

2007 SENATE BILL 446

February 4, 2008 – Introduced by Senators JAUCH, LEHMAN, PLALE, ERPENBACH and SCHULTZ, cosponsored by Representatives TURNER, SOLETSKI, SINICKI, SHERIDAN and ZEPNICK. Referred to Committee on Tax Fairness and Family Prosperity.

1 **AN ACT** *to repeal* 46.513, 77.51 (4), 77.51 (14) (d), 77.51 (14) (i), 77.51 (14) (k),
2 77.51 (14) (L), 77.51 (14r), 77.51 (15), 77.52 (2) (a) 5. b., 77.52 (3m), 77.52 (3n),
3 77.52 (6), 77.52 (14) (a) 2., 77.523 (title), 77.53 (4), 77.54 (14g), 77.54 (14s), 77.54
4 (20), 77.54 (20m), 77.54 (22), 77.54 (40), 77.61 (3), 77.65 (2) (c), 77.72 (title),
5 77.72 (2) and (3) and 77.77 (2); *to renumber* 77.51 (6m), 77.51 (14) (g), 77.524
6 (1) (a) and 77.54 (48) (b); *to renumber and amend* 77.51 (1), 77.52 (1), 77.523,
7 77.524 (1) (b), 77.53 (9m), 77.53 (11), 77.54 (48) (a), 77.61 (2), 77.72 (1) and 77.77
8 (1); *to consolidate, renumber and amend* 77.52 (14) (a) (intro.) and 1. and
9 (b); *to amend* 66.0615 (1m) (f) 2., 70.111 (23), 71.07 (5e) (b), 71.07 (5e) (c) 1.,
10 71.07 (5e) (c) 3., 71.28 (5e) (b), 71.28 (5e) (c) 1., 71.28 (5e) (c) 3., 71.47 (5e) (b),
11 71.47 (5e) (c) 1., 71.47 (5e) (c) 3., 73.03 (50) (d), 76.07 (4g) (b) 8., 77.51 (5), 77.51
12 (9) (a), 77.51 (9) (am), 77.51 (10), 77.51 (12) (b), 77.51 (13) (a), 77.51 (13) (b),
13 77.51 (13) (c), 77.51 (13) (d), 77.51 (13) (e), 77.51 (13) (f), 77.51 (13) (k), 77.51 (13)
14 (m), 77.51 (13) (n), 77.51 (13) (o), 77.51 (13g) (intro.), 77.51 (13r), 77.51 (14)

SENATE BILL 446

1 (intro.), 77.51 (14) (a), 77.51 (14) (b), 77.51 (14) (c), 77.51 (14) (h), 77.51 (14) (j),
2 77.51 (14g) (a), 77.51 (14g) (b), 77.51 (14g) (bm), 77.51 (14g) (c), 77.51 (14g) (cm),
3 77.51 (14g) (d), 77.51 (14g) (e), 77.51 (14g) (em), 77.51 (14g) (f), 77.51 (14g) (g),
4 77.51 (14g) (h), 77.51 (17) (intro.), 77.51 (18), 77.51 (20), 77.51 (21), 77.51 (21m),
5 77.51 (22) (a), 77.51 (22) (b), 77.52 (2) (intro.), 77.52 (2) (a) 5m., 77.52 (2) (a) 10.,
6 77.52 (2m) (a), 77.52 (2m) (b), 77.52 (4), 77.52 (7), 77.52 (12), 77.52 (13), 77.52
7 (15), 77.52 (16), 77.52 (19), 77.525, 77.53 (1), 77.53 (2), 77.53 (3), 77.53 (9), 77.53
8 (10), 77.53 (12), 77.53 (14), 77.53 (15), 77.53 (16), 77.53 (17), 77.53 (17m), 77.53
9 (17r) (a), 77.53 (18), 77.54 (1), 77.54 (2), 77.54 (2m), 77.54 (3) (a), 77.54 (3m)
10 (intro.), 77.54 (4), 77.54 (5) (intro.), 77.54 (6) (intro.), 77.54 (7m), 77.54 (8), 77.54
11 (9), 77.54 (9a) (intro.), 77.54 (10), 77.54 (11), 77.54 (12), 77.54 (13), 77.54 (14)
12 (intro.), 77.54 (14) (a), 77.54 (14) (b), 77.54 (14) (f) (intro.), 77.54 (15), 77.54 (16),
13 77.54 (17), 77.54 (18), 77.54 (21), 77.54 (23m), 77.54 (25), 77.54 (25m), 77.54
14 (26), 77.54 (26m), 77.54 (27), 77.54 (28), 77.54 (29), 77.54 (30) (a) (intro.), 77.54
15 (30) (c), 77.54 (31), 77.54 (32), 77.54 (33), 77.54 (35), 77.54 (36), 77.54 (37), 77.54
16 (38), 77.54 (39), 77.54 (41), 77.54 (42), 77.54 (43), 77.54 (44), 77.54 (45), 77.54
17 (46), 77.54 (46m), 77.54 (47) (intro.), 77.54 (47) (b) 1., 77.54 (47) (b) 2., 77.54 (49),
18 77.54 (54), 77.54 (56), 77.55 (1) (intro.), 77.55 (2), 77.55 (2m), 77.55 (3), 77.56
19 (1), 77.57, 77.58 (3) (a), 77.58 (3) (b), 77.58 (6), 77.59 (5m), 77.59 (9), 77.61 (1)
20 (b), 77.61 (1) (c), 77.61 (4) (a), 77.61 (4) (c), 77.61 (11), 77.65 (2) (a), 77.65 (2) (e),
21 77.65 (2) (f), 77.66, 77.70, 77.705, 77.706, 77.707 (1), 77.707 (2), 77.71 (1), 77.71
22 (2), 77.71 (3), 77.71 (4), 77.73 (2), 77.75, 77.785 (1), 77.785 (2), 77.98, 77.981,
23 77.99, 77.991 (2), 77.994 (1) (intro.), 77.9941 (4), 77.995 (2), 77.996 (6), 86.195
24 (3) (b) 3., 218.0171 (2) (cq), 229.68 (15) and 229.824 (15); **to repeal and**
25 **recreate** 77.51 (7), 77.51 (12) (a), 77.51 (17m), 77.52 (1b), 77.52 (2) (a) 5. a.,

SENATE BILL 446

1 77.52 (2n), 77.53 (1b), 77.63, 77.982 (2), 77.9951 (2) and 77.9972 (2); and **to**
2 **create** 20.566 (1) (ho), 73.03 (28e), 73.03 (50b), 73.03 (61), 77.51 (1b), 77.51
3 (1ba), 77.51 (1f), 77.51 (1fm), 77.51 (1n), 77.51 (1p), 77.51 (1r), 77.51 (2k), 77.51
4 (2m), 77.51 (3c), 77.51 (3n), 77.51 (3pd), 77.51 (3pe), 77.51 (3pf), 77.51 (3pj),
5 77.51 (3pm), 77.51 (3pn), 77.51 (3po), 77.51 (3rm), 77.51 (3t), 77.51 (5d), 77.51
6 (5n), 77.51 (5r), 77.51 (7g), 77.51 (7k), 77.51 (7m), 77.51 (8m), 77.51 (9p), 77.51
7 (9s), 77.51 (10d), 77.51 (10f), 77.51 (10m), 77.51 (10n), 77.51 (10r), 77.51 (10s),
8 77.51 (11d), 77.51 (11m), 77.51 (12m), 77.51 (12p), 77.51 (13g) (c), 77.51 (13rm),
9 77.51 (13rn), 77.51 (15a), 77.51 (15b), 77.51 (17w), 77.51 (21n), 77.51 (21p),
10 77.51 (21q), 77.51 (22) (bm), 77.51 (24), 77.51 (25), 77.51 (26), 77.52 (1) (b), 77.52
11 (1) (c), 77.52 (2) (a) 5. am., 77.52 (2) (a) 5. c., 77.52 (2) (a) 13m., 77.52 (7b), 77.52
12 (14) (am), 77.52 (20), 77.52 (21), 77.52 (22), 77.52 (23), 77.522, 77.524 (1) (ag),
13 77.53 (9m) (b), 77.53 (9m) (c), 77.53 (11) (b), 77.54 (20n), 77.54 (20r), 77.54 (22b),
14 77.54 (51), 77.54 (52), 77.58 (6m), 77.58 (9a), 77.585, 77.59 (2m), 77.59 (9n),
15 77.59 (9p) (b), 77.59 (9r), 77.60 (13), 77.61 (2) (b), 77.61 (3m), 77.61 (5m), 77.61
16 (16), 77.61 (17), 77.65 (4) (fm), 77.67, 77.73 (3) and 77.77 (1) (b) of the statutes;
17 **relating to:** the streamlined sales and use tax agreement.

Analysis by the Legislative Reference Bureau

This bill adopts the substantive provisions of the streamlined sales and use tax agreement (agreement) for purposes of administering and collecting state, county, and stadium district sales and use taxes. The agreement is intended to 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, county, and stadium district sales and use taxes voluntarily. Under current federal law, generally, an out-of-state retailer who sells tangible personal property 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).

SENATE BILL 446

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.** 20.566 (1) (ho) of the statutes is created to read:

2 20.566 **(1)** (ho) *Collections under multistate streamlined sales tax project.* From
3 moneys collected under the multistate streamlined sales tax project as provided
4 under s. 73.03 (28e), a sum sufficient to pay the dues necessary to participate in the
5 governing board of the multistate streamlined sales tax project.

6 **SECTION 2.** 46.513 of the statutes is repealed.

7 **SECTION 3.** 66.0615 (1m) (f) 2. of the statutes is amended to read:

8 66.0615 **(1m)** (f) 2. Sections 77.51 (12m), (14) ~~(e), (f) and (j) and~~, (14g), (15a),
9 and (15b), 77.52 (3), (4), ~~(6) and (13), (14), (18), and (19), 77.522, 77.58 (1) to (5), (6m)~~,
10 and (7), 77.585, 77.59, 77.60, 77.61 (2), (3m), (5), (8), (9), and (12) to ~~(14)~~ (15), and
11 77.62, as they apply to the taxes under subch. III of ch. 77, apply to the tax described
12 under subd. 1.

13 **SECTION 4.** 70.111 (23) of the statutes is amended to read:

14 70.111 **(23)** VENDING MACHINES. All machines that automatically dispense soda
15 water beverages, as defined in s. 97.29 (1) (i), and items included as a food or beverage
16 under s. 77.54 ~~(20) (a) and (b)~~ food and food ingredient, as defined in s. 77.51 (3t),
17 upon the deposit in the machines of specified coins or currency, or insertion of a credit
18 card, in payment for the ~~soda water beverages, food or beverages~~ food and food
19 ingredient, as defined in s. 77.51 (3t).

20 **SECTION 5.** 71.07 (5e) (b) of the statutes is amended to read:

SENATE BILL 446

1 71.07 (5e) (b) *Filing claims.* Subject to the limitations provided in this
2 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
3 taxable year following the taxable year in which the claimant claims ~~an exemption~~
4 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
5 the taxes imposed under ss. 71.02 and 71.08, up to the amount of those taxes, in each
6 taxable year for 2 years, the amount certified by the department of commerce that
7 resulted from the claimant claimed as an exemption claiming a deduction under s.
8 ~~77.54 (48)~~ 77.585 (9).

9 **SECTION 6.** 71.07 (5e) (c) 1. of the statutes is amended to read:

10 71.07 (5e) (c) 1. No credit may be allowed under this subsection unless the
11 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

12 **SECTION 7.** 71.07 (5e) (c) 3. of the statutes is amended to read:

13 71.07 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
14 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
15 by all claimants under this subsection and ss. 71.28 (5e), 71.47 (5e), and ~~77.54 (48)~~
16 77.585 (9) is \$7,500,000, as determined by the department of commerce.

17 **SECTION 8.** 71.28 (5e) (b) of the statutes is amended to read:

18 71.28 (5e) (b) *Filing claims.* Subject to the limitations provided in this
19 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
20 taxable year following the taxable year in which the claimant claims ~~an exemption~~
21 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
22 the taxes imposed under s. 71.23, up to the amount of those taxes, in each taxable
23 year for 2 years, the amount certified by the department of commerce that resulted
24 from the claimant claimed as an exemption claiming a deduction under s. ~~77.54 (48)~~
25 77.585 (9).

SENATE BILL 446

1 **SECTION 9.** 71.28 (5e) (c) 1. of the statutes is amended to read:

2 71.28 **(5e)** (c) 1. No credit may be allowed under this subsection unless the
3 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

4 **SECTION 10.** 71.28 (5e) (c) 3. of the statutes is amended to read:

5 71.28 **(5e)** (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
6 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
7 by all claimants under this subsection and ss. 71.07 (5e), 71.47 (5e), and ~~77.54 (48)~~
8 77.585 (9) is \$7,500,000, as determined by the department of commerce.

