

As Re-Referred by the House Rules and Reference Committee

131st General Assembly

Regular Session

2015-2016

Am. H. B. No. 343

Representatives Young, Romanchuk

**Cosponsors: Representatives Antani, Becker, Brenner, Cupp, Hood, LaTourette,
Rezabek, Sprague, Thompson, Vitale**

A BILL

To amend section 5739.01 of the Revised Code to 1
exempt employment services and employment 2
placement services from sales and use tax 3
beginning July 1, 2017. 4

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

Section 1. That section 5739.01 of the Revised Code be 5
amended to read as follows: 6

Sec. 5739.01. As used in this chapter: 7

(A) "Person" includes individuals, receivers, assignees, 8
trustees in bankruptcy, estates, firms, partnerships, 9
associations, joint-stock companies, joint ventures, clubs, 10
societies, corporations, the state and its political 11
subdivisions, and combinations of individuals of any form. 12

(B) "Sale" and "selling" include all of the following 13
transactions for a consideration in any manner, whether 14
absolutely or conditionally, whether for a price or rental, in 15
money or by exchange, and by any means whatsoever: 16

(1) All transactions by which title or possession, or 17
both, of tangible personal property, is or is to be transferred, 18
or a license to use or consume tangible personal property is or 19
is to be granted; 20

(2) All transactions by which lodging by a hotel is or is 21
to be furnished to transient guests; 22

(3) All transactions by which: 23

(a) An item of tangible personal property is or is to be 24
repaired, except property, the purchase of which would not be 25
subject to the tax imposed by section 5739.02 of the Revised 26
Code; 27

(b) An item of tangible personal property is or is to be 28
installed, except property, the purchase of which would not be 29
subject to the tax imposed by section 5739.02 of the Revised 30
Code or property that is or is to be incorporated into and will 31
become a part of a production, transmission, transportation, or 32
distribution system for the delivery of a public utility 33
service; 34

(c) The service of washing, cleaning, waxing, polishing, 35
or painting a motor vehicle is or is to be furnished; 36

(d) Until August 1, 2003, industrial laundry cleaning 37
services are or are to be provided and, on and after August 1, 38
2003, laundry and dry cleaning services are or are to be 39
provided; 40

(e) Automatic data processing, computer services, or 41
electronic information services are or are to be provided for 42
use in business when the true object of the transaction is the 43
receipt by the consumer of automatic data processing, computer 44
services, or electronic information services rather than the 45

receipt of personal or professional services to which automatic 46
data processing, computer services, or electronic information 47
services are incidental or supplemental. Notwithstanding any 48
other provision of this chapter, such transactions that occur 49
between members of an affiliated group are not sales. An 50
"affiliated group" means two or more persons related in such a 51
way that one person owns or controls the business operation of 52
another member of the group. In the case of corporations with 53
stock, one corporation owns or controls another if it owns more 54
than fifty per cent of the other corporation's common stock with 55
voting rights. 56

(f) Telecommunications service, including prepaid calling 57
service, prepaid wireless calling service, or ancillary service, 58
is or is to be provided, but not including coin-operated 59
telephone service; 60

(g) Landscaping and lawn care service is or is to be 61
provided; 62

(h) Private investigation and security service is or is to 63
be provided; 64

(i) Information services or tangible personal property is 65
provided or ordered by means of a nine hundred telephone call; 66

(j) Building maintenance and janitorial service is or is 67
to be provided; 68

(k) ~~Employment~~ On and before June 30, 2017, employment 69
service is or is to be provided; 70

(l) ~~Employment~~ On and before June 30, 2017, employment 71
placement service is or is to be provided; 72

(m) Exterminating service is or is to be provided; 73

(n) Physical fitness facility service is or is to be provided;	74 75
(o) Recreation and sports club service is or is to be provided;	76 77
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	78 79
(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.	80 81 82 83 84 85 86 87 88
(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 holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;	89 90 91 92 93 94 95 96
(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.	97 98 99 100
(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal	101 102

service" means the removal of snow by any mechanized means, but 103
does not include the providing of such service by a person that 104
has less than five thousand dollars in sales of such service 105
during the calendar year. 106

(u) Electronic publishing service is or is to be provided 107
to a consumer for use in business, except that such transactions 108
occurring between members of an affiliated group, as defined in 109
division (B) (3) (e) of this section, are not sales. 110

(4) All transactions by which printed, imprinted, 111
overprinted, lithographic, multilithic, blueprinted, 112
photostatic, or other productions or reproductions of written or 113
graphic matter are or are to be furnished or transferred; 114

(5) The production or fabrication of tangible personal 115
property for a consideration for consumers who furnish either 116
directly or indirectly the materials used in the production of 117
fabrication work; and include the furnishing, preparing, or 118
serving for a consideration of any tangible personal property 119
consumed on the premises of the person furnishing, preparing, or 120
serving such tangible personal property. Except as provided in 121
section 5739.03 of the Revised Code, a construction contract 122
pursuant to which tangible personal property is or is to be 123
incorporated into a structure or improvement on and becoming a 124
part of real property is not a sale of such tangible personal 125
property. The construction contractor is the consumer of such 126
tangible personal property, provided that the sale and 127
installation of carpeting, the sale and installation of 128
agricultural land tile, the sale and erection or installation of 129
portable grain bins, or the provision of landscaping and lawn 130
care service and the transfer of property as part of such 131
service is never a construction contract. 132

