges on bonds, or notes in 1788
anticipation of bonds, described in division (B) (1) (b) of that 1789
section. 1790

(E) For the purpose of paying the costs of acquiring, 1791
constructing, equipping, and improving a municipal educational 1792
and cultural facility, including debt service charges on bonds 1793
provided for in division (B) of section 307.672 of the Revised 1794
Code, and for any additional purposes determined by the county 1795
in the resolution levying the tax or amendments to the 1796

resolution, including subsequent amendments providing for paying 1797
costs of acquiring, constructing, renovating, rehabilitating, 1798
equipping, and improving a port authority educational and 1799
cultural performing arts facility, as defined in section 307.674 1800
of the Revised Code, and including debt service charges on bonds 1801
provided for in division (B) of section 307.674 of the Revised 1802
Code, the legislative authority of a county, by resolution 1803
adopted within ninety days after June 30, 1993, by a majority of 1804
the members of the legislative authority, may levy an additional 1805
excise tax not to exceed one and one-half per cent on 1806
transactions by which lodging by a hotel is or is to be 1807
furnished to transient guests. The excise tax authorized by this 1808
division shall be in addition to any tax that is levied pursuant 1809
to divisions (A), (B), (C), and (D) of this section, to any 1810
excise tax levied pursuant to section 5739.08 of the Revised 1811
Code, and to any excise tax levied pursuant to section 351.021 1812
of the Revised Code. The legislative authority of the county 1813
shall establish all regulations necessary to provide for the 1814
administration and allocation of the tax. The regulations may 1815
prescribe the time for payment of the tax, and may provide for 1816
the imposition of a penalty or interest, or both, for late 1817
payments, provided that the penalty does not exceed ten per cent 1818
of the amount of tax due, and the rate at which interest accrues 1819
does not exceed the rate per annum prescribed pursuant to 1820
section 5703.47 of the Revised Code. All revenues arising from 1821
the tax shall be expended in accordance with section 307.672 of 1822
the Revised Code and this division. The levy of a tax imposed 1823
under this division shall not commence prior to the first day of 1824
the month next following the execution of the cooperative 1825
agreement authorized by section 307.672 of the Revised Code by 1826
all parties to that agreement. The tax shall remain in effect at 1827
the rate at which it is imposed for the period of time 1828

determined by the legislative authority of the county. That 1829
period of time shall not exceed fifteen years, except that the 1830
legislative authority of a county with a population of less than 1831
two hundred fifty thousand according to the most recent federal 1832
decennial census, by resolution adopted by a majority of its 1833
members before the original tax expires, may extend the duration 1834
of the tax for an additional period of time. The additional 1835
period of time by which a legislative authority extends a tax 1836
levied under this division shall not exceed fifteen years. 1837

(F) The legislative authority of a county that has levied 1838
a tax under division (E) of this section may, by resolution 1839
adopted within one hundred eighty days after January 4, 2001, by 1840
a majority of the members of the legislative authority, amend 1841
the resolution levying a tax under that division to provide for 1842
the use of the proceeds of that tax, to the extent that it is no 1843
longer needed for its original purpose as determined by the 1844
parties to a cooperative agreement amendment pursuant to 1845
division (D) of section 307.672 of the Revised Code, to pay 1846
costs of acquiring, constructing, renovating, rehabilitating, 1847
equipping, and improving a port authority educational and 1848
cultural performing arts facility, including debt service 1849
charges on bonds provided for in division (B) of section 307.674 1850
of the Revised Code, and to pay all obligations under any 1851
guaranty agreements, reimbursement agreements, or other credit 1852
enhancement agreements described in division (C) of section 1853
307.674 of the Revised Code. The resolution may also provide for 1854
the extension of the tax at the same rate for the longer of the 1855
period of time determined by the legislative authority of the 1856
county, but not to exceed an additional twenty-five years, or 1857
the period of time required to pay all debt service charges on 1858
bonds provided for in division (B) of section 307.672 of the 1859

Revised Code and on port authority revenue bonds provided for in 1860
division (B) of section 307.674 of the Revised Code. All 1861
revenues arising from the amendment and extension of the tax 1862
shall be expended in accordance with section 307.674 of the 1863
Revised Code, this division, and division (E) of this section. 1864

(G) For purposes of a tax levied by a county, township, or 1865
municipal corporation under this section or section 5739.08 of 1866
the Revised Code, a board of county commissioners, board of 1867
township trustees, or the legislative authority of a municipal 1868
corporation may adopt a resolution or ordinance at any time 1869
specifying that "hotel," as otherwise defined in section 5739.01 1870
of the Revised Code, includes the following: 1871

(1) Establishments in which fewer than five rooms are used 1872
for the accommodation of guests. 1873

(2) Establishments at which rooms are used for the 1874
accommodation of guests regardless of whether each room is 1875
accessible through its own keyed entry or several rooms are 1876
accessible through the same keyed entry; and, in determining the 1877
number of rooms, all rooms are included regardless of the number 1878
of structures in which the rooms are situated or the number of 1879
parcels of land on which the structures are located if the 1880
structures are under the same ownership and the structures are 1881
not identified in advertisements of the accommodations as 1882
distinct establishments. For the purposes of division (G)(2) of 1883
this section, two or more structures are under the same 1884
ownership if they are owned by the same person, or if they are 1885
owned by two or more persons the majority of the ownership 1886
interests of which are owned by the same person. 1887