9 **SECTION 11.** 71.47 (5e) (b) of the statutes is amended to read:

10 71.47 **(5e)** (b) *Filing claims.* Subject to the limitations provided in this
11 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
12 taxable year following the taxable year in which the claimant claims ~~an exemption~~
13 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
14 the taxes imposed under s. 71.43, up to the amount of those taxes, in each taxable
15 year for 2 years, the amount certified by the department of commerce that resulted
16 from the claimant claimed as ~~an exemption~~ claiming a deduction under s. ~~77.54 (48)~~
17 77.585 (9).

18 **SECTION 12.** 71.47 (5e) (c) 1. of the statutes is amended to read:

19 71.47 **(5e)** (c) 1. No credit may be allowed under this subsection unless the
20 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

21 **SECTION 13.** 71.47 (5e) (c) 3. of the statutes is amended to read:

22 71.47 **(5e)** (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
23 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
24 by all claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and ~~77.54 (48)~~
25 77.585 (9) is \$7,500,000, as determined by the department of commerce.

SENATE BILL 446

1 **SECTION 14.** 73.03 (28e) of the statutes is created to read:

2 73.03 **(28e)** To participate as a member state of the streamlined sales tax
3 governing board which administers the agreement, as defined in s. 77.65 (2) (a), and
4 includes having the governing board enter into contracts that are necessary to
5 implement the agreement on behalf of the member states, and to allocate a portion
6 of the amount collected under ch. 77 through the agreement to the appropriation
7 under s. 20.566 (1) (ho) to pay the dues necessary to participate in the governing
8 board. The department shall allocate the remainder of such collections to the general
9 fund.

10 **SECTION 15.** 73.03 (50) (d) of the statutes is amended to read:

11 73.03 **(50)** (d) In the case of a sole proprietor, signs the form or, in the case of
12 other persons, has an individual who is authorized to act on behalf of the person sign
13 the form, or, in the case of a single-owner entity that is disregarded as a separate
14 entity under section 7701 of the Internal Revenue Code, the person is the owner. Any
15 person who may register under this subsection may designate an agent, as defined
16 in s. 77.524 (1) (ag), to register with the department under this subsection in the
17 manner prescribed by the department. In this paragraph, “sign” has the meaning
18 given in s. 77.51 (17r).

19 **SECTION 16.** 73.03 (50b) of the statutes is created to read:

20 73.03 **(50b)** To waive the fee established under sub. (50) for applying for and
21 renewing the business tax registration certificate, if the person who is applying for
22 or renewing the certificate is not required for purposes of ch. 77 to hold such a
23 certificate.

24 **SECTION 17.** 73.03 (61) of the statutes is created to read:

SENATE BILL 446

1 73.03 (61) 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) (am).

7 (c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish
8 performance standards and eligibility criteria for a seller that sells tangible personal
9 property, items or property under s. 77.52 (1) (b) or (c), or taxable services in at least
10 5 states that are signatories to the agreement, as defined in s. 77.65 (2) (a); that has
11 total annual sales revenue of at least \$500,000,000; that has a proprietary system
12 that calculates the amount of tax owed to each taxing jurisdiction in which the seller
13 sells tangible personal property or taxable services; and that has entered into a
14 performance agreement with the states that are signatories to the agreement, as
15 defined in s. 77.65 (2) (a). For purposes of this paragraph, “seller” includes an
16 affiliated group of sellers using the same proprietary system to calculate the amount
17 of tax owed in each taxing jurisdiction in which the sellers sell tangible personal
18 property or taxable services.

19 (d) Issue a tax identification number to a person who claims an exemption
20 under subch. III or V of ch. 77 and who is not required to register with the department
21 for the purposes of subch. III or V of ch. 77 and establish procedures for the
22 registration of such a person.

23 (e) Maintain a database that is accessible to sellers and certified service
24 providers, as defined in s. 77.51 (1g), that indicates whether items defined in

SENATE BILL 446

1 accordance with the Uniform Sales and Use Tax Administration Act are taxable or
2 nontaxable.

3 (f) Maintain a database that is accessible to sellers and certified service
4 providers, as defined in s. 77.51 (1g), and available in a downloadable format, that
5 indicates tax rates, taxing jurisdiction boundaries, and zip code or address
6 assignments related to the administration of taxes imposed under subchs. III and V
7 of ch. 77.

8 (g) Set forth the information that the seller shall provide to the department for
9 tax exemptions claimed by purchasers and establish the manner in which a seller
10 shall provide such information to the department.

11 (h) Provide monetary allowances, in addition to the retailer's discount provided
12 under s. 77.61 (4) (c), to certified service providers, as defined in s. 77.51 (1g), and
13 sellers that use certified automated systems, as defined in s. 77.524 (1) (am), or
14 proprietary systems, pursuant to the agreement as defined in s. 77.65 (2) (a).

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

16 76.07 (4g) (b) 8. Determine transport-related revenue by adding public service
17 revenue allocated to this state on the basis of routes for which the company is
18 authorized to receive subsidy payments, mutual aid allocated to this state on the
19 basis of the ratio of transport revenues allocated to this state to transport revenues
20 everywhere in the previous year, in-flight sales allocated to this state as they are
21 allocated under s. ~~77.51 (14r)~~ 77.522 and all other transport-related revenues from
22 sales made in this state.

23 **SECTION 19.** 77.51 (1) of the statutes is renumbered 77.51 (1fd) and amended
24 to read:

SENATE BILL 446

1 77.51 (1fd) “Business” includes any activity engaged in by any person or caused
2 to be engaged in by any person with the object of gain, benefit or advantage, either
3 direct or indirect, and includes also the furnishing and distributing of tangible
4 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services
5 for a consideration by social clubs and fraternal organizations to their members or
6 others.

7 **SECTION 20.** 77.51 (1b) of the statutes is created to read:

8 77.51 (1b) “Alcoholic beverage” means a beverage that is suitable for human
9 consumption and that contains 0.5 percent or more of alcohol by volume.

10 **SECTION 21.** 77.51 (1ba) of the statutes is created to read:

11 77.51 (1ba) “Ancillary services” means services that are associated with or
12 incidental to providing telecommunications services, including detailed
13 telecommunications billing, directory assistance, vertical service, and voice mail
14 services.

15 **SECTION 22.** 77.51 (1f) of the statutes is created to read:

16 77.51 (1f) “Bundled transaction” means the retail sale of 2 or more products,
17 not including real property and services to real property, if the products are distinct
18 and identifiable products and sold for one nonitemized price. “Bundled transaction”
19 does not include any of the following:

20 (a) The sale of any products for which the sales price varies or is negotiable
21 based on the purchaser’s selection of the products included in the transaction.

22 (b) 1. The retail sale of tangible personal property and a service, if the tangible
23 personal property is essential to the use of the service, and provided exclusively in
24 connection with the service, and if the true object of the transaction is the service.

SENATE BILL 446

1 2. The retail sale of a service and items or property under s. 77.52 (1) (b) or (c),
2 if such property or items are essential to the use of the service, and provided
3 exclusively in connection with the service, and if the true object of the transaction
4 is the service.

5 (c) The retail sale of services, if one of the services is essential to the use or
6 receipt of another service, and provided exclusively in connection with the other
7 service, and if the true object of the transaction is the other service.

8 (d) A transaction that includes taxable and nontaxable products, if the seller's
9 purchase price or the sales price of the taxable products is no greater than 10 percent
10 of the seller's total purchase price or sales price of all the bundled products, as
11 determined by the seller using either the seller's purchase price or sales price, but
12 not a combination of both, or, in the case of a service contract, the full term of the
13 service contract.

14 (e) The retail sale of taxable tangible personal property or items or property
15 under s. 77.52 (1) (b) or (c) and tangible personal property or items or property under
16 s. 77.52 (1) (b) or (c) that is exempt from the taxes imposed under this subchapter,
17 if the transaction includes food and food ingredients, drugs, durable medical
18 equipment, mobility-enhancing equipment, prosthetic devices, or medical supplies
19 and if the seller's purchase price or the sales price of the taxable tangible personal
20 property or items or property under s. 77.52 (1) (b) or (c) is no greater than 50 percent
21 of the seller's total purchase price or sales price of all the tangible personal property
22 or items or property under s. 77.52 (1) (b) or (c) included in what would otherwise be
23 a bundled transaction, as determined by the seller using either the seller's purchase
24 price or the sales price, but not a combination of both.

25 **SECTION 23.** 77.51 (1fm) of the statutes is created to read:

SENATE BILL 446

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

5 **SECTION 24.** 77.51 (1n) of the statutes is created to read:

6 77.51 (1n) “Computer” means an electronic device that accepts information in
7 digital or similar form and that manipulates such information to achieve a result
8 based on a sequence of instructions.

9 **SECTION 25.** 77.51 (1p) of the statutes is created to read:

10 77.51 (1p) “Computer software” means a set of coded instructions designed to
11 cause a computer or automatic data processing equipment to perform a task.

12 **SECTION 26.** 77.51 (1r) of the statutes is created to read:

13 77.51 (1r) “Conference bridging service” means an ancillary service that links
14 2 or more participants of an audio or video conference call and may include providing
15 a telephone number, but does not include the telecommunications services used to
16 reach the conference bridge.

17 **SECTION 27.** 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 28.** 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 29.** 77.51 (3c) of the statutes is created to read:

SENATE BILL 446

1 77.51 (3c) “Detailed telecommunications billing service” means an ancillary
2 service that separately indicates information pertaining to individual calls on a
3 customer’s billing statement.

4 **SECTION 30.** 77.51 (3n) of the statutes is created to read:

5 77.51 (3n) “Dietary supplement” means a product, other than tobacco, that is
6 intended to supplement a person’s diet, if all of the following apply:

7 (a) The product contains any of the following ingredients or any combination
8 of any of the following ingredients:

9 1. A vitamin.

10 2. A mineral.

11 3. An herb or other botanical.

12 4. An amino acid.

13 5. A dietary substance that is intended for human consumption to supplement
14 the diet by increasing total dietary intake.

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

16 (b) The product is intended for ingestion in tablet, capsule, powder, soft-gel,
17 gel-cap, or liquid form, or, if not intended for ingestion in such forms, is not
18 represented as conventional food and is not represented for use as the sole item of
19 a meal or diet.

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

22 **SECTION 31.** 77.51 (3pd) of the statutes is created to read:

23 77.51 (3pd) “Direct mail” means printed material that is delivered by the U.S.
24 postal service or other delivery service to a mass audience or to addressees on a
25 mailing list provided by or at the direction of the purchaser of the printed material,

SENATE BILL 446

1 if the cost of the printed material or any tangible personal property or items or
2 property under s. 77.52 (1) (b) or (c) included with the printed material is not billed
3 directly to the recipients of the printed material. “Direct mail” includes any tangible
4 personal property or items or property under s. 77.52 (1) (b) or (c) provided directly
5 or indirectly by the purchaser of the printed material to the seller of the printed
6 material for inclusion in any package containing the printed material, including
7 billing invoices, return envelopes, and additional marketing materials. “Direct mail”
8 does not include multiple items of printed material delivered to a single address.

9 **SECTION 32.** 77.51 (3pe) of the statutes is created to read:

10 77.51 **(3pe)** “Directory assistance” means an ancillary service that provides
11 telephone numbers or addresses.

12 **SECTION 33.** 77.51 (3pf) of the statutes is created to read:

13 77.51 **(3pf)** “Distinct and identifiable product” does not include any of the
14 following:

15 (a) Packaging, including containers, boxes, sacks, bags, bottles, and envelopes;
16 and other materials, including wrapping, labels, tags, and instruction guides; that
17 accompany, and are incidental or immaterial to, the retail sale of any product.

18 (b) A product that is provided free of charge to the consumer in conjunction with
19 the purchase of another product, if the sales price of the other product does not vary
20 depending on whether the product provided free of charge is included in the
21 transaction.

22 (c) Any items specified under sub. (12m) (a) or (15b) (a).

23 **SECTION 34.** 77.51 (3pj) of the statutes is created to read:

SENATE BILL 446

1 77.51 **(3pj)** “Drug” means a compound, substance, or preparation, or any
2 component of them, other than food and food ingredients, dietary supplements, or
3 alcoholic beverages, to which any of the following applies:

4 (a) It is listed in the United States Pharmacopoeia, Homeopathic
5 Pharmacopoeia of the United States, or National Formulary, or any supplement to
6 any of them.

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

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

10 **SECTION 35.** 77.51 (3pm) of the statutes is created to read:

11 77.51 **(3pm)** “Durable medical equipment” means equipment, including the
12 repair parts and replacement parts for the equipment that is primarily and
13 customarily used for a medical purpose related to a person; that can withstand
14 repeated use; that is not generally useful to a person who is not ill or injured; and that
15 is not placed in or worn on the body. “Durable medical equipment” does not include
16 mobility-enhancing equipment.

