



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0646/P2

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DOA:.....Koskinen - BB0368, Streamlined sales tax

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

- 1 AN ACT ...; relating to: the Uniform Sales and Use Tax Administration Act,
- 2 granting rule-making authority, making an appropriation, and providing a
- 3 penalty.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

This bill adopts the substantive provisions of the streamlined sales and use tax agreement (agreement). The agreement is intended to simplify and modernize sales and use tax administration for the states that enter into the agreement and to encourage out-of-state retailers to collect the state's sales and use taxes voluntarily. Under current federal law, generally, an out-of-state retailer who sells goods or services to customers in this state is not required to collect the sales tax or use tax imposed on such sales, if the retailer has no physical presence in this state. See *Quill v. North Dakota*, 504 U.S. 298; 112 S.Ct. 1904 (1992).

States that wish to enter into the agreement must adopt uniform definitions related to the administration of sales and use taxes and uniform policies related to sourcing sales of goods and services, bad debt allowances, refunds, and, to some extent, exemptions. Under the agreement, DOR may act jointly with other states that are signatories to the agreement to establish standards for certifying service providers and automated systems to aid out-of-state retailers with the collection of state sales and use taxes.

Under current law, “gross receipts” refers to the measure of the sales tax, and “sales price” refers to the measure of the use tax. Under the bill, “sales price” refers to the measure of the sales tax, and “purchase price” refers to the measure of the use tax.

The bill creates definitions for “alcohol beverages,” “candy,” “delivery charges,” “dietary supplement,” “food and food ingredients,” “prepared food,” and “soft drink.”

The agreement provides that a state that is a signatory to the agreement may choose to tax or not tax all articles that are covered by one definition, but a state may not exempt from sales tax or use tax a particular item that is included in a definition. The members of the project working on the agreement approved a definition for “clothing.” Therefore, in order to comply with the agreement, a state may either tax all clothing or exempt all clothing, but a state may not exempt certain items of clothing and tax others. This bill, therefore, eliminates the sales tax and use tax exemptions for cloth diapers and antiembolism hose.

This bill creates definitions for “durable medical equipment,” “mobility-enhancing equipment,” and “prosthetic device.” Under the bill, the sale of such equipment and devices is exempt from the sales tax and the use tax.

Under the bill, generally, for purposes of determining which jurisdiction may impose a sales tax or use tax on a sale, if a purchaser receives a product at the seller’s business location, the sale of that product occurs at the seller’s business location. If a purchaser does not receive the product at a seller’s business location, the sale occurs at the location where the purchaser receives the product. If the location of the sale cannot be so determined, the sale occurs at the purchaser’s address, as indicated by the seller’s business records. If the address cannot be determined from the business records, the sale occurs at the purchaser’s address, as obtained during the consummation of the sale, including the address indicated on the purchaser’s check. Finally, if the location of a sale cannot be determined in any other way, the sale of tangible personal property occurs at the location from which the tangible personal property is shipped. Under the bill, if the item sold is a digital good or computer software, and the digital good or computer software is delivered electronically, the sale occurs at the location from which the digital good or computer software was first available for transmission by the seller.

Under the bill, generally, the sale of a telecommunications service occurs at a location that is determined to be consistent with the provisions of the federal Mobile Telecommunications Sourcing Act.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 66.0615 (1m) (f) 2. of the statutes is amended to read:

1 66.0615 (1m) (f) 2. Sections 77.51 (14) (c), and (f) and (j) and (14g), 77.52 (3),
2 (4), ~~(6)~~ and (18), 77.522, 77.58 (1) to (5) and (7), 77.59, 77.60, 77.61 (2), (5), (8), (9) and
3 (12) to (14) and 77.62, as they apply to the taxes under subch. III of ch. 77, apply to
4 the tax described under subd. 1.

5 **SECTION 2.** 70.111 (23) of the statutes is amended to read:

6 70.111 (23) VENDING MACHINES. All machines that automatically dispense soda
7 water beverages, as defined in s. 97.29 (1) (i), and items ~~included~~ defined as a food
8 ~~or beverage under s. 77.54 (20) (a) and (b)~~ and food ingredient under s. 77.51 (3t) upon
9 the deposit in the machines of specified coins or currency, or insertion of a credit card,
10 in payment for the soda water beverages, food or beverages.

11 **SECTION 3.** 73.03 (50) (d) of the statutes is amended to read:

12 73.03 (50) (d) In the case of a sole proprietor, signs the form or, in the case of
13 other persons, has an individual who is authorized to act on behalf of the person sign
14 the form, or, in the case of a single-owner entity that is disregarded as a separate
15 entity under section 7701 of the Internal Revenue Code, the person is the owner. Any
16 person who may register under this subsection may designate a certified service
17 provider to register with the department under this subsection in the manner
18 prescribed by the department. In this paragraph, "sign" has the meaning given in
19 s. 77.51 (17r).

20 **SECTION 4.** 73.03 (50b) of the statutes is created to read:

21 73.03 (50b) To waive the fee established under sub. (50) for applying for and
22 renewing the business tax registration certificate, if the person who is applying for
23 or renewing the certificate is not required for purposes of ch. 77 to hold such a
24 certificate.

25 **SECTION 5.** 73.03 (59) of the statutes is created to read:

1 73.03 (59) To do all of the following related to the Uniform Sales and Use Tax
2 Administration Act:

3 (a) Certify compliance with the agreement, as defined in s. 77.65 (2) (a).

4 (b) Pursuant to the agreement, as defined in s. 77.65 (2) (a), certify certified
5 service providers, as defined in s. 77.51 (1g), and certified automated systems, as
6 defined in s. 77.524 (1) (a).

7 (c) Issue a tax identification number to a person who claims an exemption
8 under subch. III or V of ch. 77 and who is not required to register with the department
9 for the purposes of subch. III or V of ch. 77.

10 (d) Maintain a database that is accessible to sellers and certified service
11 providers, as defined in s. 77.51 (1g), that indicates whether items defined in
12 accordance with the Uniform Sales and Use Tax Administration Act are taxable or
13 nontaxable.

14 (e) Maintain a database that is accessible to sellers and certified service
15 providers, as defined in s. 77.51 (1g), that indicates tax rates, taxing jurisdiction
16 boundaries, and zip code or address assignments related to the administration of
17 taxes imposed under subchs. III and V of ch. 77.

18 **SECTION 6.** 76.07 (4g) (b) 8. of the statutes is amended to read:

19 76.07 (4g) (b) 8. Determine transport-related revenue by adding public service
20 revenue allocated to this state on the basis of routes for which the company is
21 authorized to receive subsidy payments, mutual aid allocated to this state on the
22 basis of the ratio of transport revenues allocated to this state to transport revenues
23 everywhere in the previous year, in-flight sales allocated to this state as they are
24 allocated under s. ~~77.51 (14r)~~ 77.522 and all other transport-related revenues from
25 sales made in this state.

1 **SECTION 7.** 77.51 (1) of the statutes is renumbered 77.51 (1d).

2 **SECTION 8.** 77.51 (1b) of the statutes is created to read:

3 **77.51 (1b)** “Alcohol beverage” means a beverage that is suitable for human
4 consumption and that contains 0.5% or more of alcohol by volume.