The resolution or ordinance may apply to a tax imposed 1888
pursuant to this section prior to the adoption of the resolution 1889

or ordinance if the resolution or ordinance so states, but the 1890
tax shall not apply to transactions by which lodging by such an 1891
establishment is provided to transient guests prior to the 1892
adoption of the resolution or ordinance. 1893

(H) (1) As used in this division: 1894

(a) "Convention facilities authority" has the same meaning 1895
as in section 351.01 of the Revised Code. 1896

(b) "Convention center" has the same meaning as in section 1897
307.695 of the Revised Code. 1898

(2) Notwithstanding any contrary provision of division (D) 1899
of this section, the legislative authority of a county with a 1900
population of one million or more according to the most recent 1901
federal decennial census that has levied a tax under division 1902
(D) of this section may, by resolution adopted by a majority of 1903
the members of the legislative authority, provide for the 1904
extension of such levy and may provide that the proceeds of that 1905
tax, to the extent that they are no longer needed for their 1906
original purpose as defined by a cooperative agreement entered 1907
into under section 307.671 of the Revised Code, shall be 1908
deposited into the county general revenue fund. The resolution 1909
shall provide for the extension of the tax at a rate not to 1910
exceed the rate specified in division (D) of this section for a 1911
period of time determined by the legislative authority of the 1912
county, but not to exceed an additional forty years. 1913

(3) The legislative authority of a county with a 1914
population of one million or more that has levied a tax under 1915
division (A) (1) of this section may, by resolution adopted by a 1916
majority of the members of the legislative authority, increase 1917
the rate of the tax levied by such county under division (A) (1) 1918

of this section to a rate not to exceed five per cent on 1919
transactions by which lodging by a hotel is or is to be 1920
furnished to transient guests. Notwithstanding any contrary 1921
provision of division (A) (1) of this section, the resolution may 1922
provide that all collections resulting from the rate levied in 1923
excess of three per cent, after deducting the real and actual 1924
costs of administering the tax, shall be deposited in the county 1925
general fund. 1926

(4) The legislative authority of a county with a 1927
population of one million or more that has levied a tax under 1928
division (A) (1) of this section may, by resolution adopted on or 1929
before August 30, 2004, by a majority of the members of the 1930
legislative authority, provide that all or a portion of the 1931
proceeds of the tax levied under division (A) (1) of this 1932
section, after deducting the real and actual costs of 1933
administering the tax and the amounts required to be returned to 1934
townships and municipal corporations with respect to the first 1935
three per cent levied under division (A) (1) of this section, 1936
shall be deposited in the county general fund, provided that 1937
such proceeds shall be used to satisfy any pledges made in 1938
connection with an agreement entered into under section 307.695 1939
of the Revised Code. 1940

(5) No amount collected from a tax levied, extended, or 1941
required to be deposited in the county general fund under 1942
division (H) of this section shall be contributed to a 1943
convention facilities authority, corporation, or other entity 1944
created after July 1, 2003, for the principal purpose of 1945
constructing, improving, expanding, equipping, financing, or 1946
operating a convention center unless the mayor of the municipal 1947
corporation in which the convention center is to be operated by 1948
that convention facilities authority, corporation, or other 1949

entity has consented to the creation of that convention 1950
facilities authority, corporation, or entity. Notwithstanding 1951
any contrary provision of section 351.04 of the Revised Code, if 1952
a tax is levied by a county under division (H) of this section, 1953
the board of county commissioners of that county may determine 1954
the manner of selection, the qualifications, the number, and 1955
terms of office of the members of the board of directors of any 1956
convention facilities authority, corporation, or other entity 1957
described in division (H) (5) of this section. 1958

(6) (a) No amount collected from a tax levied, extended, or 1959
required to be deposited in the county general fund under 1960
division (H) of this section may be used for any purpose other 1961
than paying the direct and indirect costs of constructing, 1962
improving, expanding, equipping, financing, or operating a 1963
convention center and for the real and actual costs of 1964
administering the tax, unless, prior to the adoption of the 1965
resolution of the legislative authority of the county 1966
authorizing the levy, extension, increase, or deposit, the 1967
county and the mayor of the most populous municipal corporation 1968
in that county have entered into an agreement as to the use of 1969
such amounts, provided that such agreement has been approved by 1970
a majority of the mayors of the other municipal corporations in 1971
that county. The agreement shall provide that the amounts to be 1972
used for purposes other than paying the convention center or 1973
administrative costs described in division (H) (6) (a) of this 1974
section be used only for the direct and indirect costs of 1975
capital improvements, including the financing of capital 1976
improvements. 1977

(b) If the county in which the tax is levied has an 1978
association of mayors and city managers, the approval of that 1979
association of an agreement described in division (H) (6) (a) of 1980

this section shall be considered to be the approval of the 1981
majority of the mayors of the other municipal corporations for 1982
purposes of that division. 1983

(7) Each year, the auditor of state shall conduct an audit 1984
of the uses of any amounts collected from taxes levied, 1985
extended, or deposited under division (H) of this section and 1986
shall prepare a report of the auditor of state's findings. The 1987
auditor of state shall submit the report to the legislative 1988
authority of the county that has levied, extended, or deposited 1989
the tax, the speaker of the house of representatives, the 1990
president of the senate, and the leaders of the minority parties 1991
of the house of representatives and the senate. 1992

(I) (1) As used in this division: 1993

(a) "Convention facilities authority" has the same meaning 1994
as in section 351.01 of the Revised Code. 1995

(b) "Convention center" has the same meaning as in section 1996
307.695 of the Revised Code. 1997