17 **SECTION 36.** 77.51 (3pn) of the statutes is created to read:

18 77.51 **(3pn)** “Eight hundred service” means a telecommunications service that
19 allows a caller to dial a toll-free number without incurring a charge for the call and
20 is marketed under “800,” “855,” “866,” “877,” or “888” toll-free calling, or any other
21 number designated as toll-free by the federal communications commission.

22 **SECTION 37.** 77.51 (3po) of the statutes is created to read:

23 77.51 **(3po)** “Electronic” means relating to technology having electrical, digital,
24 magnetic, wireless, optical, electromagnetic, or similar capabilities.

25 **SECTION 38.** 77.51 (3rm) of the statutes is created to read:

SENATE BILL 446

1 77.51 (3rm) “Fixed wireless service” means a telecommunications service that
2 provides radio communication between fixed points.

3 **SECTION 39.** 77.51 (3t) of the statutes is created to read:

4 77.51 (3t) “Food and food ingredient” means a substance in liquid,
5 concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or
6 for chewing, by humans and that is ingested or chewed for its taste or nutritional
7 value. “Food and food ingredient” does not include alcoholic beverages or tobacco.

8 **SECTION 40.** 77.51 (4) of the statutes, as affected by 2007 Wisconsin Acts 11 and
9 20, is repealed.

10 **SECTION 41.** 77.51 (5) of the statutes is amended to read:

11 77.51 (5) For purposes of subs. (13) (e) and (f) and ~~(14) (L)~~ (15a) and s. 77.52
12 (2m), “incidental” means depending upon or appertaining to something else as
13 primary; something necessary, appertaining to, or depending upon another which is
14 termed the principal; something incidental to the main purpose of the service.
15 Tangible personal property or items or property under s. 77.52 (1) (b) or (c)
16 transferred by a service provider is incidental to the service if the purchaser’s main
17 purpose or objective is to obtain the service rather than the property or items, even
18 though the property or items may be necessary or essential to providing the service.

19 **SECTION 42.** 77.51 (5d) of the statutes is created to read:

20 77.51 (5d) “International telecommunications services” means
21 telecommunications services that originate or terminate in the United States,
22 including the District of Columbia and any U.S. territory or possession and originate
23 or terminate outside of the United States, including the District of Columbia and any
24 U.S. territory or possession.

25 **SECTION 43.** 77.51 (5n) of the statutes is created to read:

SENATE BILL 446

1 77.51 **(5n)** “Interstate telecommunications services” means
2 telecommunications services that originate in one state or U.S. territory or
3 possession and terminate in a different state or U.S. territory or possession.

4 **SECTION 44.** 77.51 (5r) of the statutes is created to read:

5 77.51 **(5r)** “Intrastate telecommunications services” means
6 telecommunications services that originate in one state or U.S. territory or
7 possession and terminate in the same state or U.S. territory or possession.

8 **SECTION 45.** 77.51 (6m) of the statutes is renumbered 77.51 (5m).

9 **SECTION 46.** 77.51 (7) of the statutes is repealed and recreated to read:

10 77.51 **(7)** (a) “Lease or rental” means any transfer of possession or control of
11 tangible personal property for a fixed or indeterminate term and for consideration
12 and includes:

- 13 1. A transfer that includes future options to purchase or extend.
14 2. Agreements related to the transfer of possession or control of motor vehicles
15 or trailers, if the amount of any consideration may be increased or decreased by
16 reference to the amount realized on the sale or other disposition of such motor
17 vehicles or trailers, consistent with section 7701 (h) (1) of the Internal Revenue Code.

18 (b) “Lease or rental” does not include any of the following:

- 19 1. A transfer of possession or control of tangible personal property under a
20 security agreement or deferred payment plan, if such agreement or plan requires
21 transferring title to the tangible personal property after making all required
22 payments.

- 23 2. A transfer of possession or control of tangible personal property under any
24 agreement that requires transferring title to the tangible personal property after

SENATE BILL 446

1 making all required payments and after paying an option price that does not exceed
2 the greater of \$100 or 1 percent of the total amount of the required payments.

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

7 (c) 1. Transfers described under par. (a) are considered a lease or rental,
8 regardless of whether such transfer is considered a lease or rental under generally
9 accepted accounting principles, or any provision of federal or local law, or any other
10 provision of state law.

11 2. Transfers described under par. (b) are not considered a lease or rental,
12 regardless of whether such transfer is considered a lease or rental under generally
13 accepted accounting principles, or any provision of federal or local law, or any other
14 provision of state law.

15 **SECTION 47.** 77.51 (7g) of the statutes is created to read:

16 77.51 (7g) “Load-and-leave” means delivery to a purchaser by using a tangible
17 storage media that is not physically transferred to the purchaser.

18 **SECTION 48.** 77.51 (7k) of the statutes is created to read:

19 77.51 (7k) “Mobile wireless service” means a telecommunications service for
20 which the origination or termination points of the service’s transmission,
21 conveyance, or routing are not fixed, regardless of the technology used to transmit,
22 convey, or route the service. “Mobile wireless service” includes a telecommunications
23 service provided by a commercial mobile radio service provider.

24 **SECTION 49.** 77.51 (7m) of the statutes is created to read:

SENATE BILL 446

1 77.51 (7m) “Mobility-enhancing equipment” means equipment, including the
2 repair parts and replacement parts for the equipment, that is primarily and
3 customarily used to provide or increase the ability of a person to move from one place
4 to another; that may be used in a home or motor vehicle; and that is generally not
5 used by a person who has normal mobility. “Mobility-enhancing equipment” does
6 not include a motor vehicle or any equipment on a motor vehicle that is generally
7 provided by a motor vehicle manufacturer. “Mobility-enhancing equipment” does
8 not include durable medical equipment.

9 **SECTION 50.** 77.51 (8m) of the statutes is created to read:

10 77.51 (8m) “Nine hundred service” means an inbound toll telecommunications
11 service purchased by a subscriber that allows the subscriber’s customers to call the
12 subscriber’s prerecorded announcement or live service. “Nine hundred service” does
13 not include any charge for collection services provided by the seller of the
14 telecommunications services to the subscriber or for any product or service the
15 subscriber sells to the subscriber’s customers. A “nine hundred service” is
16 designated with the “900” number or any other number designated by the federal
17 communications commission.

18 **SECTION 51.** 77.51 (9) (a) of the statutes is amended to read:

19 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, items or
20 property under s. 77.52 (1) (b) or (c)., or taxable services where the infrequency, in
21 relation to the other circumstances, including the sales price and the gross profit,
22 support the inference that the seller is not pursuing a vocation, occupation or
23 business or a partial vocation or occupation or part-time business as a vendor of
24 personal property, items or property under s. 77.52 (1) (b) or (c)., or taxable services.
25 No sale of any tangible personal property, items or property under s. 77.52 (1) (b) or

SENATE BILL 446

1 (c), or taxable service may be deemed an occasional sale if at the time of such sale the
2 seller holds or is required to hold a seller's permit, except that this provision does not
3 apply to an organization required to hold a seller's permit solely for the purpose of
4 conducting bingo games and except as provided in par. (am).

5 **SECTION 52.** 77.51 (9) (am) of the statutes is amended to read:

6 77.51 **(9)** (am) The sale of personal property, other than inventory held for sale,
7 previously used by a seller to conduct its trade or business at a location after that
8 person has ceased actively operating in the regular course of business as a seller of
9 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
10 services at that location, even though the seller holds a seller's permit for one or more
11 other locations.

12 **SECTION 53.** 77.51 (9p) of the statutes is created to read:

13 77.51 **(9p)** "One nonitemized price" does not include a price that is separately
14 identified by product on a binding sales document, or other sales-related document,
15 that is made available to the customer in paper or electronic form, including an
16 invoice, a bill of sale, a receipt, a contract, a service agreement, a lease agreement,
17 a periodic notice of rates and services, a rate card, or a price list.

18 **SECTION 54.** 77.51 (9s) of the statutes is created to read:

19 77.51 **(9s)** "Paging service" means a telecommunications service that transmits
20 coded radio signals to activate specific pagers and may include messages or sounds.

21 **SECTION 55.** 77.51 (10) of the statutes is amended to read:

22 77.51 **(10)** "Person" includes any natural person, firm, partnership, limited
23 liability company, joint venture, joint stock company, association, public or private
24 corporation, the United States, the state, including any unit or division of the state,
25 any county, city, village, town, municipal utility, municipal power district or other

SENATE BILL 446

1 governmental unit, cooperative, unincorporated cooperative association, estate,
2 trust, receiver, personal representative, any other fiduciary, any other legal entity,
3 and any representative appointed by order of any court or otherwise acting on behalf
4 of others. “Person” also includes the owner of a single-owner entity that is
5 disregarded as a separate entity under ch. 71.

6 **SECTION 56.** 77.51 (10d) of the statutes is created to read:

7 77.51 (10d) “Prepaid calling service” means the right to exclusively access
8 telecommunications services, if that right is paid for in advance of providing such
9 services, requires using an access number or authorization code to originate calls,
10 and is sold in predetermined units or dollars that decrease with use in a known
11 amount.

12 **SECTION 57.** 77.51 (10f) of the statutes is created to read:

13 77.51 (10f) “Prepaid wireless calling service” means a telecommunications
14 service that provides the right to utilize mobile wireless service as well as other
15 nontelecommunications services, including the download of digital products
16 delivered electronically, content, and ancillary services, and that is paid for prior to
17 use and sold in predetermined dollar units whereby the number of units declines
18 with use in a known amount.

19 **SECTION 58.** 77.51 (10m) of the statutes is created to read:

20 77.51 (10m) (a) “Prepared food” means:

- 21 1. Food and food ingredients sold in a heated state.
- 22 2. Food and food ingredients heated by the retailer, except as provided in par.
- 23 (b).
- 24 3. Food and food ingredients sold with eating utensils that are provided by the
- 25 retailer of the food and food ingredients, including plates, knives, forks, spoons,

SENATE BILL 446**SECTION 58**

1 glasses, cups, napkins, or straws. In this subdivision, “plate” does not include a
2 container or packaging used to transport food and food ingredients. For purposes of
3 this subdivision, a retailer provides utensils if any of the following applies:

4 a. The utensils are available to purchasers and the retailer’s sales of prepared
5 food under subds. 1. and 2., soft drinks, and alcoholic beverages at an establishment
6 are more than 75 percent of the retailer’s total sales at that establishment, as
7 determined under par. (c).

8 b. For retailers not described under subd. 3. a., the retailer’s customary practice
9 is to physically give or hand the utensils to the purchaser, not including plates,
10 glasses, or cups that are necessary for the purchaser to receive the food and food
11 ingredients and that the retailer makes available to the purchaser.

12 4. Except as provided in par. (b), 2 or more food ingredients mixed or combined
13 by a retailer for sale as a single item.

14 (b) “Prepared food” does not include:

15 1. For purposes of par. (a) 2. and 4., 2 or more food ingredients mixed or
16 combined by a retailer for sale as a single item, if the retailer’s primary classification
17 in the 2002 North American Industry Classification System, published by the federal
18 office of management and budget, is manufacturing under subsector 311, not
19 including bakeries and tortilla manufacturing under industry group number 3118.

20 2. For purposes of par. (a) 2. and 4., 2 or more food ingredients mixed or
21 combined by a retailer for sale as a single item, sold unheated, and sold by volume
22 or weight.

23 3. For purposes of par. (a) 2. and 4., 2 bakery items made by a retailer, including
24 breads, rolls, pastries, buns, biscuits, bagels, croissants, donuts, danish, cakes,
25 tortes, pies, tarts, muffins, bars, cookies, and tortillas.

SENATE BILL 446

1 4. For purposes of par. (a) 4., food and food ingredients that are only sliced,
2 repackaged, or pasteurized by a retailer.

3 5. For purposes of par. (a) 4., eggs, fish, meat, and poultry, and foods containing
4 any of them in raw form, that require cooking by the consumer, as recommended by
5 the food and drug administration in chapter 3, part 401.11 of its food code to prevent
6 food-borne illnesses.

7 (c) 1. The percentage specified under par. (a) 3. a. shall be determined using the
8 following:

9 a. A numerator that includes sales of prepared food, as defined in par. (a) 1. and
10 2. and food for which plates, bowls, glasses, or cups are necessary to receive the food,
11 but not including alcoholic beverages.

12 b. A denominator that includes all food and food ingredients, including
13 prepared food, candy, dietary supplements, and soft drinks, but not including
14 alcoholic beverages.

15 2. a. If the percentage determined under subd. 1. is 75 percent or less, utensils
16 are considered to be provided by the retailer if the retailer's customary practice is to
17 physically give or hand the utensils to the purchaser or, in the case of plates, bowls,
18 glasses, or cups that are necessary to receive the food, to make such items available
19 to the purchaser.

20 b. If the percentage determined under subd. 1. is greater than 75 percent,
21 utensils are considered to be provided by the retailer if the utensils are made
22 available to the purchaser.