As used in division (B) (5) of this section:	133
(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.	134 135 136 137 138 139 140 141 142
(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.	143 144 145 146
(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, or an ownership interest in a pass-through entity, as defined in section 5733.04 of the Revised Code, is transferred, if the corporation or pass-through entity is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders or owners;	147 148 149 150 151 152 153 154
(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;	155 156 157 158 159
(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of	160 161

such films for exhibition purposes is not a sale; 162

(9) On and after August 1, 2003, all transactions by which 163
tangible personal property is or is to be stored, except such 164
property that the consumer of the storage holds for sale in the 165
regular course of business; 166

(10) All transactions in which "guaranteed auto 167
protection" is provided whereby a person promises to pay to the 168
consumer the difference between the amount the consumer receives 169
from motor vehicle insurance and the amount the consumer owes to 170
a person holding title to or a lien on the consumer's motor 171
vehicle in the event the consumer's motor vehicle suffers a 172
total loss under the terms of the motor vehicle insurance policy 173
or is stolen and not recovered, if the protection and its price 174
are included in the purchase or lease agreement; 175

(11) (a) Except as provided in division (B) (11) (b) of this 176
section, on and after October 1, 2009, all transactions by which 177
health care services are paid for, reimbursed, provided, 178
delivered, arranged for, or otherwise made available by a 179
medicaid health insuring corporation pursuant to the 180
corporation's contract with the state. 181

(b) If the centers for medicare and medicaid services of 182
the United States department of health and human services 183
determines that the taxation of transactions described in 184
division (B) (11) (a) of this section constitutes an impermissible 185
health care-related tax under the "Social Security Act," section 186
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 187
the medicaid director shall notify the tax commissioner of that 188
determination. Beginning with the first day of the month 189
following that notification, the transactions described in 190
division (B) (11) (a) of this section are not sales for the 191

purposes of this chapter or Chapter 5741. of the Revised Code. 192
The tax commissioner shall order that the collection of taxes 193
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 194
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 195
for transactions occurring on or after that date. 196

(12) All transactions by which a specified digital product 197
is provided for permanent use or less than permanent use, 198
regardless of whether continued payment is required. 199

Except as provided in this section, "sale" and "selling" 200
do not include transfers of interest in leased property where 201
the original lessee and the terms of the original lease 202
agreement remain unchanged, or professional, insurance, or 203
personal service transactions that involve the transfer of 204
tangible personal property as an inconsequential element, for 205
which no separate charges are made. 206

(C) "Vendor" means the person providing the service or by 207
whom the transfer effected or license given by a sale is or is 208
to be made or given and, for sales described in division (B) (3) 209
(i) of this section, the telecommunications service vendor that 210
provides the nine hundred telephone service; if two or more 211
persons are engaged in business at the same place of business 212
under a single trade name in which all collections on account of 213
sales by each are made, such persons shall constitute a single 214
vendor. 215

Physicians, dentists, hospitals, and veterinarians who are 216
engaged in selling tangible personal property as received from 217
others, such as eyeglasses, mouthwashes, dentifrices, or similar 218
articles, are vendors. Veterinarians who are engaged in 219
transferring to others for a consideration drugs, the dispensing 220
of which does not require an order of a licensed veterinarian or 221

physician under federal law, are vendors. 222

(D) (1) "Consumer" means the person for whom the service is 223
provided, to whom the transfer effected or license given by a 224
sale is or is to be made or given, to whom the service described 225
in division (B) (3) (f) or (i) of this section is charged, or to 226
whom the admission is granted. 227

(2) Physicians, dentists, hospitals, and blood banks 228
operated by nonprofit institutions and persons licensed to 229
practice veterinary medicine, surgery, and dentistry are 230
consumers of all tangible personal property and services 231
purchased by them in connection with the practice of medicine, 232
dentistry, the rendition of hospital or blood bank service, or 233
the practice of veterinary medicine, surgery, and dentistry. In 234
addition to being consumers of drugs administered by them or by 235
their assistants according to their direction, veterinarians 236
also are consumers of drugs that under federal law may be 237
dispensed only by or upon the order of a licensed veterinarian 238
or physician, when transferred by them to others for a 239
consideration to provide treatment to animals as directed by the 240
veterinarian. 241

(3) A person who performs a facility management, or 242
similar service contract for a contractee is a consumer of all 243
tangible personal property and services purchased for use in 244
connection with the performance of such contract, regardless of 245
whether title to any such property vests in the contractee. The 246
purchase of such property and services is not subject to the 247
exception for resale under division (E) (1) of this section. 248

(4) (a) In the case of a person who purchases printed 249
matter for the purpose of distributing it or having it 250
distributed to the public or to a designated segment of the 251

public, free of charge, that person is the consumer of that 252
printed matter, and the purchase of that printed matter for that 253
purpose is a sale. 254

(b) In the case of a person who produces, rather than 255
purchases, printed matter for the purpose of distributing it or 256
having it distributed to the public or to a designated segment 257
of the public, free of charge, that person is the consumer of 258
all tangible personal property and services purchased for use or 259
consumption in the production of that printed matter. That 260
person is not entitled to claim exemption under division (B) (42) 261
(f) of section 5739.02 of the Revised Code for any material 262
incorporated into the printed matter or any equipment, supplies, 263
or services primarily used to produce the printed matter. 264

(c) The distribution of printed matter to the public or to 265
a designated segment of the public, free of charge, is not a 266
sale to the members of the public to whom the printed matter is 267
distributed or to any persons who purchase space in the printed 268
matter for advertising or other purposes. 269

(5) A person who makes sales of any of the services listed 270
in division (B) (3) of this section is the consumer of any 271
tangible personal property used in performing the service. The 272
purchase of that property is not subject to the resale exception 273
under division (E) (1) of this section. 274

(6) A person who engages in highway transportation for 275
hire is the consumer of all packaging materials purchased by 276
that person and used in performing the service, except for 277
packaging materials sold by such person in a transaction 278
separate from the service. 279