5 **SECTION 9.** 77.51 (1e) of the statutes is created to read:

6 **77.51 (1e)** “Candy” means a preparation of sugar, honey, or other natural or
7 artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or
8 flavorings in the form of bars, drops, or pieces. “Candy” does not include a
9 preparation that contains flour or that requires refrigeration.

10 **SECTION 10.** 77.51 (1n) of the statutes is created to read:

11 **77.51 (1n)** “Computer” means an electronic device that accepts information in
12 digital or similar form and that manipulates such information to achieve a result
13 based on a sequence of instructions.

14 **SECTION 11.** 77.51 (1p) of the statutes is created to read:

15 **77.51 (1p)** “Computer software” means a set of coded instructions designed to
16 cause a computer or automatic data processing equipment to perform a task.

17 **SECTION 12.** 77.51 (2k) of the statutes is created to read:

18 **77.51 (2k)** “Delivered electronically” means delivered to a purchaser by means
19 other than by tangible storage media.

20 **SECTION 13.** 77.51 (2m) of the statutes is created to read:

21 **77.51 (2m)** “Delivery charges” means charges by a seller to prepare and deliver
22 tangible personal property or services to a location designated by the purchaser of
23 the tangible personal property or services, including charges for transportation,
24 shipping, postage, handling, crating, and packing.

25 **SECTION 14.** 77.51 (3p) of the statutes is created to read:

1 77.51 (3p) “Dietary supplement” means a product, other than tobacco, that is
2 intended to supplement a person’s diet, if all of the following apply:

3 (a) The product contains any of the following ingredients or any combination
4 of any of the following ingredients:

5 1. A vitamin.

6 2. A mineral.

7 3. An herb or other botanical.

8 4. An amino acid.

9 5. A substance, other than an ingredient under subs. 1. to 4., that is intended
10 for human consumption and that increases total dietary intake.

11 6. A concentrate, metabolite, constituent, or extract.

12 (b) The product is intended for ingestion in tablet, capsule, powder, or liquid
13 form, or, if not intended for ingestion in such forms, is not represented as food or a
14 food ingredient and is not represented for use as the sole item of a meal or diet.

15 (c) The product is required to be labeled as a dietary supplement as required
16 under 21 CFR 101.36.

17 **SECTION 15.** 77.51 (3pd) of the statutes is created to read:

18 77.51 (3pd) “Direct mail” means printed material that is delivered by the U.S.
19 postal service or other delivery service to a mass audience or to addresses on a
20 mailing list provided by or at the direction of the purchaser of the printed material,
21 if the cost of the printed material or any tangible personal property included with the
22 printed material is not billed directly to the recipients of the printed material.
23 “Direct mail” includes any tangible personal property provided directly or indirectly
24 by the purchaser of the printed material to the seller of the printed material for

1 inclusion in any package containing printed material. “Direct mail” does not include
2 multiple items of printed material delivered to a single address.

3 **SECTION 16.** 77.51 (3pj) of the statutes is created to read:

4 **77.51 (3pj)** “Drug” means a compound, substance, or preparation, or any
5 combination of them, other than food and food ingredients, dietary supplements, or
6 alcoholic beverages, to which any of the following applies:

7 (a) It is listed in the United States Pharmacopoeia, Homeopathic
8 Pharmacopoeia of the United States, or National Formulary, or any supplement to
9 any of them.

10 (b) It is intended for use in diagnosing, curing, mitigating, treating, or
11 preventing a disease.

12 (c) It is intended to affect a function or structure of the body.

13 **SECTION 17.** 77.51 (3pm) of the statutes is created to read:

14 **77.51 (3pm)** “Durable medical equipment” means equipment, including the
15 repair parts and replacement parts for the equipment, that is for use in a person’s
16 home; that is primarily and customarily used for a medical purpose related to a
17 person; that can withstand repeated use; that is not generally useful to a person who
18 is not ill or injured; and that is not placed in or worn on the body. “Durable medical
19 equipment” does not include mobility-enhancing equipment.

20 **SECTION 18.** 77.51 (3pp) of the statutes is created to read:

21 **77.51 (3pp)** “Electronic” means relating to technology having electrical,
22 digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

23 **SECTION 19.** 77.51 (3t) of the statutes is created to read:

24 **77.51 (3t)** “Food and food ingredient” means a substance in liquid,
25 concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or

1 for chewing, by humans and that is ingested or chewed for its taste or nutritional
2 value. "Food and food ingredient" does not include alcohol beverages or tobacco.

3 **SECTION 20.** 77.51 (4) of the statutes is repealed.

4 **SECTION 21.** 77.51 (7) of the statutes is repealed and recreated to read:

5 77.51 (7) (a) "Lease or rental" means any transfer of possession or control of
6 tangible personal property for a fixed or indeterminate term and for consideration,
7 including a transfer that includes future options to purchase or extend, regardless
8 of whether such transfer is considered a lease or rental under generally accepted
9 accounting principles, or any provision of federal or state law.

10 (b) "Lease or rental" does not include any of the following:

11 1. A transfer of possession or control of tangible personal property under a
12 security agreement or deferred payment plan, if such agreement or plan requires
13 transferring title to the tangible personal property after making all required
14 payments.

15 2. A transfer of possession or control of tangible personal property under any
16 agreement that requires transferring title to the tangible personal property after
17 making all required payments and after paying an option price that does not exceed
18 the greater of \$100 or 1% of the total amount of the required payments.

19 3. Providing tangible personal property along with an operator, if the operator
20 is necessary for the tangible personal property to perform in the manner for which
21 it is designed and if the operator does more than maintain, inspect, or set up the
22 tangible personal property.

23 4. Agreements related to the transfer of possession or control of motor vehicles
24 or trailers, if the amount of any consideration may be increased or decreased by

1 reference to the amount realized on the sale or other disposition of such motor
2 vehicles or trailers, consistent with section 7701 (h) (1) of the Internal Revenue Code.

3 SECTION 22. 77.51 (7m) of the statutes is created to read:

4 77.51 (7m) "Mobility-enhancing equipment" means equipment, including the
5 repair parts and replacement parts for the equipment, that is primarily and
6 customarily used to provide or increase the ability of a person to move from one place
7 to another; that may be used in a home or motor vehicle; and that is generally not
8 used by a person who has normal mobility. "Mobility-enhancing equipment" does
9 not include a motor vehicle or any equipment on a motor vehicle that is generally
10 provided by a motor vehicle manufacturer.

11 SECTION 23. 77.51 (10m) of the statutes is created to read:

12 77.51 (10m) (a) "Prepared food" means:

- 13 1. Food and food ingredients sold heated.
- 14 2. Food and food ingredients heated by the retailer.
- 15 3. Food and food ingredients sold with eating utensils that are provided by the
16 retailer of the food and food ingredients, including plates, knives, forks, spoons,
17 glasses, cups, napkins, and straws, but not including a container or packaging used
18 to transport food and food ingredients.
- 19 4. Except as provided in par. (b) 1. to 3., 2 or more food ingredients mixed or
20 combined by a retailer for sale as a single item.

21 (b) "Prepared food" under par. (a) 2. and 4. does not include:

- 22 1. Two or more food ingredients mixed or combined by a retailer for sale as a
23 single item, if the retailer's primary classification in the 1997 North American
24 Industry Classification System, published by the federal office of management and
25 budget, is manufacturing under sectors 31 to 33, not including bakeries and tortilla

1 manufacturing under industry group number 3118, unless sold as provided in par.