(2) Notwithstanding any contrary provision of division (D) 1998
of this section, the legislative authority of a county with a 1999
population of one million two hundred thousand or more according 2000
to the most recent federal decennial census or the most recent 2001
annual population estimate published or released by the United 2002
States census bureau at the time the resolution is adopted 2003
placing the levy on the ballot, that has levied a tax under 2004
division (D) of this section may, by resolution adopted by a 2005
majority of the members of the legislative authority, provide 2006
for the extension of such levy and may provide that the proceeds 2007
of that tax, to the extent that the proceeds are no longer 2008
needed for their original purpose as defined by a cooperative 2009

agreement entered into under section 307.671 of the Revised Code 2010
and after deducting the real and actual costs of administering 2011
the tax, shall be used for paying the direct and indirect costs 2012
of constructing, improving, expanding, equipping, financing, or 2013
operating a convention center. The resolution shall provide for 2014
the extension of the tax at a rate not to exceed the rate 2015
specified in division (D) of this section for a period of time 2016
determined by the legislative authority of the county, but not 2017
to exceed an additional forty years. 2018

(3) The legislative authority of a county with a 2019
population of one million two hundred thousand or more that has 2020
levied a tax under division (A) (1) of this section may, by 2021
resolution adopted by a majority of the members of the 2022
legislative authority, increase the rate of the tax levied by 2023
such county under division (A) (1) of this section to a rate not 2024
to exceed five per cent on transactions by which lodging by a 2025
hotel is or is to be furnished to transient guests. 2026
Notwithstanding any contrary provision of division (A) (1) of 2027
this section, the resolution shall provide that all collections 2028
resulting from the rate levied in excess of three per cent, 2029
after deducting the real and actual costs of administering the 2030
tax, shall be used for paying the direct and indirect costs of 2031
constructing, improving, expanding, equipping, financing, or 2032
operating a convention center. 2033

(4) The legislative authority of a county with a 2034
population of one million two hundred thousand or more that has 2035
levied a tax under division (A) (1) of this section may, by 2036
resolution adopted on or before July 1, 2008, by a majority of 2037
the members of the legislative authority, provide that all or a 2038
portion of the proceeds of the tax levied under division (A) (1) 2039
of this section, after deducting the real and actual costs of 2040

administering the tax and the amounts required to be returned to 2041
townships and municipal corporations with respect to the first 2042
three per cent levied under division (A) (1) of this section, 2043
shall be used to satisfy any pledges made in connection with an 2044
agreement entered into under section 307.695 of the Revised Code 2045
or shall otherwise be used for paying the direct and indirect 2046
costs of constructing, improving, expanding, equipping, 2047
financing, or operating a convention center. 2048

(5) Any amount collected from a tax levied or extended 2049
under division (I) of this section may be contributed to a 2050
convention facilities authority created before July 1, 2005, but 2051
no amount collected from a tax levied or extended under division 2052
(I) of this section may be contributed to a convention 2053
facilities authority, corporation, or other entity created after 2054
July 1, 2005, unless the mayor of the municipal corporation in 2055
which the convention center is to be operated by that convention 2056
facilities authority, corporation, or other entity has consented 2057
to the creation of that convention facilities authority, 2058
corporation, or entity. 2059

(J) (1) Except as provided in division (J) (2) of this 2060
section, money collected by a county and distributed under this 2061
section to a convention and visitors' bureau in existence as of 2062
June 30, 2013, the effective date of H.B. 59 of the 130th 2063
general assembly, except for any such money pledged, as of that 2064
effective date, to the payment of debt service charges on bonds, 2065
notes, securities, or lease agreements, shall be used solely for 2066
tourism sales, marketing and promotion, and their associated 2067
costs, including, but not limited to, operational and 2068
administrative costs of the bureau, sales and marketing, and 2069
maintenance of the physical bureau structure. 2070

(2) A convention and visitors' bureau that has entered 2071
into an agreement under section 307.678 of the Revised Code may 2072
use revenue it receives from a tax levied under division (A) (1) 2073
of this section as described in division (D) of section 307.678 2074
of the Revised Code. 2075

(K) The board of county commissioners of a county with a 2076
population between one hundred three thousand and one hundred 2077
seven thousand according to the most recent federal decennial 2078
census, by resolution adopted by a majority of the members of 2079
the board within six months after September 15, 2014, the 2080
effective date of H.B. 483 of the 130th general assembly, may 2081
levy a tax not to exceed three per cent on transactions by which 2082
a hotel is or is to be furnished to transient guests. The 2083
purpose of the tax shall be to pay the costs of expanding, 2084
maintaining, or operating a soldiers' memorial and the costs of 2085
administering the tax. All revenue arising from the tax shall be 2086
credited to one or more special funds in the county treasury and 2087
shall be spent solely for the purposes of paying those costs. 2088
The board of county commissioners shall adopt all rules 2089
necessary to provide for the administration of the tax subject 2090
to the same limitations on imposing penalty or interest under 2091
division (A) (1) of this section. 2092

As used in this division "soldiers' memorial" means a 2093
memorial constructed and funded under Chapter 345. of the 2094
Revised Code. 2095

(L) The requirements under section 5739.081 of the Revised 2096
Code that apply to a tax levied by a municipal corporation 2097
pursuant to section 5739.08 of the Revised Code and to hotel 2098
intermediaries responsible for collecting and remitting that tax 2099
also apply with respect to a tax levied by a county or township 2100

under this section.