(7) In the case of a transaction for health care services 280

under division (B) (11) of this section, a medicaid health 281
insuring corporation is the consumer of such services. The 282
purchase of such services by a medicaid health insuring 283
corporation is not subject to the exception for resale under 284
division (E) (1) of this section or to the exemptions provided 285
under divisions (B) (12), (18), (19), and (22) of section 5739.02 286
of the Revised Code. 287

(E) "Retail sale" and "sales at retail" include all sales, 288
except those in which the purpose of the consumer is to resell 289
the thing transferred or benefit of the service provided, by a 290
person engaging in business, in the form in which the same is, 291
or is to be, received by the person. 292

(F) "Business" includes any activity engaged in by any 293
person with the object of gain, benefit, or advantage, either 294
direct or indirect. "Business" does not include the activity of 295
a person in managing and investing the person's own funds. 296

(G) "Engaging in business" means commencing, conducting, 297
or continuing in business, and liquidating a business when the 298
liquidator thereof holds itself out to the public as conducting 299
such business. Making a casual sale is not engaging in business. 300

(H) (1) (a) "Price," except as provided in divisions (H) (2), 301
(3), and (4) of this section, means the total amount of 302
consideration, including cash, credit, property, and services, 303
for which tangible personal property or services are sold, 304
leased, or rented, valued in money, whether received in money or 305
otherwise, without any deduction for any of the following: 306

(i) The vendor's cost of the property sold; 307

(ii) The cost of materials used, labor or service costs, 308
interest, losses, all costs of transportation to the vendor, all 309

taxes imposed on the vendor, including the tax imposed under 310
Chapter 5751. of the Revised Code, and any other expense of the 311
vendor; 312

(iii) Charges by the vendor for any services necessary to 313
complete the sale; 314

(iv) On and after August 1, 2003, delivery charges. As 315
used in this division, "delivery charges" means charges by the 316
vendor for preparation and delivery to a location designated by 317
the consumer of tangible personal property or a service, 318
including transportation, shipping, postage, handling, crating, 319
and packing. 320

(v) Installation charges; 321

(vi) Credit for any trade-in. 322

(b) "Price" includes consideration received by the vendor 323
from a third party, if the vendor actually receives the 324
consideration from a party other than the consumer, and the 325
consideration is directly related to a price reduction or 326
discount on the sale; the vendor has an obligation to pass the 327
price reduction or discount through to the consumer; the amount 328
of the consideration attributable to the sale is fixed and 329
determinable by the vendor at the time of the sale of the item 330
to the consumer; and one of the following criteria is met: 331

(i) The consumer presents a coupon, certificate, or other 332
document to the vendor to claim a price reduction or discount 333
where the coupon, certificate, or document is authorized, 334
distributed, or granted by a third party with the understanding 335
that the third party will reimburse any vendor to whom the 336
coupon, certificate, or document is presented; 337

(ii) The consumer identifies the consumer's self to the 338

seller as a member of a group or organization entitled to a 339
price reduction or discount. A preferred customer card that is 340
available to any patron does not constitute membership in such a 341
group or organization. 342

(iii) The price reduction or discount is identified as a 343
third party price reduction or discount on the invoice received 344
by the consumer, or on a coupon, certificate, or other document 345
presented by the consumer. 346

(c) "Price" does not include any of the following: 347

(i) Discounts, including cash, term, or coupons that are 348
not reimbursed by a third party that are allowed by a vendor and 349
taken by a consumer on a sale; 350

(ii) Interest, financing, and carrying charges from credit 351
extended on the sale of tangible personal property or services, 352
if the amount is separately stated on the invoice, bill of sale, 353
or similar document given to the purchaser; 354

(iii) Any taxes legally imposed directly on the consumer 355
that are separately stated on the invoice, bill of sale, or 356
similar document given to the consumer. For the purpose of this 357
division, the tax imposed under Chapter 5751. of the Revised 358
Code is not a tax directly on the consumer, even if the tax or a 359
portion thereof is separately stated. 360

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 361
this section, any discount allowed by an automobile manufacturer 362
to its employee, or to the employee of a supplier, on the 363
purchase of a new motor vehicle from a new motor vehicle dealer 364
in this state. 365

(v) The dollar value of a gift card that is not sold by a 366
vendor or purchased by a consumer and that is redeemed by the 367

consumer in purchasing tangible personal property or services if 368
the vendor is not reimbursed and does not receive compensation 369
from a third party to cover all or part of the gift card value. 370
For the purposes of this division, a gift card is not sold by a 371
vendor or purchased by a consumer if it is distributed pursuant 372
to an awards, loyalty, or promotional program. Past and present 373
purchases of tangible personal property or services by the 374
consumer shall not be treated as consideration exchanged for a 375
gift card. 376

(2) In the case of a sale of any new motor vehicle by a 377
new motor vehicle dealer, as defined in section 4517.01 of the 378
Revised Code, in which another motor vehicle is accepted by the 379
dealer as part of the consideration received, "price" has the 380
same meaning as in division (H) (1) of this section, reduced by 381
the credit afforded the consumer by the dealer for the motor 382
vehicle received in trade. 383

(3) In the case of a sale of any watercraft or outboard 384
motor by a watercraft dealer licensed in accordance with section 385
1547.543 of the Revised Code, in which another watercraft, 386
watercraft and trailer, or outboard motor is accepted by the 387
dealer as part of the consideration received, "price" has the 388
same meaning as in division (H) (1) of this section, reduced by 389
the credit afforded the consumer by the dealer for the 390
watercraft, watercraft and trailer, or outboard motor received 391
in trade. As used in this division, "watercraft" includes an 392
outdrive unit attached to the watercraft. 393