2 (a) 2. or 4.

3 2. Two or more food ingredients mixed or combined by a retailer for sale as a
4 single item, sold unheated, and sold by volume or weight, unless the ingredients are
5 sold as provided in par. (a) 2. or 4.

6 3. Bakery items made by a retailer, including breads, rolls, pastries, buns,
7 biscuits, bagels, croissants, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,
8 cookies, and tortillas, unless the items are sold as provided in par. (a) 2. or 4.

9 4. Food and food ingredients that are only sliced, repackaged, or pasteurized
10 by a retailer.

11 5. Eggs, fish, meat, and poultry, and foods containing any of them in raw form,
12 that require cooking by the consumer, as recommended by the food and drug
13 administration in chapter 3, part 401.11 of its food code to prevent food-borne
14 illnesses.

15 **SECTION 24.** 77.51 (10n) of the statutes is created to read:

16 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by
17 any oral, written, electronic, or other means of transmission and by a person who is
18 authorized by the laws of this state to issue such an order, formula, or recipe.

19 **SECTION 25.** 77.51 (10r) of the statutes is created to read:

20 77.51 (10r) "Prewritten computer software" means any of the following:

21 (a) Computer software that is not designed and developed by the author or
22 creator of the software according to a specific purchaser's specifications.

23 (b) Computer software upgrades that are not designed and developed by the
24 author or creator of the software according to a specific purchaser's specifications.

1 (c) Computer software that is designed and developed by the author or creator
2 of the software according to a specific purchaser's specifications and that is sold to
3 another purchaser.

4 (d) Any combination of computer software under pars. (a) to (c), including any
5 combination with any portion of such software.

6 (e) Computer software as described under pars. (a) to (d), and any portion of
7 such software, that is modified or enhanced by any degree to a specific purchaser's
8 specifications, unless a reasonable, separately indicated charge or an invoice or other
9 statement of the price of such modification or enhancement is provided to the
10 purchaser.

11 **SECTION 26.** 77.51 (11m) of the statutes is created to read:

12 77.51 (11m) "Prosthetic device" means a device, including the repair parts and
13 replacement parts for the device, that is placed in or worn on the body to artificially
14 replace a missing portion of the body; to prevent or correct a physical deformity or
15 malfunction; or to support a weak or deformed portion of the body.

16 **SECTION 27.** 77.51 (12m) of the statutes is created to read:

17 77.51 (12m) (a) "Purchase price" means the total amount of consideration,
18 including cash, credit, property, and services, for which personal property or services
19 are sold, leased, or rented, valued in money, whether received in money or otherwise,
20 without any deduction for the following:

- 21 1. The seller's cost of the property sold.
- 22 2. The cost of materials used, labor or service cost, interest, losses, all costs of
23 transportation to the seller, all taxes imposed on the seller, and any other expense
24 of the seller.

1 3. Charges by the seller for any services necessary to complete a sale, not
2 including delivery and installation charges.

3 4. Delivery charges, except as provided in par. (b) 4.

4 5. Installation charges.

5 6. The value of exempt personal property, except drugs that are exempt under
6 s. 77.54 (14), that is given to the purchaser of the property, if the exempt personal
7 property is bundled with taxable personal property and sold by the seller as a single
8 product or piece of merchandise.

9 (b) "Purchase price" does not include:

10 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
11 3rd party; that are allowed by a seller; and that are taken by a purchaser on a sale.

12 2. Interest, financing, and carrying charges from credit that is extended on a
13 sale of personal property or services, if the amount of the interest, financing, or
14 carrying charges is separately stated on the invoice, bill of sale, or similar document
15 that the seller gives to the purchaser.

16 3. Any taxes legally imposed directly on the purchaser that are separately
17 stated on the invoice, bill of sale, or similar document that the seller gives to the
18 purchaser.

19 4. Delivery charges for direct mail.

20 5. In all transactions in which an article of tangible personal property is traded
21 toward the purchase of an article of greater value, the amount of the purchase price
22 that represents the amount allowed for the article traded, except that this
23 subdivision does not apply to any transaction to which subd. 8. applies.

24 6. If a person who purchases a motor vehicle presents a statement issued under
25 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the

1 statement to the seller within 60 days from the date of receiving a refund under s.
2 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under
3 s. 218.0171 (2) (cq), but not to exceed the purchase price from the sale of the motor
4 vehicle. This subdivision applies only to the first motor vehicle purchased by a
5 person after receiving a refund under s. 218.0171 (2) (b) 2. b.

6 7. Thirty-five percent of the purchase price, excluding trade-ins, of a new
7 mobile home, as defined in s. 340.01 (29), that is a primary housing unit or of a new
8 mobile home, as defined in s. 340.01 (29), that is transported in 2 unattached sections
9 if the total size of the combined sections, not including additions and attachments,
10 is at least 984 square feet measured when the sections are ready for transport.

11 8. At the retailer's option; except that after the retailer chooses an option the
12 retailer may not use the other option for other sales without the department's written
13 approval; either 35% of the purchase price of a manufactured building, as defined in
14 s. 101.71 (6), or an amount equal to the purchase price of the manufactured building
15 minus the cost of materials that become an ingredient or component part of the
16 building.

17 SECTION 28. 77.51 (12p) of the statutes is created to read:

18 77.51 (12p) "Purchaser" means a person to whom a sale of personal property
19 is made or to whom a service is furnished.

20 SECTION 29. 77.51 (13) (o) of the statutes is amended to read:

21 77.51 (13) (o) A person selling ~~medicine~~ drugs for animals to a veterinarian.
22 As used in this paragraph, "animal" includes livestock, pets and poultry.

23 SECTION 30. 77.51 (13s) of the statutes is created to read:

24 77.51 (13s) "Retail sale" or "sale at retail" means any sale, lease, or rental for
25 any purpose other than resale, sublease, or subrent.

****NOTE: Please note that because “subrent” is not defined, and *is not a word* in the dictionary, DOR may need to define this term by rule.

1 **SECTION 31.** 77.51 (14) (intro.) of the statutes is amended to read:

2 77.51 (14) (intro.) “Sale”, ~~“sale, lease or rental”, “retail sale”, “sale at retail”, or~~
3 ~~equivalent terms include~~ includes any ~~one or all~~ of the following: the transfer of the
4 ownership of, title to, possession of, or enjoyment of tangible personal property or
5 services for use or consumption but not for resale as tangible personal property or
6 services and includes:

7 **SECTION 32.** 77.51 (14) (d) of the statutes is repealed.

8 **SECTION 33.** 77.51 (14) (j) of the statutes is repealed.

9 **SECTION 34.** 77.51 (14r) of the statutes is repealed.

10 **SECTION 35.** 77.51 (15) of the statutes is repealed.

11 **SECTION 36.** 77.51 (15a) of the statutes is created to read:

12 77.51 (15a) (a) “Sales price” means the total amount of consideration, including
13 cash, credit, property, and services, for which personal property or services are sold,
14 leased, or rented, valued in money, whether received in money or otherwise, without
15 any deduction for the following:

16 1. The seller’s cost of the property sold.

17 2. The cost of materials used, labor or service cost, interest, losses, all costs of
18 transportation to the seller, all taxes imposed on the seller, and any other expense
19 of the seller.