23 3. For a retailer whose percentage determined under subd. 1. is greater than
24 75 percent, an item sold by the retailer that contains 4 or more servings packaged
25 as 1 item and sold for a single price does not become prepared food simply because

SENATE BILL 446

1 the retailer makes utensils available to the purchaser of the item, but does become
2 prepared food if the retailer physically gives or hands utensils to the purchaser of the
3 item. For purposes of this subdivision 3. a., serving sizes are based on the
4 information contained on the label of each item sold, except that, if the item has no
5 label, the serving size is based on the retailer's reasonable determination.

6 4. a. Except as provided in subd. 4. b., if a retailer sells food items that have a
7 utensil placed in a package by a person other than the retailer, the utensils are
8 considered to be provided by the retailer.

9 b. Except as provided in subds. 2. and 3., if a retailer sells food items that have
10 a utensil placed in a package by a person other than the retailer and the person's
11 primary classification in the 2002 North American Industry Classification System,
12 published by the federal office of management and budget, is manufacturing under
13 subsector 311, the utensils are not considered to be provided by the retailer.

14 5. For purposes of par. (a) 3., a retailer shall determine the percentage for the
15 retailer's tax year or business fiscal year, based on the retailer's data from the
16 retailer's prior tax year or business fiscal year, as soon as practical after the retailer's
17 accounting records are available, but not later than 90 days after the day on which
18 the retailer's tax year or business fiscal year begins. For retailer's with more than
19 one establishment in this state, a single determination under subd. 1. that combines
20 the information for all of the retailer's establishments in this state shall be made
21 annually, as provided in this subdivision, and apply to each of the retailer's
22 establishments in this state. A retailer that has no prior tax year or business fiscal
23 year shall make a good faith estimate of its percentage for purposes of par. (a) 3. for
24 the retailer's first tax year or business fiscal year and shall adjust the estimate

SENATE BILL 446

1 prospectively after the first 3 months of the retailer's operations if the actual
2 percentage is materially different from the estimated percentage.

3 **SECTION 59.** 77.51 (10n) of the statutes is created to read:

4 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by
5 any oral, written, electronic, or other means of transmission and by a person who is
6 authorized by the laws of this state to issue such an order, formula, or recipe.

7 **SECTION 60.** 77.51 (10r) of the statutes is created to read:

8 77.51 (10r) "Prewritten computer software" means any of the following:

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

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

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

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

18 (e) Computer software as described under pars. (a) to (d), and any portion of
19 such software, that is modified or enhanced by any degree to a specific purchaser's
20 specifications, except such modification or enhancement that is reasonably and
21 separately indicated on an invoice, or other statement of the price, provided to the
22 purchaser.

23 **SECTION 61.** 77.51 (10s) of the statutes is created to read:

24 77.51 (10s) "Private communication service" means a telecommunications
25 service that entitles the customer to exclusive or priority use of a communications

SENATE BILL 446

1 channel or group of communications channels, regardless of the manner in which the
2 communications channel or group of communications channels is connected, and
3 includes switching capacity, extension lines, stations, and other associated services
4 that are provided in connection with the use of such channel or channels.

5 **SECTION 62.** 77.51 (11d) of the statutes is created to read:

6 77.51 (11d) “Product” includes tangible personal property, items or property
7 under s. 77.52 (1) (b) and (c), and services.

8 **SECTION 63.** 77.51 (11m) of the statutes is created to read:

9 77.51 (11m) “Prosthetic device” means a device, including the repair parts and
10 replacement parts for the device, that is placed in or worn on the body to artificially
11 replace a missing portion of the body; to prevent or correct a physical deformity or
12 malfunction; or to support a weak or deformed portion of the body.

13 **SECTION 64.** 77.51 (12) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
14 is repealed and recreated to read:

15 77.51 (12) (a) Any transfer of title, possession, ownership, enjoyment, or use
16 by: cash or credit transaction, exchange, barter, lease or rental, conditional or
17 otherwise, in any manner or by any means whatever of tangible personal property
18 or items or property under s. 77.52 (1) (b) or (c) for a consideration, including any
19 transaction for which a person’s books and records show the transaction created,
20 with regard to the transferee, an obligation to pay a certain amount of money or an
21 increase in accounts payable or, with regard to the transferor, a right to receive a
22 certain amount of money or an increase in accounts receivable;

23 **SECTION 65.** 77.51 (12) (b) of the statutes is amended to read:

SENATE BILL 446

1 77.51 (12) (b) A transaction whereby the possession of property or items or
2 property under s. 77.52 (1) (b) or (c) is transferred but the seller retains the title as
3 security for the payment of the price.

4 **SECTION 66.** 77.51 (12m) of the statutes is created to read:

5 77.51 (12m) (a) “Purchase price” means the total amount of consideration,
6 including cash, credit, property, and services, for which tangible personal property,
7 items or property under s. 77.52 (1) (b) or (c), or services are sold, leased, or rented,
8 valued in money, whether paid in money or otherwise, without any deduction for the
9 following:

10 1. The seller’s cost of the property or items or property under s. 77.52 (1) (b) or
11 (c) sold.

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

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

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

18 b. If a shipment includes property that is subject to tax under this subchapter
19 and property that is not subject to tax under this subchapter, the amount of the
20 delivery charge that the seller allocates to the property that is subject to tax under
21 this subchapter based on the total purchase price of the property that is subject to
22 tax under this subchapter as compared to the total purchase price of all the property
23 or on the total weight of the property that is subject to tax under this subchapter as
24 compared to the total weight of all the property, except that if the seller does not make

SENATE BILL 446

1 the allocation under this subd. 4. b., the purchaser shall allocate the delivery charge
2 amount, consistent with this subd. 4. b.

3 5. Installation charges.

4 (b) “Purchase price” does not include:

5 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
6 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
7 taken by a purchaser on a sale.

8 2. Interest, financing, and carrying charges from credit that is extended on a
9 sale of tangible personal property, items or property under s. 77.52 (1) (b) or (c), or
10 services, if the amount of the interest, financing, or carrying charges is separately
11 stated on the invoice, bill of sale, or similar document that the seller gives to the
12 purchaser.

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

16 4. Delivery charges for direct mail.

17 5. In all transactions in which an article of tangible personal property is traded
18 toward the purchase of an article of greater value, the amount of the purchase price
19 that represents the amount allowed for the article traded, except that this
20 subdivision does not apply to any transaction to which subd. 7. or 8. applies.

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

SENATE BILL 446

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

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

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

15 (c) "Purchase price" includes consideration received by the seller from a 3rd
16 party, if:

17 1. The seller actually receives consideration from a 3rd party, other than the
18 purchaser, and the consideration is directly related to a price reduction or discount
19 on a sale.

20 2. The seller is obliged to pass the price reduction or discount to the purchaser.

21 3. The amount of the consideration that is attributable to the sale is a fixed
22 amount and the seller is able to determine that amount at the time of the sale to the
23 purchaser.

24 4. Any of the following also applies:

SENATE BILL 446

1 a. The purchaser presents a coupon, certificate, or other documentation to the
2 seller to claim the price reduction or discount, if the coupon, certificate, or other
3 documentation is authorized, distributed, or granted by the 3rd party with the
4 understanding that the 3rd party will reimburse the seller for the amount of the price
5 reduction or discount.

6 b. The purchaser identifies himself or herself to the seller as a member of a
7 group or organization that may claim the price reduction or discount.

8 c. The seller provides an invoice to the purchaser, or the purchaser presents a
9 coupon, certificate, or other documentation to the seller, that identifies the price
10 reduction or discount as a 3rd-party price reduction or discount.

11 **SECTION 67.** 77.51 (12p) of the statutes is created to read:

12 77.51 (12p) “Purchaser” means a person to whom a sale of tangible personal
13 property is made or to whom a service is furnished.

14 **SECTION 68.** 77.51 (13) (a) of the statutes is amended to read:

15 77.51 (13) (a) Every seller who makes any sale, regardless of whether the sale
16 is mercantile in nature, of tangible personal property, items or property under s.
17 77.52 (1) (b) or (c), or a service specified under s. 77.52 (2) (a).

18 **SECTION 69.** 77.51 (13) (b) of the statutes is amended to read:

19 77.51 (13) (b) Every person engaged in the business of making sales of tangible
20 personal property or items or property under s. 77.52 (1) (b) or (c) for storage, use or
21 consumption or in the business of making sales at auction of tangible personal
22 property or items or property under s. 77.12 (1) (b) or (c) owned by the person or others
23 for storage, use or other consumption.

24 **SECTION 70.** 77.51 (13) (c) of the statutes is amended to read:

SENATE BILL 446

1 77.51 (13) (c) When the department determines that it is necessary for the
2 efficient administration of this subchapter to regard any salespersons,
3 representatives, peddlers or canvassers as the agents of the dealers, distributors,
4 supervisors or employers under whom they operate or from whom they obtain the
5 tangible personal property or items or property under s. 77.52 (1) (b) or (c) sold by
6 them, irrespective of whether they are making the sales on their own behalf or on
7 behalf of such dealers, distributors, supervisors or employers, the department may
8 so regard them and may regard the dealers, distributors, supervisors or employers
9 as retailers for purposes of this subchapter.

10 **SECTION 71.** 77.51 (13) (d) of the statutes is amended to read:

11 77.51 (13) (d) Every wholesaler to the extent that the wholesaler sells tangible
12 personal property or items or property under s. 77.52 (1) (b) or (c) to a person other
13 than a seller as defined in sub. (17) provided such wholesaler is not expressly exempt
14 from the sales tax on such sale or from collecting the use tax on such sale.

15 **SECTION 72.** 77.51 (13) (e) of the statutes is amended to read:

16 77.51 (13) (e) A person selling tangible personal property or items or property
17 under s. 77.52 (1) (b) or (c) to a service provider who transfers the property in
18 conjunction with the selling, performing or furnishing of any service and the
19 property is or items are incidental to the service, unless the service provider is
20 selling, performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20.
21 This subsection does not apply to sub. (2).

22 **SECTION 73.** 77.51 (13) (f) of the statutes is amended to read:

23 77.51 (13) (f) A service provider who transfers tangible personal property or
24 items or property under s. 77.52 (1) (b) or (c) in conjunction with but not incidental
25 to the selling, performing or furnishing of any service and a service provider selling,

SENATE BILL 446

1 performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20. This
2 subsection does not apply to sub. (2).

3 **SECTION 74.** 77.51 (13) (k) of the statutes is amended to read:

4 77.51 (13) (k) ~~As respects~~ With respect to a lease, any person deriving rentals
5 from a lease of tangible personal property or items or property under s. 77.52 (1) (b)
6 or (c) situated in this state.

7 **SECTION 75.** 77.51 (13) (m) of the statutes is amended to read:

8 77.51 (13) (m) A person selling tangible personal property or items or property
9 under s. 77.52 (1) (b) or (c) to a veterinarian to be used or furnished by the
10 veterinarian in the performance of services in some manner related to domestic
11 animals, including pets or poultry.

12 **SECTION 76.** 77.51 (13) (n) of the statutes is amended to read:

13 77.51 (13) (n) A person selling household furniture, furnishings, equipment,
14 appliances or other items of tangible personal property or items or property under
15 s. 77.52 (1) (b) or (c) to a landlord for use by tenants in leased or rented living
16 quarters.

17 **SECTION 77.** 77.51 (13) (o) of the statutes is amended to read:

18 77.51 (13) (o) A person selling ~~medicine~~ drugs for animals to a veterinarian.
19 As used in this paragraph, “animal” includes livestock, pets and poultry.

20 **SECTION 78.** 77.51 (13g) (intro.) of the statutes is amended to read:

21 77.51 (13g) (intro.) Except as provided in sub. (13h), “retailer engaged in
22 business in this state”, ~~unless otherwise limited by federal statute,~~ for purposes of
23 the use tax, means any of the following:

24 **SECTION 79.** 77.51 (13g) (c) of the statutes is created to read:

SENATE BILL 446

1 77.51 (13g) (c) Any retailer selling tangible personal property or taxable
2 services for storage, use, or other consumption in this state, unless otherwise limited
3 by federal law.

4 **SECTION 80.** 77.51 (13r) of the statutes is amended to read:

5 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall
6 be deemed the consumer of the tangible personal property, items or property under
7 s. 77.52 (1) (b) or (c), or services purchased.

8 **SECTION 81.** 77.51 (13rm) of the statutes is created to read:

9 77.51 (13rm) “Retail sale” or “sale at retail” means any sale, lease, or rental
10 for any purpose other than resale, sublease, or subrent.

11 **SECTION 82.** 77.51 (13rn) of the statutes is created to read:

12 77.51 (13rn) “Ringtones” means digitized sound files that are downloaded onto
13 a device and that may be used to alert the customer with regard to a communication.
14 “Ringtones” includes MP3 or musical tones, polyphonic tones, and synthetic music
15 mobile application format tones, but does not include ring-back tones.