(4) In the case of transactions for health care services 394
under division (B) (11) of this section, "price" means the amount 395
of managed care premiums received each month by a medicaid 396
health insuring corporation. 397

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

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

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

(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 428
where sleeping accommodations are offered to guests, in which 429
five or more rooms are used for the accommodation of such 430
guests, whether the rooms are in one or several structures, 431
except as otherwise provided in division (G) of section 5739.09 432
of the Revised Code. 433

(N) "Transient guests" means persons occupying a room or 434
rooms for sleeping accommodations for less than thirty 435
consecutive days. 436

(O) "Making retail sales" means the effecting of 437
transactions wherein one party is obligated to pay the price and 438
the other party is obligated to provide a service or to transfer 439
title to or possession of the item sold. "Making retail sales" 440
does not include the preliminary acts of promoting or soliciting 441
the retail sales, other than the distribution of printed matter 442
which displays or describes and prices the item offered for 443
sale, nor does it include delivery of a predetermined quantity 444
of tangible personal property or transportation of property or 445
personnel to or from a place where a service is performed. 446

(P) "Used directly in the rendition of a public utility 447
service" means that property that is to be incorporated into and 448
will become a part of the consumer's production, transmission, 449
transportation, or distribution system and that retains its 450
classification as tangible personal property after such 451
incorporation; fuel or power used in the production, 452
transmission, transportation, or distribution system; and 453
tangible personal property used in the repair and maintenance of 454
the production, transmission, transportation, or distribution 455
system, including only such motor vehicles as are specially 456
designed and equipped for such use. Tangible personal property 457

and services used primarily in providing highway transportation 458
for hire are not used directly in the rendition of a public 459
utility service. In this definition, "public utility" includes a 460
citizen of the United States holding, and required to hold, a 461
certificate of public convenience and necessity issued under 49 462
U.S.C. 41102. 463

(Q) "Refining" means removing or separating a desirable 464
product from raw or contaminated materials by distillation or 465
physical, mechanical, or chemical processes. 466

(R) "Assembly" and "assembling" mean attaching or fitting 467
together parts to form a product, but do not include packaging a 468
product. 469

(S) "Manufacturing operation" means a process in which 470
materials are changed, converted, or transformed into a 471
different state or form from which they previously existed and 472
includes refining materials, assembling parts, and preparing raw 473
materials and parts by mixing, measuring, blending, or otherwise 474
committing such materials or parts to the manufacturing process. 475
"Manufacturing operation" does not include packaging. 476

(T) "Fiscal officer" means, with respect to a regional 477
transit authority, the secretary-treasurer thereof, and with 478
respect to a county that is a transit authority, the fiscal 479
officer of the county transit board if one is appointed pursuant 480
to section 306.03 of the Revised Code or the county auditor if 481
the board of county commissioners operates the county transit 482
system. 483

(U) "Transit authority" means a regional transit authority 484
created pursuant to section 306.31 of the Revised Code or a 485
county in which a county transit system is created pursuant to 486

section 306.01 of the Revised Code. For the purposes of this 487
chapter, a transit authority must extend to at least the entire 488
area of a single county. A transit authority that includes 489
territory in more than one county must include all the area of 490
the most populous county that is a part of such transit 491
authority. County population shall be measured by the most 492
recent census taken by the United States census bureau. 493

(V) "Legislative authority" means, with respect to a 494
regional transit authority, the board of trustees thereof, and 495
with respect to a county that is a transit authority, the board 496
of county commissioners. 497

(W) "Territory of the transit authority" means all of the 498
area included within the territorial boundaries of a transit 499
authority as they from time to time exist. Such territorial 500
boundaries must at all times include all the area of a single 501
county or all the area of the most populous county that is a 502
part of such transit authority. County population shall be 503
measured by the most recent census taken by the United States 504
census bureau. 505

(X) "Providing a service" means providing or furnishing 506
anything described in division (B) (3) of this section for 507
consideration. 508

(Y) (1) (a) "Automatic data processing" means processing of 509
others' data, including keypunching or similar data entry 510
services together with verification thereof, or providing access 511
to computer equipment for the purpose of processing data. 512

(b) "Computer services" means providing services 513
consisting of specifying computer hardware configurations and 514
evaluating technical processing characteristics, computer 515

programming, and training of computer programmers and operators, 516
provided in conjunction with and to support the sale, lease, or 517
operation of taxable computer equipment or systems. 518

(c) "Electronic information services" means providing 519
access to computer equipment by means of telecommunications 520
equipment for the purpose of either of the following: 521

(i) Examining or acquiring data stored in or accessible to 522
the computer equipment; 523

(ii) Placing data into the computer equipment to be 524
retrieved by designated recipients with access to the computer 525
equipment. 526

For transactions occurring on or after the effective date 527
of the amendment of this section by H.B. 157 of the 127th 528
general assembly, December 21, 2007, "electronic information 529
services" does not include electronic publishing as defined in 530
division (LLL) of this section. 531

(d) "Automatic data processing, computer services, or 532
electronic information services" shall not include personal or 533
professional services. 534

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 535
section, "personal and professional services" means all services 536
other than automatic data processing, computer services, or 537
electronic information services, including but not limited to: 538

(a) Accounting and legal services such as advice on tax 539
matters, asset management, budgetary matters, quality control, 540
information security, and auditing and any other situation where 541
the service provider receives data or information and studies, 542
alters, analyzes, interprets, or adjusts such material; 543