2101

Sec. 5739.12. (A) (1) Each person who has or is required to 2102
have a vendor's license, on or before the twenty-third day of 2103
each month, shall make and file a return for the preceding month 2104
in the form prescribed by the tax commissioner, and shall pay 2105
the tax shown on the return to be due. The return shall be filed 2106
electronically using the Ohio business gateway, as defined in 2107
section 718.01 of the Revised Code, the Ohio telefile system, or 2108
any other electronic means prescribed by the commissioner. 2109
Payment of the tax shown on the return to be due shall be made 2110
electronically in a manner approved by the commissioner. The 2111
commissioner may require a vendor that operates from multiple 2112
locations or has multiple vendor's licenses to report all tax 2113
liabilities on one consolidated return. The return shall show 2114
the amount of tax due from the vendor to the state for the 2115
period covered by the return and such other information as the 2116
commissioner deems necessary for the proper administration of 2117
this chapter. The commissioner may extend the time for making 2118
and filing returns and paying the tax, and may require that the 2119
return for the last month of any annual or semiannual period, as 2120
determined by the commissioner, be a reconciliation return 2121
detailing the vendor's sales activity for the preceding annual 2122
or semiannual period. The reconciliation return shall be filed 2123
by the last day of the month following the last month of the 2124
annual or semiannual period. The commissioner may remit all or 2125
any part of amounts or penalties that may become due under this 2126
chapter and may adopt rules relating thereto. Such return shall 2127
be filed electronically as directed by the tax commissioner, and 2128
payment of the amount of tax shown to be due thereon, after 2129
deduction of any discount provided for under this section, shall 2130
be made electronically in a manner approved by the tax 2131

commissioner. 2132

(2) Any person required to file returns and make payments 2133
electronically under division (A) (1) of this section may apply 2134
to the tax commissioner on a form prescribed by the commissioner 2135
to be excused from that requirement. For good cause shown, the 2136
commissioner may excuse the person from that requirement and may 2137
permit the person to file the returns and make the payments 2138
required by this section by nonelectronic means. 2139

(B) (1) If the return is filed and the amount of tax shown 2140
thereon to be due is paid on or before the date such return is 2141
required to be filed, the vendor shall be entitled to a discount 2142
of three-fourths of one per cent of the amount shown to be due 2143
on the return. 2144

(2) A vendor that has selected a certified service 2145
provider as its agent shall not be entitled to the discount if 2146
the certified service provider receives a monetary allowance 2147
pursuant to section 5739.06 of the Revised Code for performing 2148
the vendor's sales and use tax functions in this state. Amounts 2149
paid to the clerk of courts pursuant to section 4505.06 of the 2150
Revised Code shall be subject to the applicable discount. The 2151
discount shall be in consideration for prompt payment to the 2152
clerk of courts and for other services performed by the vendor 2153
in the collection of the tax. 2154

(C) (1) Upon application to the tax commissioner, a vendor 2155
who is required to file monthly returns may be relieved of the 2156
requirement to report and pay the actual tax due, provided that 2157
the vendor agrees to remit to the commissioner payment of not 2158
less than an amount determined by the commissioner to be the 2159
average monthly tax liability of the vendor, based upon a review 2160
of the returns or other information pertaining to such vendor 2161

for a period of not less than six months nor more than two years 2162
immediately preceding the filing of the application. Vendors who 2163
agree to the above conditions shall make and file an annual or 2164
semiannual reconciliation return, as prescribed by the 2165
commissioner. The reconciliation return shall be filed 2166
electronically as directed by the tax commissioner, and payment 2167
of the amount of tax shown to be due thereon, after deduction of 2168
any discount provided in this section, shall be made 2169
electronically in a manner approved by the commissioner. Failure 2170
of a vendor to comply with any of the above conditions may 2171
result in immediate reinstatement of the requirement of 2172
reporting and paying the actual tax liability on each monthly 2173
return, and the commissioner may at the commissioner's 2174
discretion deny the vendor the right to report and pay based 2175
upon the average monthly liability for a period not to exceed 2176
two years. The amount ascertained by the commissioner to be the 2177
average monthly tax liability of a vendor may be adjusted, based 2178
upon a review of the returns or other information pertaining to 2179
the vendor for a period of not less than six months nor more 2180
than two years preceding such adjustment. 2181

(2) The commissioner may authorize vendors whose tax 2182
liability is not such as to merit monthly returns, as 2183
ascertained by the commissioner upon the basis of administrative 2184
costs to the state, to make and file returns at less frequent 2185
intervals. When returns are filed at less frequent intervals in 2186
accordance with such authorization, the vendor shall be allowed 2187
the discount provided in this section in consideration for 2188
prompt payment with the return, provided the return is filed and 2189
payment is made of the amount of tax shown to be due thereon, at 2190
the time specified by the commissioner, but a vendor that has 2191
selected a certified service provider as its agent shall not be 2192

entitled to the discount. 2193

(D) Any vendor who fails to file a return or to pay the 2194
full amount of the tax shown on the return to be due in the 2195
manner prescribed under this section and the rules of the 2196
commissioner may, for each such return, be required to forfeit 2197
and pay into the state treasury an additional charge not 2198
exceeding fifty dollars or ten per cent of the tax required to 2199
be paid for the reporting period, whichever is greater, as 2200
revenue arising from the tax imposed by this chapter, and such 2201
sum may be collected by assessment in the manner provided in 2202
section 5739.13 of the Revised Code. The commissioner may remit 2203
all or a portion of the additional charge and may adopt rules 2204
relating to the imposition and remission of the additional 2205
charge. 2206