16 **SECTION 83.** 77.51 (14) (intro.) of the statutes is amended to read:

17 77.51 (14) (intro.) “Sale”, ~~“sale, lease or rental”, “retail sale”, “sale at retail”, or~~
18 ~~equivalent terms include~~ includes any ~~one or all~~ of the following: the transfer of the
19 ownership of, title to, possession of, or enjoyment of tangible personal property, items
20 or property under s. 77.52 (1) (b) or (c), or services for use or consumption but not for
21 resale as tangible personal property, items or property under s. 77.52 (1) (b) or (c),
22 or services and includes:

23 **SECTION 84.** 77.51 (14) (a) of the statutes is amended to read:

24 77.51 (14) (a) Any sale at an auction ~~in~~ with respect to tangible personal
25 property or items or property under s. 77.52 (1) (b) or (c) which is are sold to a

SENATE BILL 446

1 successful bidder. ~~The proceeds from, except~~ the sale of property or items sold at
2 auction which ~~is~~ are bid in by the seller and on which title does not pass to a new
3 purchaser ~~shall be deducted from the gross proceeds of the sale and the tax paid only~~
4 ~~on the net proceeds.~~

5 **SECTION 85.** 77.51 (14) (b) of the statutes is amended to read:

6 77.51 **(14)** (b) The furnishing or distributing of tangible personal property,
7 items or property under s. 77.52 (1) (b) or (c), or taxable services for a consideration
8 by social clubs and fraternal organizations to their members or others.

9 **SECTION 86.** 77.51 (14) (c) of the statutes is amended to read:

10 77.51 **(14)** (c) A transaction whereby the possession of tangible personal
11 property ~~is~~ or items or property under s. 77.52 (1) (b) or (c) are transferred but the
12 seller retains the title as security for the payment of the price.

13 **SECTION 87.** 77.51 (14) (d) of the statutes is repealed.

14 **SECTION 88.** 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4.

15 **SECTION 89.** 77.51 (14) (h) of the statutes is amended to read:

16 77.51 **(14)** (h) A transfer for a consideration of the title or possession of tangible
17 personal property or items or property under s. 77.52 (1) (b) or (c) which ~~has~~ have
18 been produced, fabricated, or printed to the special order of the customer or of any
19 publication.

20 **SECTION 90.** 77.51 (14) (i) of the statutes is repealed.

21 **SECTION 91.** 77.51 (14) (j) of the statutes is amended to read:

22 77.51 **(14)** (j) The granting of possession of tangible personal property or items
23 or property under s. 77.52 (1) (b) or (c) by a lessor to a lessee, or to another person at
24 the direction of the lessee. Such a transaction is deemed a continuing sale in this
25 state ~~by the lessor for the duration of the lease as respects any period of time the~~

SENATE BILL 446

1 leased property is situated in this state, irrespective of the time or place of delivery
2 of the property to the lessee or such other person.

3 **SECTION 92.** 77.51 (14) (k) of the statutes is repealed.

4 **SECTION 93.** 77.51 (14) (L) of the statutes is repealed.

5 **SECTION 94.** 77.51 (14g) (a) of the statutes is amended to read:

6 77.51 (14g) (a) The transfer of property or items or property under s. 77.52 (1)
7 (b) or (c) to a corporation upon its organization solely in consideration for the issuance
8 of its stock;

9 **SECTION 95.** 77.51 (14g) (b) of the statutes is amended to read:

10 77.51 (14g) (b) The contribution of property or items or property under s. 77.52
11 (1) (b) or (c) to a newly formed partnership solely in consideration for a partnership
12 interest therein;

13 **SECTION 96.** 77.51 (14g) (bm) of the statutes is amended to read:

14 77.51 (14g) (bm) The contribution of property or items or property under s.
15 77.52 (1) (b) or (c) to a limited liability company upon its organization solely in
16 consideration for a membership interest;

17 **SECTION 97.** 77.51 (14g) (c) of the statutes is amended to read:

18 77.51 (14g) (c) The transfer of property or items or property under s. 77.52 (1)
19 (b) or (c) to a corporation, solely in consideration for the issuance of its stock,
20 pursuant to a merger or consolidation;

21 **SECTION 98.** 77.51 (14g) (cm) of the statutes is amended to read:

22 77.51 (14g) (cm) The transfer of property or items or property under s. 77.52
23 (1) (b) or (c) to a limited liability company, solely in consideration for a membership
24 interest, pursuant to a merger;

25 **SECTION 99.** 77.51 (14g) (d) of the statutes is amended to read:

SENATE BILL 446**SECTION 99**

1 77.51 (14g) (d) The distribution of property or items or property under s. 77.52
2 (1) (b) or (c) by a corporation to its stockholders as a dividend or in whole or partial
3 liquidation;

4 **SECTION 100.** 77.51 (14g) (e) of the statutes is amended to read:

5 77.51 (14g) (e) The distribution of property or items or property under s. 77.52
6 (1) (b) or (c) by a partnership to its partners in whole or partial liquidation;

7 **SECTION 101.** 77.51 (14g) (em) of the statutes is amended to read:

8 77.51 (14g) (em) The distribution of property or items or property under s.
9 77.52 (1) (b) or (c) by a limited liability company to its members in whole or partial
10 liquidation;

11 **SECTION 102.** 77.51 (14g) (f) of the statutes is amended to read:

12 77.51 (14g) (f) Repossession of property or items or property under s. 77.52 (1)
13 (b) or (c) by the seller from the purchaser when the only consideration is cancellation
14 of the purchaser's obligation to pay the remaining balance of the purchase price;

15 **SECTION 103.** 77.51 (14g) (g) of the statutes is amended to read:

16 77.51 (14g) (g) The transfer of property or items or property under s. 77.52 (1)
17 (b) or (c) in a reorganization as defined in section 368 of the internal revenue code
18 in which no gain or loss is recognized for franchise or income tax purposes; or

19 **SECTION 104.** 77.51 (14g) (h) of the statutes is amended to read:

20 77.51 (14g) (h) Any transfer of all or substantially all the property or items or
21 property under s. 77.52 (1) (b) or (c) held or used by a person in the course of an
22 activity requiring the holding of a seller's permit, if after the transfer the real or
23 ultimate ownership of the property or items is substantially similar to that which
24 existed before the transfer. For the purposes of this section, stockholders,
25 bondholders, partners, members or other persons holding an interest in a

SENATE BILL 446

1 corporation or other entity are regarded as having the real or ultimate ownership of
2 the property or items of the corporation or other entity. In this paragraph,
3 “substantially similar” means 80% or more of ownership.

4 **SECTION 105.** 77.51 (14r) of the statutes is repealed.

5 **SECTION 106.** 77.51 (15) of the statutes, as affected by 2007 Wisconsin Act 11,
6 is repealed.

7 **SECTION 107.** 77.51 (15a) of the statutes is created to read:

8 77.51 (15a) (a) “Sales, lease, or rental for resale, sublease, or subrent” includes
9 transfers of tangible personal property or items or property under s. 77.52 (1) (b) or
10 (c) to a service provider that the service provider transfers in conjunction with but
11 not incidental to the selling, performing, or furnishing of any service, and transfers
12 of tangible personal property or items or property under s. 77.52 (1) (b) or (c) to a
13 service provider that the service provider physically transfers in conjunction with
14 the selling, performing, or furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20.
15 This paragraph does not apply to sub. (2).

16 (b) “Sales, lease, or rental for resale, sublease, or subrent” does not include any
17 of the following:

18 1. The sale of building materials, supplies, and equipment to owners,
19 contractors, subcontractors, or builders for use in real property construction
20 activities or the alteration, repair, or improvement of real property, regardless of the
21 quantity of such materials, supplies, and equipment sold.

22 2. Any sale of tangible personal property or items or property under s. 77.52
23 (1) (b) or (c) to a purchaser even though such property or items may be used or
24 consumed by some other person to whom such purchaser transfers the property or
25 items without valuable consideration, such as gifts, and advertising specialties

SENATE BILL 446

1 distributed at no charge and apart from the sale of other tangible personal property,
2 items or property under s. 77.52 (1) (b) or (c), or service.

3 3. Transfers of tangible personal property or items or property under s. 77.52
4 (1) (b) or (c) to a service provider that the service provider transfers in conjunction
5 with the selling, performing, or furnishing of any service, if the tangible personal
6 property or items or property under s. 77.52 (1) (b) or (c) are incidental to the service,
7 unless the service provider is selling, performing, or furnishing services under s.
8 77.52 (2) (a) 7., 10., 11., or 20.

9 **SECTION 108.** 77.51 (15b) of the statutes is created to read:

10 77.51 (15b) (a) “Sales price” means the total amount of consideration, including
11 cash, credit, property, and services, for which tangible personal property, items or
12 property under s. 77.52 (1) (b) or (c), or services are sold, leased, or rented, valued in
13 money, whether received in money or otherwise, without any deduction for the
14 following:

15 1. The seller’s cost of the property or items or property under s. 77.52 (1) (b) or
16 (c) 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. a. Delivery charges, except as provided in par. (b) 4.

23 b. If a shipment includes property that is subject to tax under this subchapter
24 and property that is not subject to tax under this subchapter, the amount of the
25 delivery charge that the seller allocates to the property that is subject to tax under

SENATE BILL 446

1 this subchapter based on the total sales price of the property that is subject to tax
2 under this subchapter as compared to the total sales price of all the property or on
3 the total weight of the property that is subject to tax under this subchapter as
4 compared to the total weight of all the property.

5 5. Installation charges.

6 (b) “Sales price” does not include:

7 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
8 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
9 taken by a purchaser on a sale.

10 2. Interest, financing, and carrying charges from credit that is extended on a
11 sale of tangible personal property, items or property under s. 77.52 (1) (b) or (c), or
12 services, if the amount of the interest, financing, or carrying charges is separately
13 stated on the invoice, bill of sale, or similar document that the seller gives to the
14 purchaser.

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

18 4. Delivery charges for direct mail.

19 5. In all transactions in which an article of tangible personal property is traded
20 toward the purchase of an article of greater value, the amount of the sales price that
21 represents the amount allowed for the article traded, except that this subdivision
22 does not apply to any transaction to which subd. 7. or 8. applies.

23 6. If a person who purchases a motor vehicle presents a statement issued under
24 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the
25 statement to the seller within 60 days from the date of receiving a refund under s.

SENATE BILL 446

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

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

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 percent of the sales price of a manufactured building, as defined
14 in s. 101.71 (6), or an amount equal to the sales price of the manufactured building
15 minus the cost of materials that become an ingredient or component part of the
16 building.

17 (c) "Sales price" includes consideration received by the seller from a 3rd party,
18 if:

19 1. The seller actually receives consideration from a 3rd party, other than the
20 purchaser, and the consideration is directly related to a price reduction or discount
21 on a sale.

22 2. The seller is obliged to pass the price reduction or discount to the purchaser.

23 3. The amount of the consideration that is attributable to the sale is a fixed
24 amount and the seller is able to determine that amount at the time of the sale to the
25 purchaser.

SENATE BILL 446

1 4. Any of the following also applies:

2 a. The purchaser presents a coupon, certificate, or other documentation to the
3 seller to claim the price reduction or discount, if the coupon, certificate, or other
4 documentation is authorized, distributed, or granted by the 3rd party with the
5 understanding that the 3rd party will reimburse the seller for the amount of the price
6 reduction or discount.

7 b. The purchaser identifies himself or herself to the seller as a member of a
8 group or organization that may claim the price reduction or discount.

9 c. The seller provides an invoice to the purchaser, or the purchaser presents a
10 coupon, certificate, or other documentation to the seller, that identifies the price
11 reduction or discount as a 3rd-party price reduction or discount.

12 **SECTION 109.** 77.51 (17) (intro.) of the statutes, as affected by 2007 Wisconsin
13 Act 20, is amended to read:

14 77.51 (17) (intro.) “Seller” includes every person selling, leasing, or renting
15 tangible personal property or items or property under s. 77.52 (1) (b) or (c) or selling,
16 performing, or furnishing services of a kind the ~~gross receipts~~ sales price from the
17 sale, lease, rental, performance, or furnishing of which ~~are~~ is required to be included
18 in the measure of the sales tax, regardless of all of the following:

19 **SECTION 110.** 77.51 (17m) of the statutes is repealed and recreated to read:

20 77.51 (17m) “Service address” means any of the following:

21 (a) The location of the telecommunications equipment to which a customer’s
22 telecommunications service is charged and from which the telecommunications
23 service originates or terminates, regardless of where the telecommunications service
24 is billed or paid.

SENATE BILL 446

1 (b) If the location described under par. (a) is not known by the seller who sells
2 the telecommunications service, the location where the signal of the
3 telecommunications service originates, as identified by the seller's
4 telecommunications system or, if the signal is not transmitted by the seller's
5 telecommunications system, by information that the seller received from the seller's
6 service provider.