(b) Analyzing business policies and procedures;	544
(c) Identifying management information needs;	545
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	546 547 548
(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;	549 550 551 552 553
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	554 555 556
(g) Testing of business procedures;	557
(h) Training personnel in business procedure applications;	558
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	559 560 561 562 563 564 565
(j) Providing debt collection services by any oral, written, graphic, or electronic means.	566 567
The services listed in divisions (Y) (2) (a) to (j) of this section are not automatic data processing or computer services.	568 569
(Z) "Highway transportation for hire" means the	570

transportation of personal property belonging to others for 571
consideration by any of the following: 572

(1) The holder of a permit or certificate issued by this 573
state or the United States authorizing the holder to engage in 574
transportation of personal property belonging to others for 575
consideration over or on highways, roadways, streets, or any 576
similar public thoroughfare; 577

(2) A person who engages in the transportation of personal 578
property belonging to others for consideration over or on 579
highways, roadways, streets, or any similar public thoroughfare 580
but who could not have engaged in such transportation on 581
December 11, 1985, unless the person was the holder of a permit 582
or certificate of the types described in division (Z)(1) of this 583
section; 584

(3) A person who leases a motor vehicle to and operates it 585
for a person described by division (Z)(1) or (2) of this 586
section. 587

(AA) (1) "Telecommunications service" means the electronic 588
transmission, conveyance, or routing of voice, data, audio, 589
video, or any other information or signals to a point, or 590
between or among points. "Telecommunications service" includes 591
such transmission, conveyance, or routing in which computer 592
processing applications are used to act on the form, code, or 593
protocol of the content for purposes of transmission, 594
conveyance, or routing without regard to whether the service is 595
referred to as voice-over internet protocol service or is 596
classified by the federal communications commission as enhanced 597
or value-added. "Telecommunications service" does not include 598
any of the following: 599

(a) Data processing and information services that allow 600
data to be generated, acquired, stored, processed, or retrieved 601
and delivered by an electronic transmission to a consumer where 602
the consumer's primary purpose for the underlying transaction is 603
the processed data or information; 604

(b) Installation or maintenance of wiring or equipment on 605
a customer's premises; 606

(c) Tangible personal property; 607

(d) Advertising, including directory advertising; 608

(e) Billing and collection services provided to third 609
parties; 610

(f) Internet access service; 611

(g) Radio and television audio and video programming 612
services, regardless of the medium, including the furnishing of 613
transmission, conveyance, and routing of such services by the 614
programming service provider. Radio and television audio and 615
video programming services include, but are not limited to, 616
cable service, as defined in 47 U.S.C. 522(6), and audio and 617
video programming services delivered by commercial mobile radio 618
service providers, as defined in 47 C.F.R. 20.3; 619

(h) Ancillary service; 620

(i) Digital products delivered electronically, including 621
software, music, video, reading materials, or ring tones. 622

(2) "Ancillary service" means a service that is associated 623
with or incidental to the provision of telecommunications 624
service, including conference bridging service, detailed 625
telecommunications billing service, directory assistance, 626
vertical service, and voice mail service. As used in this 627

division: 628

(a) "Conference bridging service" means an ancillary 629
service that links two or more participants of an audio or video 630
conference call, including providing a telephone number. 631
"Conference bridging service" does not include 632
telecommunications services used to reach the conference bridge. 633

(b) "Detailed telecommunications billing service" means an 634
ancillary service of separately stating information pertaining 635
to individual calls on a customer's billing statement. 636

(c) "Directory assistance" means an ancillary service of 637
providing telephone number or address information. 638

(d) "Vertical service" means an ancillary service that is 639
offered in connection with one or more telecommunications 640
services, which offers advanced calling features that allow 641
customers to identify callers and manage multiple calls and call 642
connections, including conference bridging service. 643

(e) "Voice mail service" means an ancillary service that 644
enables the customer to store, send, or receive recorded 645
messages. "Voice mail service" does not include any vertical 646
services that the customer may be required to have in order to 647
utilize the voice mail service. 648

(3) "900 service" means an inbound toll telecommunications 649
service purchased by a subscriber that allows the subscriber's 650
customers to call in to the subscriber's prerecorded 651
announcement or live service, and which is typically marketed 652
under the name "900 service" and any subsequent numbers 653
designated by the federal communications commission. "900 654
service" does not include the charge for collection services 655
provided by the seller of the telecommunications service to the 656

subscriber, or services or products sold by the subscriber to 657
the subscriber's customer. 658

(4) "Prepaid calling service" means the right to access 659
exclusively telecommunications services, which must be paid for 660
in advance and which enables the origination of calls using an 661
access number or authorization code, whether manually or 662
electronically dialed, and that is sold in predetermined units 663
or dollars of which the number declines with use in a known 664
amount. 665

(5) "Prepaid wireless calling service" means a 666
telecommunications service that provides the right to utilize 667
mobile telecommunications service as well as other non- 668
telecommunications services, including the download of digital 669
products delivered electronically, and content and ancillary 670
services, that must be paid for in advance and that is sold in 671
predetermined units or dollars of which the number declines with 672
use in a known amount. 673

(6) "Value-added non-voice data service" means a 674
telecommunications service in which computer processing 675
applications are used to act on the form, content, code, or 676
protocol of the information or data primarily for a purpose 677
other than transmission, conveyance, or routing. 678

(7) "Coin-operated telephone service" means a 679
telecommunications service paid for by inserting money into a 680
telephone accepting direct deposits of money to operate. 681

(8) "Customer" has the same meaning as in section 5739.034 682
of the Revised Code. 683

(BB) "Laundry and dry cleaning services" means removing 684
soil or dirt from towels, linens, articles of clothing, or other 685

fabric items that belong to others and supplying towels, linens, 686
articles of clothing, or other fabric items. "Laundry and dry 687
cleaning services" does not include the provision of self- 688
service facilities for use by consumers to remove soil or dirt 689
from towels, linens, articles of clothing, or other fabric 690
items. 691