20 3. Charges by the seller for any services necessary to complete a sale, not
21 including delivery and installation charges.

22 4. Delivery charges, except as provided in par. (b) 4.

23 5. Installation charges.

1 6. The value of exempt personal property, except drugs that are exempt under
2 s. 77.54 (14), that is given to the purchaser of the property, if the exempt personal
3 property is bundled with taxable personal property and sold by the seller as a single
4 product or piece of merchandise.

5 (b) "Sales price" does not include:

6 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
7 3rd party; that are allowed by a seller; and that are taken by a purchaser on a sale.

8 2. Interest, financing, and carrying charges from credit that is extended on a
9 sale of personal property or services, if the amount of the interest, financing, or
10 carrying charges is separately stated on the invoice, bill of sale, or similar document
11 that the seller gives to the purchaser.

12 3. Any taxes legally imposed directly on the purchaser that are separately
13 stated on the invoice, bill of sale, or similar document that the seller gives to the
14 purchaser.

15 4. Delivery charges for direct mail.

16 5. In all transactions in which an article of tangible personal property is traded
17 toward the purchase of an article of greater value, the amount of the sales price that
18 represents the amount allowed for the article traded, except that this subdivision
19 does not apply to any transaction to which subd. 8. applies.

20 6. If a person who purchases a motor vehicle presents a statement issued under
21 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the
22 statement to the seller within 60 days from the date of receiving a refund under s.
23 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under
24 s. 218.0171 (2) (cq), but not to exceed the sales price from the sale of the motor vehicle.

1 This subdivision applies only to the first motor vehicle purchased by a person after
2 receiving a refund under s. 218.0171 (2) (b) 2. b.

3 7. Thirty-five percent of the sales price, excluding trade-ins, of a new mobile
4 home, as defined in s. 340.01 (29), that is a primary housing unit or of a new mobile
5 home, as defined in s. 340.01 (29), that is transported in 2 unattached sections if the
6 total size of the combined sections, not including additions and attachments, is at
7 least 984 square feet measured when the sections are ready for transport.

8 8. At the retailer's option; except that after the retailer chooses an option the
9 retailer may not use the other option for other sales without the department's written
10 approval; either 35% of the sales price of a manufactured building, as defined in s.
11 101.71 (6), or an amount equal to the sales price of the manufactured building minus
12 the cost of materials that become an ingredient or component part of the building.

13 **SECTION 37.** 77.51 (17) of the statutes is amended to read:

14 77.51 (17) "Seller" includes a certified service provider and every person
15 selling, leasing or renting tangible personal property or selling, performing or
16 furnishing services of a kind the ~~gross receipts~~ sales price from the sale, lease, rental,
17 performance or furnishing of which ~~are~~ is required to be included in the measure of
18 the sales tax.

19 **SECTION 38.** 77.51 (17w) of the statutes is created to read:

20 77.51 (17w) "Soft drink" means a beverage that contains less than 0.5% of
21 alcohol and that contains natural or artificial sweeteners. "Soft drink" does not
22 include a beverage that contains milk or milk products; soy, rice, or similar milk
23 substitutes; or more than 50% vegetable or fruit juice by volume.

24 **SECTION 39.** 77.51 (20) of the statutes is amended to read:

1 77.51 (20) “Tangible personal property” means ~~all tangible personal property~~
2 ~~of every kind and description that can be seen, weighed, measured, felt, or touched,~~
3 ~~or that is in any other manner perceptible to the senses,~~ and includes electricity,
4 natural gas, steam and, water, and also leased property affixed to realty if the lessor
5 has the right to remove the property upon breach or termination of the lease
6 agreement, unless the lessor of the property is also the lessor of the realty to which
7 the property is affixed. ~~“Tangible personal property” also includes coins and stamps~~
8 ~~of the United States sold or traded as collectors’ items above their face value and~~
9 ~~computer programs except custom prewritten computer programs software.~~

10 SECTION 40. 77.51 (21) of the statutes is amended to read:

11 77.51 (21) “Taxpayer” means the person who is required to pay, collect, or
12 account for or who is otherwise directly interested in the taxes imposed by this
13 subchapter, including a certified service provider.

14 SECTION 41. 77.51 (21p) of the statutes is created to read:

15 77.51 (21p) “Tobacco” means cigarettes, cigars, chewing tobacco, pipe tobacco,
16 and any other item that contains tobacco.

17 SECTION 42. 77.51 (22) (bm) of the statutes is created to read:

18 77.51 (22) (bm) In this subsection, “exercise of any right or power over tangible
19 personal property or taxable services” includes selecting recipients, determining
20 mailing schedules, or otherwise directing the distribution, dissemination, or
21 disposal of tangible personal property or taxable services, regardless of whether the
22 purchaser of such property or services owns or physically possesses, in this state, the
23 property or services.

24 SECTION 43. 77.52 (1) of the statutes is renumbered 77.52 (1) (a) and amended
25 to read:

1 77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible
2 personal property, including accessories, components, attachments, parts, supplies
3 and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the
4 ~~gross receipts~~ sales price from the sale, lease or rental of tangible personal property,
5 including accessories, components, attachments, parts, supplies and materials, sold,
6 leased or rented at retail in this state.

7 **SECTION 44.** 77.52 (1) (b) of the statutes is created to read:

8 77.52 (1) (b) For the privilege of selling at retail coins and stamps of the United
9 States that are sold or traded as collectors' items above their face value, a tax is
10 imposed on all retailers at the rate of 5% of the sales price from the sale of such coins
11 and stamps.

12 **SECTION 45.** 77.52 (1) (c) of the statutes is created to read:

13 77.52 (1) (c) For the privilege of leasing property that is affixed to real property,
14 a tax is imposed on all retailers at the rate of 5% of the sales price from the lease of
15 such property, if the lessor has the right to remove the leased property upon breach
16 or termination of the lease agreement, unless the lessor of the leased property is also
17 the lessor of the real property to which the leased property is affixed.

18 **SECTION 46.** 77.52 (2) (intro.) of the statutes is amended to read:

19 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing
20 the services described under par. (a) at retail in this state to consumers or users, a
21 tax is imposed upon all persons selling, performing or furnishing the services at the
22 rate of 5% of the ~~gross receipts~~ sales price from the sale, performance or furnishing
23 of the services.