7 (c) If the locations described under pars. (a) and (b) are not known by the seller
8 who sells the telecommunications service, the customer's place of primary use.

9 **SECTION 111.** 77.51 (17w) of the statutes is created to read:

10 77.51 (17w) "Soft drink" means a beverage that contains less than 0.5 percent
11 of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not
12 include a beverage that contains milk or milk products; soy, rice, or similar milk
13 substitutes; or more than 50 percent vegetable or fruit juice by volume.

14 **SECTION 112.** 77.51 (18) of the statutes is amended to read:

15 77.51 (18) "Storage" includes any keeping or retention in this state of tangible
16 personal property or items or property under s. 77.52 (1) (b) or (c) purchased from a
17 retailer for any purpose except sale in the regular course of business.

18 **SECTION 113.** 77.51 (20) of the statutes is amended to read:

19 77.51 (20) "Tangible personal property" means ~~all tangible~~ tangible personal property
20 ~~of every kind and description that can be seen, weighed, measured, felt, or touched,~~
21 or that is in any other manner perceptible to the senses, and includes electricity,
22 natural gas, steam and, water, and also leased property ~~affixed to realty if the lessor~~
23 ~~has the right to remove the property upon breach or termination of the lease~~
24 ~~agreement, unless the lessor of the property is also the lessor of the realty to which~~
25 ~~the property is affixed.~~ "Tangible personal property" also includes coins and stamps

SENATE BILL 446

1 of the United States sold or traded as collectors' items above their face value and
2 computer programs except custom computer programs prewritten computer
3 software, but does not include items or property under s. 77.52 (1) (b) or (c).

4 **SECTION 114.** 77.51 (21) of the statutes is amended to read:

5 77.51 (21) "Taxpayer" means the person who is required to pay, collect, or
6 account for or who is otherwise directly interested in the taxes imposed by this
7 subchapter, including a certified service provider.

8 **SECTION 115.** 77.51 (21m) of the statutes is amended to read:

9 77.51 (21m) "Telecommunications Internet access services" means sending
10 messages and information transmitted through the use of local, toll and wide-area
11 telephone service; channel services; telegraph services; teletypewriter; computer
12 exchange services; cellular mobile telecommunications service; specialized mobile
13 radio; stationary two-way radio; paging service; or any other form of mobile and
14 portable one-way or two-way communications; or any other transmission of
15 messages or information by electronic or similar means between or among points by
16 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.
17 "~~Telecommunications services~~" ~~does not include sending collect telecommunications~~
18 ~~that are received outside of the state.~~ "Internet access services" does not include
19 telecommunications services to the extent that such services are taxable under s.
20 77.52 (2) (a) 5. am.

21 **SECTION 116.** 77.51 (21n) of the statutes is created to read:

22 77.51 (21n) "Telecommunications services" means electronically transmitting,
23 conveying, or routing voice, data, audio, video, or other information or signals to a
24 point or between or among points. "Telecommunications services" includes the
25 transmission, conveyance, or routing of such information or signals in which

SENATE BILL 446

1 computer processing applications are used to act on the content's form, code, or
2 protocol for transmission, conveyance, or routing purposes, regardless of whether
3 the service is referred to as a voice over Internet protocol service or classified by the
4 federal communications commission as an enhanced or value-added service.
5 "Telecommunications services" does not include any of the following:

6 (a) Data processing and information services that allow data to be generated,
7 acquired, stored, processed, or retrieved and delivered to a purchaser by an electronic
8 transmission, if the purchaser's primary purpose for the underlying transaction is
9 the processed data.

10 (b) Installing or maintaining wiring or equipment on a customer's premises.

11 (c) Tangible personal property.

12 (d) Advertising, including directory advertising.

13 (e) Billing and collection services provided to 3rd parties.

14 (f) Internet access service.

15 (g) Radio and television audio and video programming services, regardless of
16 the medium in which the services are provided, including cable service, as defined
17 in 47 USC 522 (6), audio and video programming services delivered by commercial
18 mobile radio service providers, as defined in 47 CFR 20.3, and the transmitting,
19 conveying, or routing of such services by the programming service provider.

20 (h) Ancillary services.

21 (i) Digital products delivered electronically, including software, music, video,
22 reading materials, or ringtones.

23 **SECTION 117.** 77.51 (21p) of the statutes is created to read:

24 77.51 **(21p)** "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,
25 and any other item that contains tobacco.

SENATE BILL 446

1 **SECTION 118.** 77.51 (21q) of the statutes is created to read:

2 77.51 **(21q)** “Transferred electronically” means accessed or obtained by the
3 purchaser by means other than tangible storage media.

4 **SECTION 119.** 77.51 (22) (a) of the statutes is amended to read:

5 77.51 **(22)** (a) “Use” includes the exercise of any right or power over tangible
6 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services
7 incident to the ownership, possession or enjoyment of the property, items, or services,
8 or the results produced by the services, including installation or affixation to real
9 property and including the possession of, or the exercise of any right or power over
10 tangible personal property or items or property under s. 77.52 (1) (b) or (c) by a lessee
11 under a lease, except that “use” does not include the activities under sub. (18).

12 **SECTION 120.** 77.51 (22) (b) of the statutes is amended to read:

13 77.51 **(22)** (b) In this subsection “enjoyment” includes a purchaser’s right to
14 direct the disposition of property or items or property under s. 77.52 (1) (b) or (c),
15 whether or not the purchaser has possession of the property or items. “Enjoyment”
16 also includes, but is not limited to, having shipped into this state by an out-of-state
17 supplier printed material which is designed to promote the sale of property, items or
18 property under s. 77.52 (1) (b) or (c), or services, or which is otherwise related to the
19 business activities, of the purchaser of the printed material or printing service.

20 **SECTION 121.** 77.51 (22) (bm) of the statutes is created to read:

21 77.51 **(22)** (bm) In this subsection, “exercise of any right or power over tangible
22 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services”
23 includes distributing, selecting recipients, determining mailing schedules, or
24 otherwise directing the distribution, dissemination, or disposal of tangible personal
25 property, items or property under s. 77.52 (1) (b) or (c), or taxable services, regardless

SENATE BILL 446

1 of whether the purchaser of such property, items, or services owns or physically
2 possesses, in this state, the property, items, or services.

3 **SECTION 122.** 77.51 (24) of the statutes is created to read:

4 77.51 (24) “Value-added non-voice data service” means a service in which
5 computer processing applications are used to act on the form, content, code, or
6 protocol of the data provided by the service and are used primarily for a purpose other
7 than for transmitting, conveying, or routing data.

8 **SECTION 123.** 77.51 (25) of the statutes is created to read:

9 77.51 (25) “Vertical service” means an ancillary service that is provided with
10 one or more telecommunications services and allows customers to identify callers
11 and to manage multiple calls and call connections, including conference bridging
12 services.

13 **SECTION 124.** 77.51 (26) of the statutes is created to read:

14 77.51 (26) “Voice mail service” means an ancillary service that allows a
15 customer to store, send, or receive recorded messages, not including any vertical
16 service that the customer must have to use the voice mail service.

17 **SECTION 125.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a) and amended
18 to read:

19 77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible
20 personal property, including accessories, components, attachments, parts, supplies
21 and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the
22 ~~gross receipts~~ sales price from the sale, license, lease or rental of tangible personal
23 property, including accessories, components, attachments, parts, supplies and
24 materials, sold, leased or rented at retail in this state, as determined under s. 77.522.

25 **SECTION 126.** 77.52 (1) (b) of the statutes is created to read:

SENATE BILL 446

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

5 **SECTION 127.** 77.52 (1) (c) of the statutes is created to read:

6 77.52 (1) (c) For the privilege of leasing property that is affixed to real property,
7 a tax is imposed on all retailers at the rate of 5 percent of the sales price from the lease
8 of such property, if the lessor has the right to remove the leased property upon breach
9 or termination of the lease agreement, unless the lessor of the leased property is also
10 the lessor of the real property to which the leased property is affixed.

11 **SECTION 128.** 77.52 (1b) of the statutes, as created by 2007 Wisconsin Act 20,
12 is repealed and recreated to read:

13 77.52 (1b) All sales, leases, or rentals of tangible personal property or items
14 or property under sub. (1) (b) or (c) at retail in this state are subject to the tax imposed
15 under sub. (1) unless an exemption in this subchapter applies.

16 **SECTION 129.** 77.52 (2) (intro.) of the statutes is amended to read:

17 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing
18 the services described under par. (a) at retail in this state, as determined under s.
19 77.522, to consumers or users, a tax is imposed upon all persons selling, licensing,
20 performing or furnishing the services at the rate of 5% of the ~~gross receipts~~ sales price
21 from the sale, license, performance or furnishing of the services.

22 **SECTION 130.** 77.52 (2) (a) 5. a. of the statutes is repealed and recreated to read:

23 77.52 (2) (a) 5. a. The sale of Internet access services.

24 **SECTION 131.** 77.52 (2) (a) 5. am. of the statutes is created to read:

SENATE BILL 446

1 77.52 (2) (a) 5. am. The sale of intrastate, interstate, and international
2 telecommunications services, except interstate 800 services.

3 **SECTION 132.** 77.52 (2) (a) 5. b. of the statutes is repealed.

4 **SECTION 133.** 77.52 (2) (a) 5. c. of the statutes is created to read:

5 77.52 (2) (a) 5. c. The sale of ancillary services, except detailed
6 telecommunications billing services.

7 **SECTION 134.** 77.52 (2) (a) 5m. of the statutes is amended to read:

8 77.52 (2) (a) 5m. The sale of services that consist of recording
9 telecommunications messages and transmitting them to the purchaser of the service
10 or at that purchaser's direction, but not including those services if they are merely
11 an that are taxable under subd. 5. or services that are incidental, as defined in s.
12 77.51 (5), element of to another service that is not taxable under this subchapter and
13 sold to that the purchaser of the incidental service and is not taxable under this
14 subchapter.

15 **SECTION 135.** 77.52 (2) (a) 10. of the statutes is amended to read:

16 77.52 (2) (a) 10. Except for services provided by veterinarians and except for
17 installing or applying tangible personal property that, subject to par. (ag), when
18 installed or applied, will constitute an addition or capital improvement of real
19 property, the repair, service, alteration, fitting, cleaning, painting, coating, towing,
20 inspection, and maintenance of all items of tangible personal property or items or
21 property under sub. (1) (b) or (c). unless, at the time of that the repair, service,
22 alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance,
23 a sale in this state of the type of property repaired, serviced, altered, fitted, cleaned,
24 painted, coated, towed, inspected, or maintained would have been exempt to the
25 customer from sales taxation under this subchapter, other than the exempt sale of

SENATE BILL 446

1 a motor vehicle or truck body to a nonresident under s. 77.54 (5) (a) and other than
2 nontaxable sales under s. ~~77.51 (14r) juvenile~~ 77.522 or unless the repair, service,
3 alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance is
4 provided under a contract that is subject to tax under subd. 13m. The tax imposed
5 under this subsection applies to the repair, service, alteration, fitting, cleaning,
6 painting, coating, towing, inspection, or maintenance of items listed in par. (ag),
7 regardless of whether the installation or application of tangible personal property or
8 items or property under sub. (1) (b) or (c) related to the items is an addition to or a
9 capital improvement of real property, except that the tax imposed under this
10 subsection does not apply to the original installation or the complete replacement of
11 an item listed in par. (ag), if that ~~the~~ installation or replacement is a real property
12 construction activity under s. 77.51 (2).

13 **SECTION 136.** 77.52 (2) (a) 13m. of the statutes is created to read:

14 77.52 **(2)** (a) 13m. The sale of contracts, including service contracts,
15 maintenance agreements, and warranties, that provide, in whole or in part, for the
16 future performance of or payment for the repair, service, alteration, fitting, cleaning,
17 painting, coating, towing, inspection, or maintenance of tangible personal property,
18 unless the sale, lease, or rental in this state of the property to which the contract
19 relates is or was exempt, to the purchaser of the contract, from taxation under this
20 subchapter.

21 **SECTION 137.** 77.52 (2m) (a) of the statutes is amended to read:

22 77.52 **(2m)** (a) With respect to the services subject to tax under sub. (2), no part
23 of the charge for the service may be deemed a sale or rental of tangible personal
24 property or items or property under sub. (1) (b) or (c) if the property or items

SENATE BILL 446

1 transferred by the service provider is are incidental to the selling, performing or
2 furnishing of the service, except as provided in par. (b).

3 **SECTION 138.** 77.52 (2m) (b) of the statutes is amended to read:

4 77.52 **(2m)** (b) With respect to the services subject to tax under sub. (2) (a) 7.,
5 10., 11. and 20., all property or items or property under sub. (1) (b) or (c) physically
6 transferred, or transferred electronically, to the customer in conjunction with the
7 selling, performing or furnishing of the service is a sale of tangible personal property
8 or items or property under sub. (1) (b) or (c) separate from the selling, performing or
9 furnishing of the service.