(CC) "Magazines distributed as controlled circulation 692
publications" means magazines containing at least twenty-four 693
pages, at least twenty-five per cent editorial content, issued 694
at regular intervals four or more times a year, and circulated 695
without charge to the recipient, provided that such magazines 696
are not owned or controlled by individuals or business concerns 697
which conduct such publications as an auxiliary to, and 698
essentially for the advancement of the main business or calling 699
of, those who own or control them. 700

(DD) "Landscaping and lawn care service" means the 701
services of planting, seeding, sodding, removing, cutting, 702
trimming, pruning, mulching, aerating, applying chemicals, 703
watering, fertilizing, and providing similar services to 704
establish, promote, or control the growth of trees, shrubs, 705
flowers, grass, ground cover, and other flora, or otherwise 706
maintaining a lawn or landscape grown or maintained by the owner 707
for ornamentation or other nonagricultural purpose. However, 708
"landscaping and lawn care service" does not include the 709
providing of such services by a person who has less than five 710
thousand dollars in sales of such services during the calendar 711
year. 712

(EE) "Private investigation and security service" means 713
the performance of any activity for which the provider of such 714
service is required to be licensed pursuant to Chapter 4749. of 715

the Revised Code, or would be required to be so licensed in 716
performing such services in this state, and also includes the 717
services of conducting polygraph examinations and of monitoring 718
or overseeing the activities on or in, or the condition of, the 719
consumer's home, business, or other facility by means of 720
electronic or similar monitoring devices. "Private investigation 721
and security service" does not include special duty services 722
provided by off-duty police officers, deputy sheriffs, and other 723
peace officers regularly employed by the state or a political 724
subdivision. 725

(FF) "Information services" means providing conversation, 726
giving consultation or advice, playing or making a voice or 727
other recording, making or keeping a record of the number of 728
callers, and any other service provided to a consumer by means 729
of a nine hundred telephone call, except when the nine hundred 730
telephone call is the means by which the consumer makes a 731
contribution to a recognized charity. 732

(GG) "Research and development" means designing, creating, 733
or formulating new or enhanced products, equipment, or 734
manufacturing processes, and also means conducting scientific or 735
technological inquiry and experimentation in the physical 736
sciences with the goal of increasing scientific knowledge which 737
may reveal the bases for new or enhanced products, equipment, or 738
manufacturing processes. 739

(HH) "Qualified research and development equipment" means 740
capitalized tangible personal property, and leased personal 741
property that would be capitalized if purchased, used by a 742
person primarily to perform research and development. Tangible 743
personal property primarily used in testing, as defined in 744
division (A) (4) of section 5739.011 of the Revised Code, or used 745

for recording or storing test results, is not qualified research 746
and development equipment unless such property is primarily used 747
by the consumer in testing the product, equipment, or 748
manufacturing process being created, designed, or formulated by 749
the consumer in the research and development activity or in 750
recording or storing such test results. 751

(II) "Building maintenance and janitorial service" means 752
cleaning the interior or exterior of a building and any tangible 753
personal property located therein or thereon, including any 754
services incidental to such cleaning for which no separate 755
charge is made. However, "building maintenance and janitorial 756
service" does not include the providing of such service by a 757
person who has less than five thousand dollars in sales of such 758
service during the calendar year. 759

(JJ) "Employment service" means providing or supplying 760
personnel, on a temporary or long-term basis, to perform work or 761
labor under the supervision or control of another, when the 762
personnel so provided or supplied receive their wages, salary, 763
or other compensation from the provider or supplier of the 764
employment service or from a third party that provided or 765
supplied the personnel to the provider or supplier. "Employment 766
service" does not include: 767

(1) Acting as a contractor or subcontractor, where the 768
personnel performing the work are not under the direct control 769
of the purchaser. 770

(2) Medical and health care services. 771

(3) Supplying personnel to a purchaser pursuant to a 772
contract of at least one year between the service provider and 773
the purchaser that specifies that each employee covered under 774

the contract is assigned to the purchaser on a permanent basis. 775

(4) Transactions between members of an affiliated group, 776
as defined in division (B) (3) (e) of this section. 777

(5) Transactions where the personnel so provided or 778
supplied by a provider or supplier to a purchaser of an 779
employment service are then provided or supplied by that 780
purchaser to a third party as an employment service, except 781
"employment service" does include the transaction between that 782
purchaser and the third party. 783

(KK) "Employment placement service" means locating or 784
finding employment for a person or finding or locating an 785
employee to fill an available position. 786

(LL) "Exterminating service" means eradicating or 787
attempting to eradicate vermin infestations from a building or 788
structure, or the area surrounding a building or structure, and 789
includes activities to inspect, detect, or prevent vermin 790
infestation of a building or structure. 791

(MM) "Physical fitness facility service" means all 792
transactions by which a membership is granted, maintained, or 793
renewed, including initiation fees, membership dues, renewal 794
fees, monthly minimum fees, and other similar fees and dues, by 795
a physical fitness facility such as an athletic club, health 796
spa, or gymnasium, which entitles the member to use the facility 797
for physical exercise. 798

(NN) "Recreation and sports club service" means all 799
transactions by which a membership is granted, maintained, or 800
renewed, including initiation fees, membership dues, renewal 801
fees, monthly minimum fees, and other similar fees and dues, by 802
a recreation and sports club, which entitles the member to use 803

the facilities of the organization. "Recreation and sports club" 804
means an organization that has ownership of, or controls or 805
leases on a continuing, long-term basis, the facilities used by 806
its members and includes an aviation club, gun or shooting club, 807
yacht club, card club, swimming club, tennis club, golf club, 808
country club, riding club, amateur sports club, or similar 809
organization. 810