24 **SECTION 47.** 77.52 (2) (a) 10. of the statutes is amended to read:

1 77.52 (2) (a) 10. Except for installing or applying tangible personal property
2 which, when installed or applied, will constitute an addition or capital improvement
3 of real property, the repair, service, alteration, fitting, cleaning, painting, coating,
4 towing, inspection, and maintenance of all items of tangible personal property
5 unless, at the time of such repair, service, alteration, fitting, cleaning, painting,
6 coating, towing, inspection, or maintenance, a sale in this state of the type of property
7 repaired, serviced, altered, fitted, cleaned, painted, coated, towed, inspected, or
8 maintained would have been exempt to the customer from sales taxation under this
9 subchapter, other than the exempt sale of a motor vehicle or truck body to a
10 nonresident under s. 77.54 (5) (a) and other than nontaxable sales outside this state
11 under s. ~~77.51 (14)~~ 77.522. For purposes of this paragraph, the following items shall
12 be considered to have retained their character as tangible personal property,
13 regardless of the extent to which any such item is fastened to, connected with, or built
14 into real property: furnaces, boilers, stoves, ovens, including associated hoods and
15 exhaust systems, heaters, air conditioners, humidifiers, dehumidifiers,
16 refrigerators, coolers, freezers, water pumps, water heaters, water conditioners and
17 softeners, clothes washers, clothes dryers, dishwashers, garbage disposal units,
18 radios and radio antennas, incinerators, television receivers and antennas, record
19 players, tape players, jukeboxes, vacuum cleaners, furniture and furnishings,
20 carpeting and rugs, bathroom fixtures, sinks, awnings, blinds, gas and electric logs,
21 heat lamps, electronic dust collectors, grills and rotisseries, bar equipment,
22 intercoms, recreational, sporting, gymnasium and athletic goods and equipment
23 including by way of illustration but not of limitation bowling alleys, golf practice
24 equipment, pool tables, punching bags, ski tows, and swimming pools; equipment in
25 offices, business facilities, schools, and hospitals but not in residential facilities

1 including personal residences, apartments, long-term care facilities, as defined
2 under s. 16.009 (1) (em), state institutions, as defined under s. 101.123 (1) (i), Type
3 1 secured correctional facilities, as defined in s. 938.02 (19), or similar facilities
4 including, by way of illustration but not of limitation, lamps, chandeliers, and fans,
5 venetian blinds, canvas awnings, office and business machines, ice and milk
6 dispensers, beverage-making equipment, vending machines, soda fountains, steam
7 warmers and tables, compressors, condensing units and evaporative condensers,
8 pneumatic conveying systems; laundry, dry cleaning, and pressing machines, power
9 tools, burglar alarm and fire alarm fixtures, electric clocks and electric signs.
10 “Service” does not include services performed by veterinarians. The tax imposed
11 under this subsection applies to the repair, service, alteration, fitting, cleaning,
12 painting, coating, towing, inspection, or maintenance of items listed in this
13 subdivision, regardless of whether the installation or application of tangible
14 personal property related to the items is an addition to or a capital improvement of
15 real property, except that the tax imposed under this subsection does not apply to the
16 original installation or the complete replacement of an item listed in this subdivision,
17 if such installation or replacement is a real property construction activity under s.
18 77.51 (2).

19 **SECTION 48.** 77.52 (6) of the statutes is repealed.

20 **SECTION 49.** 77.52 (7) of the statutes is amended to read:

21 77.52 (7) Every person desiring to operate as a seller within this state who
22 holds a valid certificate under s. 73.03 (50) shall file with the department an
23 application for a permit for each place of operations. Every application for a permit
24 shall be made upon a form prescribed by the department and shall set forth the name
25 under which the applicant intends to operate, the location of the applicant’s place of

1 operations, and the other information that the department requires. ~~The~~ Except as
2 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;
3 in the case of sellers other than sole proprietors, the application shall be signed by
4 the person authorized to act on behalf of such sellers. A nonprofit organization that
5 has ~~gross receipts a sales price~~ taxable under s. 77.54 (7m) shall obtain a seller's
6 permit and pay taxes under this subchapter on all taxable ~~gross receipts~~ sales prices
7 received after it is required to obtain that permit. If that organization becomes
8 eligible later for the exemption under s. 77.54 (7m) except for its possession of a
9 seller's permit, it may surrender that permit.

10 SECTION 50. 77.52 (7b) of the statutes is created to read:

11 77.52 (7b) Any person who may register under sub. (7) may designate a
12 certified service provider to register with the department under sub. (7), in the
13 manner prescribed by the department.

14 SECTION 51. 77.52 (13) of the statutes is amended to read:

15 77.52 (13) For the purpose of the proper administration of this section and to
16 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
17 the tax until the contrary is established. The burden of proving that a sale of tangible
18 personal property or services is not a taxable sale at retail is upon the person who
19 makes the sale unless that person takes from the purchaser a certificate, or obtains
20 from the purchaser any information that is prescribed by rule by department, to the
21 effect that the property or service is purchased for resale or is otherwise exempt,
22 except that no certificate is required for ~~sales of cattle, sheep, goats, and pigs that are~~
23 ~~sold at a livestock market, as defined in s. 95.68 (1) (e) [s. 95.68 (1) (ag)], and no~~
24 ~~certificate is required for sales of commodities, as defined in 7 USC 2, that are~~
25 ~~consigned for sale in a warehouse in or from which the commodity is deliverable on~~

1 ~~a contract for future delivery subject to the rules of a commodity market regulated~~
2 ~~by the U.S. commodity futures trading commission if upon the sale the commodity~~
3 ~~is not removed from the warehouse~~ the sale of tangible personal property that is
4 exempt under s. 77.54 (7), (11), (14), (15), (17), (20n), (21), (22b), (30), (32), (42), and
5 (44). This subsection does not apply to candy, soft drinks, and prepared food; or to
6 disposable products that are transferred with candy, soft drinks, and prepared food;
7 that a restaurant provides to the restaurant's employees during the work hours of
8 the employees.

9 SECTION 52. 77.52 (14) (a) (intro.) and 1. and (b) of the statutes are consolidated,
10 renumbered 77.52 (14) and amended to read:

11 77.52 (14) ~~The certificate referred to in or information prescribed by rule by the~~
12 department under sub. (13) relieves the seller from the burden of proof only if any
13 of the following is true: 1. The the certificate or information is taken in good faith
14 from a person who is engaged as a seller of tangible personal property or taxable
15 services and who holds the permit provided for in sub. (9) and who, at the time of
16 purchasing that the person purchases the tangible personal property or services,
17 intends to sell it in the regular course of operations or is unable to ascertain at the
18 time of purchase whether the property or service will be sold or will be used for some
19 other purpose. (b). The certificate or information prescribed by rule by the
20 department under sub. (13) shall not relieve the seller of the burden of proof if the
21 seller fraudulently fails to collect sales tax or solicits the purchaser to claim an
22 unlawful exemption. The certificate referred to in sub. (13) shall be signed by and
23 bear the name and address of provide information that identifies the purchaser, and
24 shall indicate the general character of the tangible personal property or service sold

1 by ~~the purchaser~~ and the basis for the claimed exemption. The certificate shall be
2 in such form as the department prescribes by rule.

3 SECTION 53. 77.52 (14) (a) 2. of the statutes is repealed.

4 SECTION 54. 77.52 (15) of the statutes is amended to read:

5 77.52 (15) If a purchaser who ~~gives a resale certificate~~ purchases tangible
6 personal property or taxable services without paying a sales tax or use tax on such
7 purchase because such property or services were for resale makes any use of the
8 property or services other than retention, demonstration or display while holding it
9 the property or services for sale, lease or rental in the regular course of the
10 purchaser's operations, the use shall be taxable to the purchaser under s. 77.53 as
11 of the time that the property is or services are first used by the purchaser, and the
12 sales purchase price of the property or services to the purchaser shall be the measure
13 of the tax. ~~Only when there is an unsatisfied use tax liability on this basis because~~
14 ~~the seller has provided incorrect information about that transaction to the~~
15 ~~department shall the seller be liable for sales tax with respect to the sale of the~~
16 ~~property to the purchaser. This subsection does not apply to the sale of tangible~~
17 ~~personal property that is exempt under s. 77.54 (7), (11), (14), (15), (17), (20n), (21),~~
18 ~~(22b), (30), (32), (42), and (44). This subsection does not apply to candy, soft drinks,~~
19 ~~and prepared food; or to disposable products that are transferred with candy, soft~~
20 ~~drinks, and prepared food; that a restaurant provides to the restaurant's employees~~
21 during the work hours of the employees.