10 **SECTION 139.** 77.52 (2n) of the statutes, as created by 2007 Wisconsin Act 20,
11 is repealed and recreated to read:

12 77.52 **(2n)** The selling, licensing, performing, or furnishing of the services
13 described under sub. (2) (a) at retail in this state, as determined under s. 77.522, is
14 subject to the tax imposed under sub. (2) unless an exemption in this subchapter
15 applies.

16 **SECTION 140.** 77.52 (3m) of the statutes is repealed.

17 **SECTION 141.** 77.52 (3n) of the statutes is repealed.

18 **SECTION 142.** 77.52 (4) of the statutes is amended to read:

19 77.52 **(4)** It is unlawful for any retailer to advertise or hold out or state to the
20 public or to any customer, directly or indirectly, that the tax or any part thereof will
21 be assumed or absorbed by the retailer or that it will not be added to the selling price
22 of the property or items or property under sub. (1) (b) or (c) sold or that if added it,
23 or any part thereof, will be refunded. Any person who violates this subsection is
24 guilty of a misdemeanor.

25 **SECTION 143.** 77.52 (6) of the statutes is repealed.

SENATE BILL 446

1 **SECTION 144.** 77.52 (7) of the statutes is amended to read:

2 77.52 (7) Every person desiring to operate as a seller within this state who
3 holds a valid certificate under s. 73.03 (50) shall file with the department an
4 application for a permit for each place of operations. Every application for a permit
5 shall be made upon a form prescribed by the department and shall set forth the name
6 under which the applicant intends to operate, the location of the applicant's place of
7 operations, and the other information that the department requires. The Except as
8 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;
9 in the case of sellers other than sole proprietors, the application shall be signed by
10 the person authorized to act on behalf of such sellers. A nonprofit organization that
11 has ~~gross receipts~~ a sales price taxable under s. 77.54 (7m) shall obtain a seller's
12 permit and pay taxes under this subchapter on all taxable ~~gross receipts~~ sales prices
13 received after it is required to obtain that permit. If that organization becomes
14 eligible later for the exemption under s. 77.54 (7m) except for its possession of a
15 seller's permit, it may surrender that permit.

16 **SECTION 145.** 77.52 (7b) of the statutes is created to read:

17 77.52 (7b) Any person who may register under sub. (7) may designate an agent,
18 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the
19 manner prescribed by the department.

20 **SECTION 146.** 77.52 (12) of the statutes is amended to read:

21 77.52 (12) A person who operates as a seller in this state without a permit or
22 after a permit has been suspended or revoked or has expired, unless the person has
23 a temporary permit under sub. (11), and each officer of any corporation, partnership
24 member, limited liability company member, or other person authorized to act on
25 behalf of a seller who so operates, is guilty of a misdemeanor. Permits shall be held

SENATE BILL 446

1 only by persons actively operating as sellers of tangible personal property, items or
2 property under sub. (1) (b) or (c), or taxable services. Any person not so operating
3 shall forthwith surrender that person's permit to the department for cancellation.
4 The department may revoke the permit of a person found not to be actively operating
5 as a seller of tangible personal property, items or property under sub. (1) (b) or (c),
6 or taxable services.

7 **SECTION 147.** 77.52 (13) of the statutes is amended to read:

8 77.52 (13) For the purpose of the proper administration of this section and to
9 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
10 the tax until the contrary is established. The burden of proving that a sale of tangible
11 personal property, items or property under sub. (1) (b) or (c), or services is not a
12 taxable sale at retail is upon the person who makes the sale unless that person takes
13 from the purchaser ~~a~~ an electronic or a paper certificate, in a manner prescribed by
14 the department, to the effect that the property, item, or service is purchased for resale
15 or is otherwise exempt; ~~except that no certificate is required for sales of cattle, sheep,~~
16 ~~goats, and pigs that are sold at an animal market, as defined in s. 95.68 (1) (ag), and~~
17 ~~no certificate is required for sales of commodities, as defined in 7 USC 2, that are~~
18 ~~consigned for sale in a warehouse in or from which the commodity is deliverable on~~
19 ~~a contract for future delivery subject to the rules of a commodity market regulated~~
20 ~~by the U.S. commodity futures trading commission if upon the sale the commodity~~
21 ~~is not removed from the warehouse~~ the sale of tangible personal property, items or
22 property under sub. (1) (b) or (c), and services that are exempt under s. 77.54 (7), (7m),
23 (8), (10), (11), (14), (15), (17), (20n), (21), (22b), (30), (31), (32), (35), (36), (37), (42),
24 (44), (45), (46), (51), and (52), except as provided in s. 77.54 (30) (e) and (f).

SENATE BILL 446

1 **SECTION 148.** 77.52 (14) (a) (intro.) and 1. and (b) of the statutes are
2 consolidated, renumbered 77.52 (14) (a) and amended to read:

3 77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller from the
4 ~~burden of proof of the tax otherwise applicable~~ only if any of the following is true:

5 1. ~~The certificate is taken in good faith the seller obtains a fully completed exemption~~
6 ~~certificate, or the information required to prove the exemption, from a person who~~
7 ~~is engaged as a seller of tangible personal property or taxable services and who holds~~
8 ~~the permit provided for in sub. (9) and who, at the time of purchasing purchaser no~~
9 ~~later than 90 days after the date of the sale of the tangible personal property, items~~
10 ~~or property under sub. (1) (b) or (c), or services, intends to sell it in the regular course~~
11 ~~of operations or is unable to ascertain at the time of purchase whether the property~~
12 ~~or service will be sold or will be used for some other purpose. (b) except as provided~~
13 ~~in par. (am). The certificate under sub. (13) shall not relieve the seller of the tax~~
14 ~~otherwise applicable if the seller fraudulently fails to collect sales tax, solicits the~~
15 ~~purchaser to claim an unlawful exemption, accepts an exemption certificate from a~~
16 ~~purchaser who claims to be an entity that is not subject to the taxes imposed under~~
17 ~~this subchapter, if the subject of the transaction sought to be covered by the~~
18 ~~exemption certificate is received by the purchaser at a location operated by the seller~~
19 ~~in this state and the exemption certificate clearly and affirmatively indicates that~~
20 ~~the claimed exemption is not available in this state. The certificate referred to in sub.~~
21 ~~(13) shall be signed by and bear the name and address of provide information that~~
22 ~~identifies~~ the purchaser; and shall indicate the ~~general character of the tangible~~
23 ~~personal property or service sold by the purchaser and the basis for the claimed~~
24 ~~exemption and a paper certificate shall be signed by the purchaser. The certificate~~
25 shall be in such form as the department prescribes by rule.

SENATE BILL 446

1 **SECTION 149.** 77.52 (14) (a) 2. of the statutes is repealed.

2 **SECTION 150.** 77.52 (14) (am) of the statutes is created to read:

3 77.52 **(14)** (am) If the seller has not obtained a fully completed exemption
4 certificate or the information required to prove the exemption, as provided in par. (a),
5 the seller may, no later than 120 days after the department requests that the seller
6 substantiate the exemption, either provide proof of the exemption to the department
7 by other means or obtain, in good faith, a fully completed exemption certificate from
8 the purchaser.

9 **SECTION 151.** 77.52 (15) of the statutes is amended to read:

10 77.52 **(15)** If a purchaser who ~~gives a resale certificate~~ purchases tangible
11 personal property, items or property under sub. (1) (b) or (c), or taxable services
12 without paying a sales tax or use tax on such purchase because such property, items,
13 or services were for resale makes any use of the property, items, or services other than
14 retention, demonstration or display while holding it the property, items, or services
15 for sale, lease or rental in the regular course of the purchaser's operations, the use
16 shall be taxable to the purchaser under s. 77.53 as of the time that the property is,
17 items, or services are first used by the purchaser, and the sales purchase price of the
18 property, items, or services to the purchaser shall be the measure of the tax. ~~Only~~
19 ~~when there is an unsatisfied use tax liability on this basis because the seller has~~
20 ~~provided incorrect information about that transaction to the department shall the~~
21 ~~seller be liable for sales tax with respect to the sale of the property to the purchaser.~~

22 **SECTION 152.** 77.52 (16) of the statutes is amended to read:

23 77.52 **(16)** Any person who gives a resale certificate for property, items or
24 property under sub. (1) (b) or (c), or services which that person knows at the time of
25 purchase is not to be resold by that person in the regular course of that person's

SENATE BILL 446

1 operations as a seller for the purpose of evading payment to the seller of the amount
2 of the tax applicable to the transaction is guilty of a misdemeanor. Any person
3 certifying to the seller that the sale of property, items or property under sub. (1) (b)
4 or (c). or taxable service is exempt, knowing at the time of purchase that it is not
5 exempt, for the purpose of evading payment to the seller of the amount of the tax
6 applicable to the transaction, is guilty of a misdemeanor.

7 **SECTION 153.** 77.52 (19) of the statutes is amended to read:

8 77.52 (19) The department shall by rule provide for the efficient collection of
9 the taxes imposed by this subchapter on sales of property, items or property under
10 sub. (1) (b) or (c). or services by persons not regularly engaged in selling at retail in
11 this state or not having a permanent place of business, but who are temporarily
12 engaged in selling from trucks, portable roadside stands, concessions at fairs and
13 carnivals, and the like. The department may authorize such persons to sell property
14 or items or property under sub. (1) (b) or (c) or sell, perform, or furnish services on
15 a permit or nonpermit basis as the department by rule prescribes and failure of any
16 person to comply with such rules constitutes a misdemeanor.

17 **SECTION 154.** 77.52 (20) of the statutes is created to read:

18 77.52 (20) (a) Except as provided in par. (b), the entire sales price of a bundled
19 transaction is subject to the tax imposed under this subchapter.

20 (b) At the retailer's option, if the retailer can identify, by reasonable and
21 verifiable standards from the retailer's books and records that are kept in the
22 ordinary course of its business for other purposes, including purposes unrelated to
23 taxes, the portion of the price that is attributable to products that are not subject to
24 the tax imposed under this subchapter, that portion of the sales price is not taxable
25 under this subchapter. This paragraph does not apply to a bundled transaction that

SENATE BILL 446

1 contains food and food ingredients, drugs, durable medical equipment, mobility
2 enhancing equipment, prosthetic devices, or medical supplies.

3 **SECTION 155.** 77.52 (21) of the statutes is created to read:

4 77.52 (21) A person who provides a product that is not a distinct and
5 identifiable product because it is provided free of charge, as provided in s. 77.51 (3pf)
6 (b), is the consumer of that product and shall pay the tax imposed under this
7 subchapter on the purchase price of that product.

8 **SECTION 156.** 77.52 (22) of the statutes is created to read:

9 77.52 (22) With regard to transactions described in s. 77.51 (1f) (b), the service
10 provider is the consumer of the tangible personal property and shall pay the tax
11 imposed under this subchapter on the purchase price of the property.

12 **SECTION 157.** 77.52 (23) of the statutes is created to read:

13 77.52 (23) With regard to transactions described in s. 77.51 (1f) (c), the service
14 provider is the consumer of the service that is essential to the use or receipt of the
15 other service and shall pay the tax imposed under this subchapter on the purchase
16 price of the service that is essential to the use or receipt of the other service.

17 **SECTION 158.** 77.522 of the statutes is created to read:

18 **77.522 Sourcing. (1) GENERAL.** (a) In this section:

19 1. “Direct mail form” means a form for direct mail prescribed by the
20 department.

21 2. “Receive” means taking possession of tangible personal property; making
22 first use of services; or taking possession or making first use of digital goods,
23 whichever comes first. “Receive” does not include a shipping company taking
24 possession of tangible personal property on a purchaser’s behalf.

25 3. “Transportation equipment” means any of the following:

SENATE BILL 446

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

3 b. Trucks and truck tractors that have a gross vehicle weight rating of 10,001
4 pounds or greater, trailers, semitrailers, and passenger buses, if such vehicles are
5 registered under the international registration plan and operated under the
6 authority of a carrier that is authorized by the federal government to carry persons
7 or property in interstate commerce.

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

11 d. Containers that are designed for use on the vehicles described in subd. 4. a.
12 to c. and component parts attached to or secured on such vehicles.

13 (b) Except as provided in par. (c) and subs. (2), (3), and (4), the location of a sale
14 is determined as follows:

15 1. If a purchaser receives the product at a seller's business location, the sale
16 occurs at that business location.

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

21 3. If the location of a sale of a product cannot be determined under subs. 1. and
22 2., the sale occurs at the purchaser's address as indicated by the seller's business
23 records, if the records are maintained in the ordinary course of the seller's business
24 and if using that address to establish the location of a sale is not in bad faith.

SENATE BILL 446

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

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

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

9 b. If the item sold is a digital good, or computer software delivered
10 electronically, the sale occurs at the location from which the digital good or computer
11 software was first available for transmission by the seller.

12 c. If a service is sold, the sale occurs at the location from which the service was
13 provided.