(OO) "Livestock" means farm animals commonly raised for 811
food, food production, or other agricultural purposes, 812
including, but not limited to, cattle, sheep, goats, swine, 813
poultry, and captive deer. "Livestock" does not include 814
invertebrates, amphibians, reptiles, domestic pets, animals for 815
use in laboratories or for exhibition, or other animals not 816
commonly raised for food or food production. 817

(PP) "Livestock structure" means a building or structure 818
used exclusively for the housing, raising, feeding, or 819
sheltering of livestock, and includes feed storage or handling 820
structures and structures for livestock waste handling. 821

(QQ) "Horticulture" means the growing, cultivation, and 822
production of flowers, fruits, herbs, vegetables, sod, 823
mushrooms, and nursery stock. As used in this division, "nursery 824
stock" has the same meaning as in section 927.51 of the Revised 825
Code. 826

(RR) "Horticulture structure" means a building or 827
structure used exclusively for the commercial growing, raising, 828
or overwintering of horticultural products, and includes the 829
area used for stocking, storing, and packing horticultural 830
products when done in conjunction with the production of those 831
products. 832

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

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

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

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

(UU) (1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental"

includes future options to purchase or extend, and agreements 863
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 864
trailers where the amount of consideration may be increased or 865
decreased by reference to the amount realized upon the sale or 866
disposition of the property. "Lease" or "rental" does not 867
include: 868

(a) A transfer of possession or control of tangible 869
personal property under a security agreement or a deferred 870
payment plan that requires the transfer of title upon completion 871
of the required payments; 872

(b) A transfer of possession or control of tangible 873
personal property under an agreement that requires the transfer 874
of title upon completion of required payments and payment of an 875
option price that does not exceed the greater of one hundred 876
dollars or one per cent of the total required payments; 877

(c) Providing tangible personal property along with an 878
operator for a fixed or indefinite period of time, if the 879
operator is necessary for the property to perform as designed. 880
For purposes of this division, the operator must do more than 881
maintain, inspect, or set up the tangible personal property. 882

(2) "Lease" and "rental," as defined in division (UU) of 883
this section, shall not apply to leases or rentals that exist 884
before June 26, 2003. 885

(3) "Lease" and "rental" have the same meaning as in 886
division (UU) (1) of this section regardless of whether a 887
transaction is characterized as a lease or rental under 888
generally accepted accounting principles, the Internal Revenue 889
Code, Title XIII of the Revised Code, or other federal, state, 890
or local laws. 891

(VV) "Mobile telecommunications service" has the same 892
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 893
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 894
amended, and, on and after August 1, 2003, includes related fees 895
and ancillary services, including universal service fees, 896
detailed billing service, directory assistance, service 897
initiation, voice mail service, and vertical services, such as 898
caller ID and three-way calling. 899

(WW) "Certified service provider" has the same meaning as 900
in section 5740.01 of the Revised Code. 901

(XX) "Satellite broadcasting service" means the 902
distribution or broadcasting of programming or services by 903
satellite directly to the subscriber's receiving equipment 904
without the use of ground receiving or distribution equipment, 905
except the subscriber's receiving equipment or equipment used in 906
the uplink process to the satellite, and includes all service 907
and rental charges, premium channels or other special services, 908
installation and repair service charges, and any other charges 909
having any connection with the provision of the satellite 910
broadcasting service. 911

(YY) "Tangible personal property" means personal property 912
that can be seen, weighed, measured, felt, or touched, or that 913
is in any other manner perceptible to the senses. For purposes 914
of this chapter and Chapter 5741. of the Revised Code, "tangible 915
personal property" includes motor vehicles, electricity, water, 916
gas, steam, and prewritten computer software. 917

(ZZ) "Direct mail" means printed material delivered or 918
distributed by United States mail or other delivery service to a 919
mass audience or to addressees on a mailing list provided by the 920
consumer or at the direction of the consumer when the cost of 921

the items are not billed directly to the recipients. "Direct 922
mail" includes tangible personal property supplied directly or 923
indirectly by the consumer to the direct mail vendor for 924
inclusion in the package containing the printed material. 925
"Direct mail" does not include multiple items of printed 926
material delivered to a single address. 927

(AAA) "Computer" means an electronic device that accepts 928
information in digital or similar form and manipulates it for a 929
result based on a sequence of instructions. 930

(BBB) "Computer software" means a set of coded 931
instructions designed to cause a computer or automatic data 932
processing equipment to perform a task. 933

(CCC) "Delivered electronically" means delivery of 934
computer software from the seller to the purchaser by means 935
other than tangible storage media. 936

(DDD) "Prewritten computer software" means computer 937
software, including prewritten upgrades, that is not designed 938
and developed by the author or other creator to the 939
specifications of a specific purchaser. The combining of two or 940
more prewritten computer software programs or prewritten 941
portions thereof does not cause the combination to be other than 942
prewritten computer software. "Prewritten computer software" 943
includes software designed and developed by the author or other 944
creator to the specifications of a specific purchaser when it is 945
sold to a person other than the purchaser. If a person modifies 946
or enhances computer software of which the person is not the 947
author or creator, the person shall be deemed to be the author 948
or creator only of such person's modifications or enhancements. 949
Prewritten computer software or a prewritten portion thereof 950
that is modified or enhanced to any degree, where such 951

modification or enhancement is designed and developed to the 952
specifications of a specific purchaser, remains prewritten 953
computer software; provided, however, that where there is a 954
reasonable, separately stated charge or an invoice or other 955
statement of the price given to the purchaser for the 956
modification or enhancement, the modification or enhancement 957
shall not constitute prewritten computer software. 958