22 SECTION 55. 77.522 of the statutes is created to read:

23 77.522 Sourcing. (1) SALES. (a) In this section:

24 1. "Direct mail form" means a form prescribed by the department.

1 2. “Multiple-points-of-use exemption form” means the
2 multiple-points-of-use exemption form, as prescribed by the department.

3 3. “Product” includes tangible personal property, digital goods, and services.

4 4. “Receive” means taking possession of tangible personal property; making
5 first use of services; or taking possession or making first use of digital goods,
6 whichever comes first. “Receive” does not include a shipping company taking
7 possession of tangible personal property on a purchaser’s behalf.

8 5. “Transportation equipment” means all of the following:

9 a. Locomotives and railcars that are used to carry persons or property in
10 interstate commerce.

11 b. Trucks and truck tractors that have a gross vehicle weight rating of 10,001
12 pounds or greater, trailers, semitrailers, and passenger buses, if such vehicles are
13 registered under the International Registration Plan and operated under the
14 authority of a carrier that is authorized by the federal government to carry persons
15 or property in interstate commerce.

16 c. Aircraft that is operated by air carriers that are authorized by the federal
17 government or a foreign authority to carry persons or property in interstate
18 commerce.

19 d. Containers that are designed for use on the vehicles described in subd. 5. a.
20 to c. and component parts attached to or secured on such vehicles.

21 (b) Except as provided in pars. (c) to (e) and subs. (2) and (3), the location of a
22 sale is determined as follows:

23 1. If a purchaser receives the product at a seller’s business location, the sale
24 occurs at that business location.

1 2. If a purchaser does not receive the product at a seller's business location, the
2 sale occurs at the location where the purchaser, or the purchaser's designated donee,
3 receives the product, including the location indicated by the instructions known to
4 the seller for delivery to the purchaser or the purchaser's designated donee.

5 3. If the location of a sale cannot be determined under subds. 1. and 2., the sale
6 occurs at the purchaser's address as indicated by the seller's business records, if the
7 records are maintained in the ordinary course of the seller's business and if using
8 that address to establish the location of a sale is not in bad faith.

9 4. If the location of a sale cannot be determined under subds. 1. to 3., the sale
10 occurs at the purchaser's address as obtained during the consummation of the sale,
11 including the address indicated on the purchaser's payment instrument, if no other
12 address is available and if using that address is not in bad faith.

13 5. If the location of a sale cannot be determined under subds. 1. to 4., the
14 location of the sale is determined as follows:

15 a. If the item sold is tangible personal property, the sale occurs at the location
16 from which the tangible personal property is shipped.

17 b. If the item sold is a digital good or computer software and such good or
18 software is delivered electronically, the sale occurs at the location from which the
19 digital good or computer software was first available for transmission by the seller.

20 c. If a service, other than a digital service, is sold, the sale occurs at the location
21 from which the service was provided.

22 (c) The sale of direct mail occurs at the location from which the direct mail is
23 shipped, if the purchaser does not provide to the seller a direct pay permit, a direct
24 mail form, or other information that indicates the appropriate taxing jurisdiction to
25 which the direct mail is delivered to the ultimate recipients. If the purchaser

1 provides a direct mail form to the seller, the purchaser shall pay or remit, as
2 appropriate, to the department the tax imposed under s. 77.53 (1) on all purchases
3 for which the tax is due and the seller is relieved from liability for collecting such tax.

4 (d) 1. If the service, digital good, or computer software is delivered
5 electronically, a business purchaser who purchases a service, digital good, or
6 computer software who does not hold a direct pay permit under s. 77.52 (17m), and
7 who knows at the time that the purchaser purchases such service, good, or software
8 that the service, good, or software will be concurrently available for use in more than
9 one taxing jurisdiction shall provide a multiple-points-of-use exemption form to the
10 seller, in conjunction with the purchase, and shall pay or remit, as appropriate, to the
11 department the tax imposed under s. 77.53 (1) on all purchases for which the tax is
12 due.

13 2. To apportion the amount of the tax due multiple taxing jurisdictions, a
14 purchaser who provides an exemption form under subd. 1. shall use any reasonable,
15 consistent, and uniform apportionment method supported by the purchaser's
16 business records that exist at the time of the sale.

17 3. An exemption form provided under subd. 1. shall remain effective for all sales
18 by the seller who received the form to the purchaser who provided the form, unless
19 the purchaser revokes the form in writing and provides such a revocation to the
20 seller.

21 4. If the service, digital good, or computer software is delivered electronically,
22 a business purchaser who purchases a service, digital good, or computer software,
23 who holds a direct pay permit under s. 77.52 (17m), and who knows at the time that
24 the purchaser purchases such service, good, or software that the service, good, or
25 software will be concurrently available for use in more than one taxing jurisdiction

1 is not required to provide a multiple-points-of-use exemption form to the seller, but
2 shall collect, pay, or remit, as appropriate, to the department the tax imposed under
3 s. 77.53 (1) and shall use the apportionment method described under par. (b) to
4 apportion the tax due multiple taxing jurisdictions.

5 5. A seller who receives a multiple-points-of-use exemption form under this
6 paragraph is relieved from liability for collecting the tax imposed under s. 77.53 (1)
7 on purchases related to the multiple-points-of-use exemption form.

8 (e) A sale or purchase involving transfer of ownership of property is completed
9 at the time when possession is transferred by the seller or the seller's agent to the
10 purchaser or the purchaser's agent, except that for purposes of this subsection a
11 common carrier or the U.S. postal service shall be deemed the agent of the seller,
12 regardless of any f.o.b. point and regardless of the method by which freight or postage
13 is paid.

14 (2) LEASE OR RENTAL. (a) Except as provided in pars. (b) and (c), with regards
15 to the first or only payment on the lease or rental, the lease or rental of tangible
16 personal property occurs at the location determined under sub. (1) (b) 1. If the
17 property is moved from the place where the property was initially delivered, the
18 subsequent periodic payments on the lease or rental occur at the property's primary
19 location as indicated by an address for the property that is provided by the lessee and
20 that is available to the lessor in records that the lessor maintains in the ordinary
21 course of the lessor's business, if the use of such an address does not constitute bad
22 faith. The location of a lease or rental as determined under this paragraph shall not
23 be altered by any intermittent use of the property at different locations.

24 (b) The lease or rental of motor vehicles, semitrailers, and aircraft, that are not
25 transportation equipment, occurs at the primary location of such motor vehicles,

1 semitrailers, or aircraft as indicated by an address for the property that is provided
2 by the lessee and that is available to the lessor in records that the lessor maintains
3 in the ordinary course of the lessor's business, if the use of such an address does not
4 constitute bad faith. The location of a lease or rental as determined under this
5 paragraph shall not be altered by any intermittent use of the property at different
6 locations.

7 (c) The lease or rental of transportation equipment occurs at the location
8 determined under sub. (1) (b) 1.

9 (3) TELECOMMUNICATIONS. (a) In this subsection:

10 1. "Air-to-ground radiotelephone service" means a radio service in which
11 common carriers are authorized to offer and provide radio telecommunications
12 service for hire to subscribers in aircraft.