(E) If the amount required to be collected by a vendor 2207
from consumers is in excess of the applicable percentage of the 2208
vendor's receipts from sales that are taxable under section 2209
5739.02 of the Revised Code, or in the case of sales subject to 2210
a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 2211
of the Revised Code, in excess of the percentage equal to the 2212
aggregate rate of such taxes and the tax levied by section 2213
5739.02 of the Revised Code, such excess shall be remitted along 2214
with the remittance of the amount of tax due under section 2215
5739.10 of the Revised Code. 2216

(F) The commissioner, if the commissioner deems it 2217
necessary in order to insure the payment of the tax imposed by 2218
this chapter, may require returns and payments to be made for 2219
other than monthly periods. 2220

(G) Any vendor required to file a return and pay the tax 2221
under this section whose total payment for a year equals or 2222

exceeds the amount shown in division (A) of section 5739.122 of 2223
the Revised Code is subject to the accelerated tax payment 2224
requirements in divisions (B) and (C) of that section. For a 2225
vendor that operates from multiple locations or has multiple 2226
vendor's licenses, in determining whether the vendor's total 2227
payment equals or exceeds the amount shown in division (A) of 2228
that section, the vendor's total payment amount shall be the 2229
amount of the vendor's total tax liability for the previous 2230
calendar year for all of the vendor's locations or licenses. 2231

(H) In addition to the other requirements of this section, 2232
a vendor that is a hotel intermediary shall give to the 2233
purchaser an invoice or other statement of the price displaying 2234
the total amount the purchaser paid to the intermediary for the 2235
hotel lodging transaction and the amount of tax the intermediary 2236
collected on such amount. This invoice or statement shall be 2237
delivered to the purchaser before the transient guest completes 2238
the quest's hotel stay. 2239

Sec. 5739.13. (A) If any vendor collects the tax imposed 2240
by or pursuant to section 5739.02, 5739.021, 5739.023, or 2241
5739.026 of the Revised Code, and fails to remit the tax to the 2242
state as prescribed, or on the sale of a motor vehicle, 2243
watercraft, or outboard motor required to be titled, fails to 2244
remit payment to a clerk of a court of common pleas as provided 2245
in section 1548.06 or 4505.06 of the Revised Code, the vendor 2246
shall be personally liable for any tax collected and not 2247
remitted. The tax commissioner may make an assessment against 2248
such vendor based upon any information in the commissioner's 2249
possession. 2250

If any vendor fails to collect the tax or any consumer 2251
fails to pay the tax imposed by or pursuant to section 5739.02, 2252

5739.021, 5739.023, or 5739.026 of the Revised Code, on any 2253
transaction subject to the tax, the vendor or consumer shall be 2254
personally liable for the amount of the tax applicable to the 2255
transaction. The commissioner may make an assessment against 2256
either the vendor or consumer, as the facts may require, based 2257
upon any information in the commissioner's possession. 2258

An assessment against a vendor when the tax imposed by or 2259
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 2260
the Revised Code has not been collected or paid, shall not 2261
discharge the purchaser's or consumer's liability to reimburse 2262
the vendor for the tax applicable to such transaction. 2263

An assessment issued against either, pursuant to this 2264
section, shall not be considered an election of remedies, nor a 2265
bar to an assessment against the other for the tax applicable to 2266
the same transaction, provided that no assessment shall be 2267
issued against any person for the tax due on a particular 2268
transaction if the tax on that transaction actually has been 2269
paid by another. 2270

The commissioner may make an assessment against any vendor 2271
who fails to file a return or remit the proper amount of tax 2272
required by this chapter, or against any consumer who fails to 2273
pay the proper amount of tax required by this chapter. When 2274
information in the possession of the commissioner indicates that 2275
the amount required to be collected or paid under this chapter 2276
is greater than the amount remitted by the vendor or paid by the 2277
consumer, the commissioner may audit a sample of the vendor's 2278
sales or the consumer's purchases for a representative period, 2279
to ascertain the per cent of exempt or taxable transactions or 2280
the effective tax rate and may issue an assessment based on the 2281
audit. The commissioner shall make a good faith effort to reach 2282

agreement with the vendor or consumer in selecting a 2283
representative sample. 2284

The commissioner may make an assessment, based on any 2285
information in the commissioner's possession, against any person 2286
who fails to file a return or remit the proper amount of tax 2287
required by section 5739.102 of the Revised Code. 2288

The commissioner may issue an assessment on any 2289
transaction for which any tax imposed under this chapter or 2290
Chapter 5741. of the Revised Code was due and unpaid on the date 2291
the vendor or consumer was informed by an agent of the tax 2292
commissioner of an investigation or audit. If the vendor or 2293
consumer remits any payment of the tax for the period covered by 2294
the assessment after the vendor or consumer was informed of the 2295
investigation or audit, the payment shall be credited against 2296
the amount of the assessment. 2297

The commissioner shall give the party assessed written 2298
notice of the assessment in the manner provided in section 2299
5703.37 of the Revised Code. With the notice, the commissioner 2300
shall provide instructions on how to petition for reassessment 2301
and request a hearing on the petition. 2302

A vendor that is a hotel is not personally liable for the 2303
failure of a hotel intermediary to collect or remit the tax 2304
imposed by or pursuant to section 5739.02, 5739.021, 5739.023, 2305
or 5739.026 of the Revised Code on the sale of lodging by the 2306
hotel conducted through the hotel intermediary. The commissioner 2307
shall not make an assessment against a hotel based on the 2308
failure of a hotel intermediary to collect or remit such tax or 2309
to file a return as required by this chapter. 2310