(EEE) (1) "Food" means substances, whether in liquid, 959
concentrated, solid, frozen, dried, or dehydrated form, that are 960
sold for ingestion or chewing by humans and are consumed for 961
their taste or nutritional value. "Food" does not include 962
alcoholic beverages, dietary supplements, soft drinks, or 963
tobacco. 964

(2) As used in division (EEE) (1) of this section: 965

(a) "Alcoholic beverages" means beverages that are 966
suitable for human consumption and contain one-half of one per 967
cent or more of alcohol by volume. 968

(b) "Dietary supplements" means any product, other than 969
tobacco, that is intended to supplement the diet and that is 970
intended for ingestion in tablet, capsule, powder, softgel, 971
gelcap, or liquid form, or, if not intended for ingestion in 972
such a form, is not represented as conventional food for use as 973
a sole item of a meal or of the diet; that is required to be 974
labeled as a dietary supplement, identifiable by the "supplement 975
facts" box found on the label, as required by 21 C.F.R. 101.36; 976
and that contains one or more of the following dietary 977
ingredients: 978

(i) A vitamin; 979

(ii) A mineral; 980

(iii) An herb or other botanical;	981
(iv) An amino acid;	982
(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;	983 984
(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE) (2) (b) (i) to (v) of this section.	985 986 987
(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.	988 989 990 991 992
(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.	993 994
(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 or any function of the body.	995 996 997 998 999 1000 1001 1002 1003
(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.	1004 1005 1006 1007
(HHH) "Durable medical equipment" means equipment,	1008

including repair and replacement parts for such equipment, that 1009
can withstand repeated use, is primarily and customarily used to 1010
serve a medical purpose, generally is not useful to a person in 1011
the absence of illness or injury, and is not worn in or on the 1012
body. "Durable medical equipment" does not include mobility 1013
enhancing equipment. 1014

(III) "Mobility enhancing equipment" means equipment, 1015
including repair and replacement parts for such equipment, that 1016
is primarily and customarily used to provide or increase the 1017
ability to move from one place to another and is appropriate for 1018
use either in a home or a motor vehicle, that is not generally 1019
used by persons with normal mobility, and that does not include 1020
any motor vehicle or equipment on a motor vehicle normally 1021
provided by a motor vehicle manufacturer. "Mobility enhancing 1022
equipment" does not include durable medical equipment. 1023

(JJJ) "Prosthetic device" means a replacement, corrective, 1024
or supportive device, including repair and replacement parts for 1025
the device, worn on or in the human body to artificially replace 1026
a missing portion of the body, prevent or correct physical 1027
deformity or malfunction, or support a weak or deformed portion 1028
of the body. As used in this division, "prosthetic device" does 1029
not include corrective eyeglasses, contact lenses, or dental 1030
prosthesis. 1031

(KKK) (1) "Fractional aircraft ownership program" means a 1032
program in which persons within an affiliated group sell and 1033
manage fractional ownership program aircraft, provided that at 1034
least one hundred airworthy aircraft are operated in the program 1035
and the program meets all of the following criteria: 1036

(a) Management services are provided by at least one 1037
program manager within an affiliated group on behalf of the 1038

fractional owners.	1039
(b) Each program aircraft is owned or possessed by at least one fractional owner.	1040 1041
(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.	1042 1043 1044
(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.	1045 1046
(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.	1047 1048 1049
(2) As used in division (KKK) (1) of this section:	1050
(a) "Affiliated group" has the same meaning as in division (B) (3) (e) of this section.	1051 1052
(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK) (1) (e) of this section.	1053 1054 1055 1056
(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK) (1) (d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.	1057 1058 1059 1060 1061 1062 1063
(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services	1064 1065 1066

agreement under division (KKK) (1) (e) of this section, and 1067
offered by the program manager to the fractional owners, 1068
including, at a minimum, the establishment and implementation of 1069
safety guidelines; the coordination of the scheduling of the 1070
program aircraft and crews; program aircraft maintenance; 1071
program aircraft insurance; crew training for crews employed, 1072
furnished, or contracted by the program manager or the 1073
fractional owner; the satisfaction of record-keeping 1074
requirements; and the development and use of an operations 1075
manual and a maintenance manual for the fractional aircraft 1076
ownership program. 1077

(e) "Program manager" means the person that offers 1078
management services to fractional owners pursuant to a 1079
management services agreement under division (KKK) (1) (e) of this 1080
section. 1081

(LLL) "Electronic publishing" means providing access to 1082
one or more of the following primarily for business customers, 1083
including the federal government or a state government or a 1084
political subdivision thereof, to conduct research: news; 1085
business, financial, legal, consumer, or credit materials; 1086
editorials, columns, reader commentary, or features; photos or 1087
images; archival or research material; legal notices, identity 1088
verification, or public records; scientific, educational, 1089
instructional, technical, professional, trade, or other literary 1090
materials; or other similar information which has been gathered 1091
and made available by the provider to the consumer in an 1092
electronic format. Providing electronic publishing includes the 1093
functions necessary for the acquisition, formatting, editing, 1094
storage, and dissemination of data or information that is the 1095
subject of a sale. 1096

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

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

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

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

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

As used in division (QQQ) of this section:

(1) "Digital audiovisual work" means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

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

(3) "Digital book" means a work that is generally	1126
recognized in the ordinary and usual sense as a book.	1127
(4) "Electronically transferred" means obtained by the	1128
purchaser by means other than tangible storage media.	1129
Section 2. That existing section 5739.01 of the Revised	1130
Code is hereby repealed.	1131