13 2. "Call-by-call basis" means any method of charging for telecommunications
14 services by which the price of such services is measured by individual calls.

15 3. "Customer channel termination point" means the location from which a
16 customer inputs or receives communications.

17 4. "Communications channel" means a physical or virtual path of
18 communications over which signals are transmitted between or among customer
19 channel termination points.

20 5. "Customer" means a person who enters into a contract with a seller of
21 telecommunications services or, in any transaction for which the end user is not the
22 person who entered into a contract with the seller of telecommunications services,
23 the end user of the telecommunications services. "Customer" does not include a
24 person who resells telecommunications services.

25 6. "End user" means an individual who uses a telecommunications service.

1 7. “Mobile telecommunications service” means a mobile telecommunications
2 service under 4 USC 116 to 126, as amended by P.L. 106–252.

3 8. “Place of primary use” means place of primary use, as determined under 4
4 USC 116 to 126, as amended by P.L. 106–252.

5 9. “Postpaid calling service” means a telecommunications service that is
6 obtained by paying for it on a call-by-call basis using a bankcard, travel card, credit
7 card, debit card, or similar method, or by charging it to a telephone number that is
8 not associated with the location where the telecommunications service originates or
9 terminates. “Postpaid calling service” includes a service that would otherwise be a
10 prepaid calling service except that the service provided to the customer is not
11 exclusively a telecommunications service.

12 10. “Prepaid calling service” means the right to access services that are
13 exclusively telecommunications services; that are paid for in advance of providing
14 such services; that require using an access number or authorization code to originate
15 calls; and that are sold in predetermined units or dollars that decrease with use in
16 a known amount.

 ****NOTE: The last sentence refers to “units or dollars that decrease with use in a
known amount.” Known by whom?

17 11. “Private communication service” means a telecommunications service that
18 entitles the customer to exclusive or priority use of a communications channel or
19 group of communications channels between or among termination points, regardless
20 of the manner in which the communications channel or group of communications
21 channels is connected, and includes switching capacity, extension lines, stations, and
22 other associated services that are provided in connection with the use of such channel
23 or channels.

1 12. “Radio service” means a communication service provided by the use of radio,
2 including radiotelephone, radiotelegraph, paging, and facsimile service.

3 13. “Radiotelegraph service” means transmitting messages from one place to
4 another by means of radio.

5 14. “Radiotelephone service” means transmitting sound from one place to
6 another by means of radio.

7 15. “Service address” means any of the following:

8 a. The location of the telecommunications equipment to which a customer’s call
9 is charged and from which the call originates or terminates, regardless of where the
10 call is billed or paid.

11 b. If the location described under subd. 15. a. cannot be determined, the location
12 where the signal of the telecommunications service originates, as identified by the
13 seller’s telecommunications system or, if the signal is not transmitted from the
14 seller’s telecommunications system, by information that the seller received from the
15 seller’s service provider.

16 c. If the location described under subd. 15. a. and b., cannot be determined, the
17 customer’s place of primary use.

18 (b) Except as provided in pars. (d) to (g), the sale of a telecommunications
19 service that is sold on a call-by-call basis occurs in the taxing jurisdiction for sales
20 and use tax purposes where the call originates and terminates, in the case of a call
21 that originates and terminates in the same such jurisdiction, or the taxing
22 jurisdiction for sales and use tax purposes where the call originates or terminates
23 and where the service address is located.

1 (c) Except as provided in pars. (d) to (g), the sale of a telecommunications
2 service that is sold on a basis other than a call-by-call basis occurs at the customer's
3 place of primary use.

4 (d) The sale of a mobile telecommunications service, except an air-to-ground
5 radiotelephone service and a prepaid calling service, occurs at the customer's place
6 of primary use.

7 (e) The sale of a postpaid calling service occurs at the location where the signal
8 of the telecommunications service originates, as first identified by the seller's
9 telecommunications system or, if the signal is not transmitted from the seller's
10 telecommunications system, by information that the seller received from the seller's
11 service provider.

12 (f) The sale of a prepaid calling service occurs at the location determined under
13 sub. (1) (b) 1. or, if the service is a mobile telecommunications service, the location
14 associated with the mobile telephone number, if the location cannot be determined
15 under sub. (1) (b) 1. to 4.

16 (g) 1. The sale of a private communication service for a separate charge related
17 to a customer channel termination point occurs at the location of the customer
18 channel termination point.

19 2. The sale of a private communication service in which all customer channel
20 termination points are located entirely in one taxing jurisdiction for sales and use
21 tax purposes occurs in the taxing jurisdiction in which the customer channel
22 termination points are located.

23 3. If the segments are charged separately, the sale of a private communication
24 service that represents segments of a communications channel between 2 customer

1 channel termination points that are located in different taxing jurisdictions for sales
2 and use tax purposes occurs in an equal percentage in both such jurisdictions.

3 4. If the segments are not charged separately, the sale of a private
4 communication service for segments of a communications channel that is located in
5 more than one taxing jurisdiction for sales and use tax purposes occurs in each such
6 jurisdiction in a percentage determined by dividing the number of customer channel
7 termination points in that jurisdiction by the number of customer channel
8 termination points in all jurisdictions where segments of the communications
9 channel are located.

10 SECTION 56. 77.523 (title) of the statutes is repealed.

11 SECTION 57. 77.523 of the statutes is renumbered 77.59 (9p) (a) and amended
12 to read:

13 77.59 (9p) (a) If a customer purchases a service that is subject to 4 USC 116
14 to 126, as amended by P.L. 106-252, and if the customer believes that the amount
15 of the tax assessed for the service under this subchapter or the place of primary use
16 or taxing jurisdiction assigned to the service is erroneous, the customer may request
17 that the service provider correct the alleged error by sending a written notice to the
18 service provider. The notice shall include a description of the alleged error, the street
19 address for the customer's place of primary use of the service, the account name and
20 number of the service for which the customer seeks a correction, and any other
21 information that the service provider reasonably requires to process the request.
22 Within 60 days from the date that a service provider receives a request under this
23 section paragraph, the service provider shall review its records to determine the
24 customer's taxing jurisdiction. If the review indicates that there is no error as
25 alleged, the service provider shall explain the findings of the review in writing to the

1 customer. If the review indicates that there is an error as alleged, the service
2 provider shall correct the error and shall refund or credit the amount of any tax
3 collected erroneously, along with the related interest, as a result of the error from the
4 customer in the previous 48 months, consistent with s. 77.59 (4). A customer may
5 take no other action, or commence any action, to correct an alleged error in the
6 amount of the tax assessed under this subchapter on a service that is subject to 4 USC
7 116 to 126, as amended by P.L. 106–252, or to correct an alleged error in the assigned
8 place of primary use or taxing jurisdiction, unless the customer has exhausted his
9 or her remedies under this section paragraph.

10 SECTION 58. 77.524 (1) (b) of the statutes is renumbered 77.51 (1g).

11 SECTION 59. 77.53 (1) of the statutes is amended to read:

12 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
13 on the use or consumption in this state of coins, stamps, leased property, and taxable
14 services under s. 77.52 purchased from any retailer, at the rate of 5% of the sales
15 purchase price of those such coins, stamps, leased property, and services; on the
16 storage, use or other consumption in this state of tangible personal property
17 purchased from any retailer, at the rate of 5% of the sales purchase price of that
18 property; and on the storage, use or other consumption of tangible personal property
19 manufactured, processed or otherwise altered, in or outside this state, by the person
20 who stores, uses or consumes it, from material purchased from any retailer, at the
21 rate of 5% of the sales purchase price of that material.