(B) Unless the party assessed files with the commissioner 2311

within sixty days after service of the notice of assessment, 2312
either personally or by certified mail, a written petition for 2313
reassessment, signed by the party assessed or that party's 2314
authorized agent having knowledge of the facts, the assessment 2315
becomes final and the amount of the assessment is due from the 2316
party assessed and payable to the treasurer of state and 2317
remitted to the tax commissioner. The petition shall indicate 2318
the objections of the party assessed, but additional objections 2319
may be raised in writing if received by the commissioner prior 2320
to the date shown on the final determination. If the petition 2321
has been properly filed, the commissioner shall proceed under 2322
section 5703.60 of the Revised Code. 2323

(C) After an assessment becomes final, if any portion of 2324
the assessment remains unpaid, including accrued interest, a 2325
certified copy of the commissioner's entry making the assessment 2326
final may be filed in the office of the clerk of the court of 2327
common pleas in the county in which the place of business of the 2328
party assessed is located or the county in which the party 2329
assessed resides. If the party assessed maintains no place of 2330
business in this state and is not a resident of this state, the 2331
certified copy of the entry may be filed in the office of the 2332
clerk of the court of common pleas of Franklin county. 2333

Immediately upon the filing of the entry, the clerk shall 2334
enter a judgment for the state against the party assessed in the 2335
amount shown on the entry. The judgment may be filed by the 2336
clerk in a loose-leaf book entitled "special judgments for 2337
state, county, and transit authority retail sales tax" or, if 2338
appropriate, "special judgments for resort area excise tax," and 2339
shall have the same effect as other judgments. Execution shall 2340
issue upon the judgment upon the request of the tax 2341
commissioner, and all laws applicable to sales on execution 2342

shall apply to sales made under the judgment except as otherwise 2343
provided in this chapter. 2344

If the assessment is not paid in its entirety within sixty 2345
days after the date the assessment was issued, the portion of 2346
the assessment consisting of tax due shall bear interest at the 2347
rate per annum prescribed by section 5703.47 of the Revised Code 2348
from the day the tax commissioner issues the assessment until 2349
the assessment is paid or until it is certified to the attorney 2350
general for collection under section 131.02 of the Revised Code, 2351
whichever comes first. If the unpaid portion of the assessment 2352
is certified to the attorney general for collection, the entire 2353
unpaid portion of the assessment shall bear interest at the rate 2354
per annum prescribed by section 5703.47 of the Revised Code from 2355
the date of certification until the date it is paid in its 2356
entirety. Interest shall be paid in the same manner as the tax 2357
and may be collected by issuing an assessment under this 2358
section. 2359

(D) All money collected by the tax commissioner under this 2360
section shall be paid to the treasurer of state, and when paid 2361
shall be considered as revenue arising from the taxes imposed by 2362
or pursuant to sections 5739.01 to 5739.31 of the Revised Code. 2363

Sec. 5741.01. As used in this chapter: 2364

(A) "Person" includes individuals, receivers, assignees, 2365
trustees in bankruptcy, estates, firms, partnerships, 2366
associations, joint-stock companies, joint ventures, clubs, 2367
societies, corporations, business trusts, governments, and 2368
combinations of individuals of any form. 2369

(B) "Storage" means and includes any keeping or retention 2370
in this state for use or other consumption in this state. 2371

(C) "Use" means and includes the exercise of any right or 2372
power incidental to the ownership of the thing used. A thing is 2373
also "used" in this state if its consumer gives or otherwise 2374
distributes it, without charge, to recipients in this state. 2375

(D) "Purchase" means acquired or received for a 2376
consideration, whether such acquisition or receipt was effected 2377
by a transfer of title, or of possession, or of both, or a 2378
license to use or consume; whether such transfer was absolute or 2379
conditional, and by whatever means the transfer was effected; 2380
and whether the consideration was money, credit, barter, or 2381
exchange. Purchase includes production, even though the article 2382
produced was used, stored, or consumed by the producer. The 2383
transfer of copyrighted motion picture films for exhibition 2384
purposes is not a purchase, except such films as are used solely 2385
for advertising purposes. 2386

(E) "Seller" means the person from whom a purchase is 2387
made, and includes every person engaged in this state or 2388
elsewhere in the business of selling tangible personal property 2389
or providing a service for storage, use, or other consumption or 2390
benefit in this state; and when, in the opinion of the tax 2391
commissioner, it is necessary for the efficient administration 2392
of this chapter, to regard any salesperson, representative, 2393
peddler, or canvasser as the agent of a dealer, distributor, 2394
supervisor, or employer under whom the person operates, or from 2395
whom the person obtains tangible personal property, sold by the 2396
person for storage, use, or other consumption in this state, 2397
irrespective of whether or not the person is making such sales 2398
on the person's own behalf, or on behalf of such dealer, 2399
distributor, supervisor, or employer, the commissioner may 2400
regard the person as such agent, and may regard such dealer, 2401
distributor, supervisor, or employer as the seller. "Seller" 2402

does not include any person to the extent the person provides a
communications medium, such as, but not limited to, newspapers,
magazines, radio, television, or cable television, by means of
which sellers solicit purchases of their goods or services.

(F) "Consumer" means any person who has purchased tangible
personal property or has been provided a service for storage,
use, or other consumption or benefit in this state. "Consumer"
does not include a person who receives, without charge, tangible
personal property or a service.

A person who performs a facility management or similar
service contract for a contractee is a consumer of all tangible
personal property and services purchased for use in connection
with the performance of such contract, regardless of whether
title to any such property vests in the contractee. The purchase
of such property and services is not subject to the exception
for resale under division (E) of section 5739.01 of the Revised
Code.