22 SECTION 60. 77.53 (4) of the statutes is repealed.

23 SECTION 61. 77.53 (9) of the statutes is amended to read:

24 77.53 (9) Every retailer selling tangible personal property or taxable services
25 for storage, use or other consumption in this state shall register with the department

1 and obtain a certificate under s. 73.03 (50) and give the name and address of all
2 agents operating in this state, the location of all distribution or sales houses or offices
3 or other places of business in this state, the standard industrial code classification
4 of each place of business in this state and the other information that the department
5 requires. Any person who may register under this subsection may designate a
6 certified service provider to register with the department under this subsection, in
7 the manner prescribed by the department.

8 **SECTION 62.** 77.53 (9m) of the statutes is amended to read:

9 77.53 (9m) Any person who is not otherwise required to collect any tax imposed
10 by this subchapter and who makes sales to persons within this state of tangible
11 personal property or taxable services the use of which is subject to tax under this
12 subchapter may register with the department under the terms and conditions that
13 the department imposes and shall obtain a valid certificate under s. 73.03 (50) and
14 thereby be authorized and required to collect, report and remit to the department the
15 use tax imposed by this subchapter. Any person who may register under this
16 subsection may designate a certified service provider to register with the department
17 under this subsection, in the manner prescribed by the department.

18 **SECTION 63.** 77.53 (10) of the statutes is amended to read:

19 77.53 (10) For the purpose of the proper administration of this section and to
20 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
21 tangible personal property or taxable services sold by any person for delivery in this
22 state is sold for storage, use, or other consumption in this state until the contrary is
23 established. The burden of proving the contrary is upon the person who makes the
24 sale unless that person takes from the purchaser a certificate, or obtains from the
25 purchaser any information that is prescribed by rule by department, to the effect that

1 the property or taxable service is purchased for resale, or otherwise exempt from the
2 tax; except that no certificate is required for sales of cattle, sheep, goats, and pigs
3 that are sold at a livestock market, as defined in s. 95.68 (1) (e), and no certificate is
4 required for sales of commodities, as defined in 7 USC 2, that are consigned for sale
5 in a warehouse in or from which the commodity is deliverable on a contract for future
6 delivery subject to the rules of a commodity market regulated by the U.S. commodity
7 futures trading commission if upon the sale the commodity is not removed from the
8 warehouse the sale of tangible personal property that is exempt under s. 77.54 (7),
9 (11), (14), (15), (17), (20n), (21), (22b), (30), (32), (42), and (44). This subsection does
10 not apply to candy, soft drinks, and prepared food; or to disposable products that are
11 transferred with candy, soft drinks, and prepared food; that a restaurant provides to
12 the restaurant's employees during the work hours of the employees.

13 SECTION 64. 77.53 (11) of the statutes is amended to read:

14 77.53 (11) The certificate ~~referred to in~~ information prescribed by rule by the
15 department under sub. (10) relieves the person selling the property or service from
16 the burden of proof only if taken in good faith from a person who is engaged as a seller
17 of tangible personal property or taxable services and who holds the permit provided
18 for by s. 77.52 (9) and who, at the time of purchasing that the person purchases the
19 tangible personal property or taxable service, intends to sell it in the regular course
20 of operations or is unable to ascertain at the time of purchase whether the property
21 or service will be sold or will be used for some other purpose, or if taken in good faith
22 from a person claiming exemption. The certificate or information prescribed by rule
23 by the department under sub. (10) shall not relieve the seller of the burden of proof
24 if the seller fraudulently fails to collect sales tax or solicit the purchaser to claim an
25 unlawful exemption. The certificate shall be signed by and bear the name and

1 ~~address of~~ provide information that identifies the purchaser and shall indicate the
2 ~~number of the permit issued to the purchaser, the general character of tangible~~
3 ~~personal property or taxable service sold by the purchaser and the basis for the~~
4 claimed exemption. The certificate shall be substantially in the form that the
5 department prescribes.

6 **SECTION 65.** 77.53 (16) of the statutes is amended to read:

7 **77.53 (16)** If the purchase, rental or lease of tangible personal property or
8 service subject to the tax imposed by this section was subject to a sales tax by another
9 state in which the purchase was made, the amount of sales tax paid the other state
10 shall be applied as a credit against and deducted from the tax, to the extent thereof,
11 imposed by this section, except no credit may be applied against and deducted from
12 a sales tax paid on the purchase of direct mail, if the direct mail purchaser did not
13 provide to the seller a direct pay permit, a direct mail form, or other information that
14 indicates the appropriate taxing jurisdiction to which the direct mail is delivered to
15 the ultimate recipients. In this subsection “sales tax” includes a use or excise tax
16 imposed on the use of tangible personal property or taxable service by the state in
17 which the sale occurred and “state” includes the District of Columbia but does not
18 include the commonwealth of Puerto Rico or the several territories organized by
19 congress.

20 **SECTION 66.** 77.53 (17) of the statutes is amended to read:

21 **77.53 (17)** This section does not apply to tangible personal property purchased
22 outside this state, as determined under s. 77.522, other than motor vehicles, boats,
23 snowmobiles, mobile homes not exceeding 45 feet in length, trailers, semitrailers,
24 all-terrain vehicles and airplanes registered or titled or required to be registered or
25 titled in this state, which is brought into this state by a nondomiciliary for the

1 person's own storage, use or other consumption while temporarily within this state
2 when such property is not stored, used or otherwise consumed in this state in the
3 conduct of a trade, occupation, business or profession or in the performance of
4 personal services for wages or fees.

5 SECTION 67. 77.53 (17m) of the statutes is amended to read:

6 77.53 (17m) This section does not apply to a boat purchased in a state
7 contiguous to this state, as determined under s. 77.522, by a person domiciled in that
8 state if the boat is berthed in this state's boundary waters adjacent to the state of the
9 domicile of the purchaser and if the transaction was an exempt occasional sale under
10 the laws of the state in which the purchase was made.

11 SECTION 68. 77.53 (17r) (a) of the statutes is amended to read:

12 77.53 (17r) (a) It is purchased in another state, as determined under s. 77.522.

13 SECTION 69. 77.53 (18) of the statutes is amended to read:

14 77.53 (18) This section does not apply to the storage, use or other consumption
15 in this state of household goods for personal use or to aircraft, motor vehicles, boats,
16 snowmobiles, mobile homes, trailers, semitrailers and all-terrain vehicles, for
17 personal use, purchased by a nondomiciliary of this state outside this state, as
18 determined under s. 77.522, 90 days or more before bringing the goods or property
19 into this state in connection with a change of domicile to this state.

20 SECTION 70. 77.54 (1) of the statutes is amended to read:

21 77.54 (1) The ~~gross receipts sales price~~ sales price from the sale of and the storage, use or
22 other consumption in this state of tangible personal property and services the ~~gross~~
23 ~~receipts sales price~~ sales price from the sale of which, or the storage, use or other consumption
24 of which, this state is prohibited from taxing under the constitution or laws of the
25 United States or under the constitution of this state.