(G) (1) "Price," except as provided in divisions (G) (2) to
(6) of this section, has the same meaning as in division (H) (1)
of section 5739.01 of the Revised Code.

(2) In the case of watercraft, outboard motors, or new
motor vehicles, "price" has the same meaning as in divisions (H)
(2) and (3) of section 5739.01 of the Revised Code.

(3) In the case of a nonresident business consumer that
purchases and uses tangible personal property outside this state
and subsequently temporarily stores, uses, or otherwise consumes
such tangible personal property in the conduct of business in
this state, the consumer or the tax commissioner may determine
the price based on the value of the temporary storage, use, or

other consumption, in lieu of determining the price pursuant to 2432
division (G) (1) of this section. A price determination made by 2433
the consumer is subject to review and redetermination by the 2434
commissioner. 2435

(4) In the case of tangible personal property held in this 2436
state as inventory for sale or lease, and that is temporarily 2437
stored, used, or otherwise consumed in a taxable manner, the 2438
price is the value of the temporary use. A price determination 2439
made by the consumer is subject to review and redetermination by 2440
the commissioner. 2441

(5) In the case of tangible personal property originally 2442
purchased and used by the consumer outside this state, and that 2443
becomes permanently stored, used, or otherwise consumed in this 2444
state more than six months after its acquisition by the 2445
consumer, the consumer or the commissioner may determine the 2446
price based on the current value of such tangible personal 2447
property, in lieu of determining the price pursuant to division 2448
(G) (1) of this section. A price determination made by the 2449
consumer is subject to review and redetermination by the 2450
commissioner. 2451

(6) If a consumer produces tangible personal property for 2452
sale and removes that property from inventory for the consumer's 2453
own use, the price is the produced cost of that tangible 2454
personal property. 2455

(H) "Nexus with this state" means that the seller engages 2456
in continuous and widespread solicitation of purchases from 2457
residents of this state or otherwise purposefully directs its 2458
business activities at residents of this state. 2459

(I) "Substantial nexus with this state" means that the 2460

seller has sufficient contact with this state, in accordance 2461
with Section 8 of Article I of the Constitution of the United 2462
States, to allow the state to require the seller to collect and 2463
remit use tax on sales of tangible personal property or services 2464
made to consumers in this state. "Substantial nexus with this 2465
state" exists when the seller does any of the following: 2466

(1) Maintains a place of business within this state, 2467
whether operated by employees or agents of the seller, by a 2468
member of an affiliated group, as defined in division (B) (3) (e) 2469
of section 5739.01 of the Revised Code, of which the seller is a 2470
member, or by a franchisee using a trade name of the seller; 2471

(2) Regularly has employees, agents, representatives, 2472
solicitors, installers, repairmen, salesmen, or other 2473
individuals in this state for the purpose of conducting the 2474
business of the seller; 2475

(3) Uses a person in this state for the purpose of 2476
receiving or processing orders of the seller's goods or 2477
services; 2478

(4) Makes regular deliveries of tangible personal property 2479
into this state by means other than common carrier; 2480

(5) Has membership in an affiliated group, as described in 2481
division (B) (3) (e) of section 5739.01 of the Revised Code, at 2482
least one other member of which has substantial nexus with this 2483
state; 2484

(6) Owns tangible personal property that is rented or 2485
leased to a consumer in this state, or offers tangible personal 2486
property, on approval, to consumers in this state; 2487

(7) Except as provided in section 5703.65 of the Revised 2488
Code, is registered with the secretary of state to do business 2489

in this state or is registered or licensed by any state agency, 2490
board, or commission to transact business in this state or to 2491
make sales to persons in this state; 2492

(8) Is a hotel intermediary that furnishes lodging in 2493
hotels located in this state to transient guests; 2494

(9) Has any other contact with this state that would allow 2495
this state to require the seller to collect and remit use tax 2496
under Section 8 of Article I of the Constitution of the United 2497
States. 2498

(J) "Fiscal officer" means, with respect to a regional 2499
transit authority, the secretary-treasurer thereof, and with 2500
respect to a county which is a transit authority, the fiscal 2501
officer of the county transit board appointed pursuant to 2502
section 306.03 of the Revised Code or, if the board of county 2503
commissioners operates the county transit system, the county 2504
auditor. 2505

(K) "Territory of the transit authority" means all of the 2506
area included within the territorial boundaries of a transit 2507
authority as they from time to time exist. Such territorial 2508
boundaries must at all times include all the area of a single 2509
county or all the area of the most populous county which is a 2510
part of such transit authority. County population shall be 2511
measured by the most recent census taken by the United States 2512
census bureau. 2513

(L) "Transit authority" means a regional transit authority 2514
created pursuant to section 306.31 of the Revised Code or a 2515
county in which a county transit system is created pursuant to 2516
section 306.01 of the Revised Code. For the purposes of this 2517
chapter, a transit authority must extend to at least the entire 2518

area of a single county. A transit authority which includes 2519
territory in more than one county must include all the area of 2520
the most populous county which is a part of such transit 2521
authority. County population shall be measured by the most 2522
recent census taken by the United States census bureau. 2523

(M) "Providing a service" has the same meaning as in 2524
division (X) of section 5739.01 of the Revised Code. 2525

(N) "Other consumption" includes receiving the benefits of 2526
a service. 2527

(O) "Lease" or "rental" has the same meaning as in 2528
division (UU) of section 5739.01 of the Revised Code. 2529

(P) "Certified service provider" has the same meaning as 2530
in section 5740.01 of the Revised Code. 2531

(Q) "Remote sale" means a sale for which the seller could 2532
not be legally required to pay, collect, or remit a tax imposed 2533
under this chapter or Chapter 5739. of the Revised Code, unless 2534
otherwise provided by the laws of the United States. 2535

(R) "Remote seller" means a seller that makes remote sales 2536
to one or more consumers. 2537

(S) "Remote small seller" means a remote seller that has 2538
gross annual receipts from remote sales in the United States not 2539
exceeding one million dollars for the preceding calendar year. 2540
For the purposes of determining whether a person is a small 2541
remote seller, the sales of all persons related within the 2542
meaning of subsection (b) or (c) of section 267 or section 2543
707(b)(1) of the Internal Revenue Code shall be aggregated, and 2544
persons with one or more ownership relationships shall be 2545
aggregated if those relationships were designed with the 2546
principal purpose to qualify as a remote small seller. 2547

(T) "Hotel intermediary," "hotel," and "transient guest" 2548
have the same meanings as in section 5739.01 of the Revised 2549
Code. 2550

Sec. 5741.12. (A) Each seller required by section 5741.17 2551
of the Revised Code to register with the tax commissioner, and 2552
any seller authorized by the commissioner to collect the tax 2553
imposed by or pursuant to section 5741.02, 5741.021, 5741.022, 2554
or 5741.023 of the Revised Code is subject to the same 2555
requirements and entitled to the same deductions and discount 2556
for prompt payments as are vendors under section 5739.12 of the 2557
Revised Code, and the same monetary allowances as are vendors 2558
under section 5739.06 of the Revised Code. The powers and duties 2559
of the commissioner with respect to returns and tax remittances 2560
under this section shall be identical with those prescribed in 2561
section 5739.12 of the Revised Code. 2562

(B) Every person storing, using, or consuming tangible 2563
personal property or receiving the benefit of a service, the 2564
storage, use, consumption, or receipt of which is subject to the 2565
tax imposed by or pursuant to section 5741.02, 5741.021, 2566
5741.022, or 5741.023 of the Revised Code, when such tax was not 2567
paid to a seller, shall, on or before the twenty-third day of 2568
each month, file with the tax commissioner a return for the 2569
preceding month in such form as is prescribed by the 2570
commissioner, showing such information as the commissioner deems 2571
necessary, and shall pay the tax shown on the return to be due. 2572
Remittance shall be made payable to the treasurer of state. The 2573
commissioner may require consumers to file returns and pay the 2574
tax at other than monthly intervals, if the commissioner 2575
determines that such filing is necessary for the efficient 2576
administration of the tax. If the commissioner determines that a 2577
consumer's tax liability is not such as to merit monthly filing, 2578

the commissioner may authorize the consumer to file returns and 2579
pay tax at less frequent intervals. 2580

Any consumer required to file a return and pay the tax 2581
under this section whose payment for any year equals or exceeds 2582
the amount shown in division (A) of section 5741.121 of the 2583
Revised Code is subject to the accelerated tax payment 2584
requirements in divisions (B) and (C) of that section. 2585

(C) Every person storing, using, or consuming a motor 2586
vehicle, watercraft, or outboard motor, the ownership of which 2587
must be evidenced by certificate of title, shall file the return 2588
required by this section and pay the tax due at or prior to the 2589
time of filing an application for certificate of title. 2590

(D) In addition to the other requirements of this section, 2591
a seller that is a hotel intermediary shall give to the 2592
purchaser an invoice or other statement of the price displaying 2593
the total amount the purchaser paid to the intermediary for the 2594
hotel lodging transaction and the amount of tax the intermediary 2595
collected on such amount. This invoice or statement shall be 2596
delivered to the purchaser before the transient guest completes 2597
the quest's hotel stay. 2598

Sec. 5741.13. If any person required by section 5741.12 of 2599
the Revised Code to make a return to the tax commissioner fails 2600
to make such return at the time required by or under authority 2601
of such section, the commissioner may make an assessment against 2602
such person, based upon any information within the 2603
commissioner's possession. The commissioner shall give to such 2604
person written notice of the assessment as provided in section 2605
5703.37 of the Revised Code. 2606

If information in the possession of the commissioner 2607

indicates that the tax paid by any consumer is less than that 2608
due, the commissioner may audit a representative sample of that 2609
consumer's purchases and may issue an assessment based thereon. 2610
The commissioner shall make a good faith effort to reach 2611
agreement with the consumer on selecting a representative 2612
sample. 2613

If information in the possession of the commissioner 2614
indicates that the amount required to be collected or paid under 2615
this chapter is greater than the amount remitted by the seller, 2616
the commissioner may audit a representative sample of the 2617
seller's sales to determine the per cent of exempt or taxable 2618
transactions or the effective tax rate and may issue an 2619
assessment based on the audit. The commissioner shall make a 2620
good faith effort to reach agreement with the seller in 2621
selecting a representative sample. 2622

The commissioner shall not make an assessment under this 2623
section against a hotel based on the failure of a hotel 2624
intermediary to make a return, collect the tax due, or remit the 2625
tax collected as required by this chapter. 2626

Section 2. That existing sections 351.021, 353.06, 2627
5739.01, 5739.09, 5739.12, 5739.13, 5741.01, 5741.12, and 2628
5741.13 of the Revised Code are hereby repealed. 2629

Section 3. The amendment or enactment by this act of 2630
sections 351.021, 353.06, 5739.01, 5739.081, 5739.09, 5739.12, 2631
5741.01, 5741.12, and 5741.13 of the Revised Code applies on and 2632
after October 1, 2015. 2633