14 (c) The sale of direct mail occurs at the location from which the direct mail is
15 shipped, if the purchaser does not provide to the seller a direct pay permit, a direct
16 mail form, or other information that indicates the appropriate taxing jurisdiction to
17 which the direct mail is delivered to the ultimate recipients. If the purchaser
18 provides a direct mail form or direct pay permit to the seller, the purchaser shall pay
19 or remit, as appropriate, to the department the tax imposed under s. 77.53 on all
20 purchases for which the tax is due and the seller is relieved from liability for
21 collecting such tax. A direct mail form provided to a seller under this paragraph shall
22 remain effective for all sales by the seller who received the form to the purchaser who
23 provided the form, unless the purchaser revokes the form in writing and provides
24 such revocation to the seller.

SENATE BILL 446

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

11 (b) The lease or rental of motor vehicles, trailers, semitrailers, and aircraft,
12 that are not transportation equipment, occurs at the primary location of such motor
13 vehicles, trailers, semitrailers, or aircraft as indicated by an address for the property
14 that is provided by the lessee and that is available to the lessor in records that the
15 lessor maintains in the ordinary course of the lessor's business, if the use of such an
16 address does not constitute bad faith, except that a lease or rental under this
17 paragraph that requires only one payment occurs at the location determined under
18 sub. (1) (b). The location of a lease or rental as determined under this paragraph shall
19 not be altered by any intermittent use of the property at different locations.

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

22 (d) A license of tangible personal property or items or property under s. 77.52
23 (1) (b) or (c) shall be treated as a lease or rental of tangible personal property under
24 this subsection.

25 **(3) TELECOMMUNICATIONS.** (a) In this subsection:

SENATE BILL 446

1 1. “Air-to-ground radiotelephone service” means a radio service in which
2 common carriers are authorized to offer and provide radio telecommunications
3 service for hire to subscribers in aircraft.

4 2. “Call-by-call basis” means any method of charging for telecommunications
5 services by which the price of such services is measured by individual calls.

6 3. “Communications channel” means a physical or virtual path of
7 communications over which signals are transmitted between or among customer
8 channel termination points.

9 4. “Customer” means a person who enters into a contract with a seller of
10 telecommunications services or, in any transaction for which the end user is not the
11 person who entered into a contract with the seller of telecommunications services,
12 the end user of the telecommunications services. “Customer” does not include a
13 person who resells telecommunications services or, for mobile telecommunications
14 services, a serving carrier under an agreement to serve a customer outside the home
15 service provider’s licensed service area.

16 5. “Customer channel termination point” means the location where a customer
17 inputs or receives communications.

18 6. “End user” means an individual who uses a telecommunications service.

19 7. “Home service provider” means a home service provider under section 124
20 (5) of P.L. 106–252.

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

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

SENATE BILL 446

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

9 14. “Radio service” means a communication service provided by the use of radio,
10 including radiotelephone, radiotelegraph, paging, and facsimile service.

11 15. “Radiotelegraph service” means transmitting messages from one place to
12 another by means of radio.

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

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

21 (c) Except as provided in pars. (d) to (j), the sale of a telecommunications service
22 that is sold on a basis other than a call-by-call basis occurs at the customer’s place
23 of primary use.

SENATE BILL 446

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

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

9 (f) The sale of a prepaid calling service or a prepaid wireless calling service
10 occurs at the location determined under sub. (1) (b), except that, if the service is a
11 prepaid wireless calling service and the location cannot be determined under sub. (1)
12 (b) 1. to 4., the prepaid wireless calling service occurs at the location determined
13 under sub. (1) (b) 5. c. or at the location associated with the mobile telephone number,
14 as determined by the seller.

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

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

22 3. If the segments are charged separately, the sale of a private communication
23 service that represents segments of a communications channel between 2 customer
24 channel termination points that are located in different taxing jurisdictions for sales
25 and use tax purposes occurs in an equal percentage in both such jurisdictions.

SENATE BILL 446

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

8 (h) The sale of an Internet access service occurs at the customer's place of
9 primary use.

10 (i) The sale of ancillary services occurs at the customer's place of primary use.

11 (j) If the location of the customer's service address, channel termination point,
12 or place of primary use is not known, the location where the seller receives or hands
13 off the signal shall be considered, for purposes of this section, the customer's service
14 address, channel termination point, or place of primary use.

15 **(4) FLORISTS.** (a) For purposes of this subsection, "retail florist" means a person
16 engaged in the business of selling cut flowers, floral arrangements, and potted plants
17 and who prepares such flowers, floral arrangements, and potted plants. "Retail
18 florist" does not include a person who sells cut flowers, floral arrangements, and
19 potted plants primarily by mail or via the Internet.

20 (b) Sales by a retail florist occur at the location determined by rule by the
21 department.

22 (c) This subsection does not apply to sales occurring on or after January 1, 2010.

23 **SECTION 159.** 77.523 (title) of the statutes is repealed.

24 **SECTION 160.** 77.523 of the statutes is renumbered 77.59 (9p) (a) and amended
25 to read:

SENATE BILL 446

1 77.59 **(9p)** (a) If a customer purchases a service that is subject to 4 USC 116
2 to 126, as amended by P.L. 106–252, and if the customer believes that the amount
3 of the tax assessed for the service under this subchapter or the place of primary use
4 or taxing jurisdiction assigned to the service is erroneous, the customer may request
5 that the service provider correct the alleged error by sending a written notice to the
6 service provider. The notice shall include a description of the alleged error, the street
7 address for the customer’s place of primary use of the service, the account name and
8 number of the service for which the customer seeks a correction, and any other
9 information that the service provider reasonably requires to process the request.
10 Within 60 days from the date that a service provider receives a request under this
11 ~~section~~ paragraph, the service provider shall review its records to determine the
12 customer’s taxing jurisdiction. If the review indicates that there is no error as
13 alleged, the service provider shall explain the findings of the review in writing to the
14 customer. If the review indicates that there is an error as alleged, the service
15 provider shall correct the error and shall refund or credit the amount of any tax
16 collected erroneously, along with the related interest, as a result of the error from the
17 customer in the previous 48 months, consistent with s. 77.59 (4). A customer may
18 take no other action against the service provider, or commence any action, to correct
19 an alleged error in the amount of the tax assessed under this subchapter on a service
20 that is subject to 4 USC 116 to 126, as amended by P.L. 106–252, or to correct an
21 alleged error in the assigned place of primary use or taxing jurisdiction, unless the
22 customer has exhausted his or her remedies under this ~~section~~ paragraph.

23 **SECTION 161.** 77.524 (1) (a) of the statutes is renumbered 77.524 (1) (am).

24 **SECTION 162.** 77.524 (1) (ag) of the statutes is created to read:

SENATE BILL 446

1 77.524 (1) (ag) “Agent” means a person appointed by a seller to represent the
2 seller before the states that are signatories to the agreement, as defined in s. 77.65
3 (2) (a).

4 **SECTION 163.** 77.524 (1) (b) of the statutes is renumbered 77.51 (1g) and
5 amended to read:

6 77.51 (1g) “Certified service provider” means an agent that is certified jointly
7 by the states that are signatories to the agreement, as defined in s. 77.65 (2) (a), and
8 that performs all of a seller’s sales tax and use tax functions related to the seller’s
9 retail sales, except that a certified service provider is not responsible for a retailer’s
10 obligation to remit tax on the retailer’s own purchases.

11 **SECTION 164.** 77.525 of the statutes is amended to read:

12 **77.525 Reduction to prevent double taxation.** Any person who is subject
13 to the tax under s. 77.52 (2) (a) 5. ~~a.~~ on telecommunications services that terminate
14 in this state and who has paid a similar tax on the same services to another state may
15 reduce the amount of the tax remitted to this state by an amount equal to the similar
16 tax properly paid to another state on those services or by the amount due this state
17 on those services, whichever is less. That person shall refund proportionally to the
18 persons to whom the tax under s. 77.52 (2) (a) 5. ~~a.~~ was passed on an amount equal
19 to the amounts not remitted.

20 **SECTION 165.** 77.53 (1) of the statutes is amended to read:

21 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
22 on the use or consumption in this state of taxable services under s. 77.52 purchased
23 from any retailer, at the rate of 5% of the sales purchase price of those services; on
24 the storage, use or other consumption in this state of tangible personal property and
25 items or property under s. 77.52 (1) (b) or (c) purchased from any retailer, at the rate

SENATE BILL 446

1 of 5% of the sales purchase price of that the property or items; and on the storage,
2 use or other consumption of tangible personal property manufactured, processed or
3 otherwise altered, in or outside this state, by the person who stores, uses or consumes
4 it, from material purchased from any retailer, at the rate of 5% of the sales purchase
5 price of that material.

6 **SECTION 166.** 77.53 (1b) of the statutes, as created by 2007 Wisconsin Act 20,
7 is repealed and recreated to read:

8 77.53 (1b) The storage, use, or other consumption in this state of tangible
9 personal property or items or property under s. 77.52 (1) (b) or (c), and the use or other
10 consumption in this state of a taxable service, purchased from any retailer is subject
11 to the tax imposed in this section unless an exemption in this subchapter applies.

12 **SECTION 167.** 77.53 (2) of the statutes is amended to read:

13 77.53 (2) Every person storing, using, or otherwise consuming in this state
14 tangible personal property, items or property specified under s. 77.52 (1) (b) or (c), or
15 taxable services purchased from a retailer is liable for the tax imposed by this section.
16 The person's liability is not extinguished until the tax has been paid to this state, but
17 a receipt with the tax separately stated from a retailer engaged in business in this
18 state or from a retailer who is authorized by the department, under such rules as it
19 prescribes, to collect the tax and who is regarded as a retailer engaged in business
20 in this state for purposes of the tax imposed by this section given to the purchaser
21 under sub. (3) relieves the purchaser from further liability for the tax to which the
22 receipt refers.

23 **SECTION 168.** 77.53 (3) of the statutes is amended to read:

24 77.53 (3) Every retailer engaged in business in this state and making sales of
25 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable

SENATE BILL 446

1 ~~services for delivery into this state or with knowledge directly or indirectly that the~~
2 ~~property or service is intended for storage, use or other consumption in that are~~
3 ~~sourced to this state under s. 77.522, shall, at the time of making the sales or, if the~~
4 ~~storage, use or other consumption of the tangible personal property or taxable service~~
5 ~~is not then taxable under this section, at the time the storage, use or other~~
6 ~~consumption becomes taxable, collect the tax from the purchaser and give to the~~
7 ~~purchaser a receipt in the manner and form prescribed by the department.~~

8 **SECTION 169.** 77.53 (4) of the statutes is repealed.

9 **SECTION 170.** 77.53 (9) of the statutes is amended to read:

10 77.53 **(9)** Every retailer selling tangible personal property, items or property
11 under s. 77.52 (1) (b) or (c), or taxable services for storage, use or other consumption
12 in this state shall register with the department and obtain a certificate under s. 73.03
13 (50) and give the name and address of all agents operating in this state, the location
14 of all distribution or sales houses or offices or other places of business in this state,
15 the standard industrial code classification of each place of business in this state and
16 the other information that the department requires. Any person who may register
17 under this subsection may designate an agent, as defined in s. 77.524 (1) (ag), to
18 register with the department under this subsection, in the manner prescribed by the
19 department.

20 **SECTION 171.** 77.53 (9m) of the statutes is renumbered 77.53 (9m) (a) and
21 amended to read:

22 77.53 **(9m)** (a) Any person who is not otherwise required to collect any tax
23 imposed by this subchapter and who makes sales to persons within this state of
24 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
25 services the use of which is subject to tax under this subchapter may register with

SENATE BILL 446

1 the department under the terms and conditions that the department imposes and
2 shall obtain a valid certificate under s. 73.03 (50) and thereby be authorized and
3 required to collect, report, and remit to the department the use tax imposed by this
4 subchapter.

5 **SECTION 172.** 77.53 (9m) (b) of the statutes is created to read:

6 77.53 **(9m)** (b) Any person who may register under par. (a) may designate an
7 agent, as defined in s. 77.524 (1) (ag), to register with the department under par. (a),
8 in the manner prescribed by the department.

9 **SECTION 173.** 77.53 (9m) (c) of the statutes is created to read:

10 77.53 **(9m)** (c) The registration under par. (a) by a person who is not otherwise
11 required to collect any tax imposed by this subchapter shall not be used as a factor
12 in determining whether the seller has nexus with this state for any tax at any time.

13 **SECTION 174.** 77.53 (10) of the statutes is amended to read:

14 77.53 **(10)** For the purpose of the proper administration of this section and to
15 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
16 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
17 services sold by any person for delivery in this state is sold for storage, use, or other
18 consumption in this state until the contrary is established. The burden of proving
19 the contrary is upon the person who makes the sale unless that person takes from
20 the purchaser ~~a~~ an electronic or paper certificate, in a manner prescribed by
21 department, to the effect that the property, items or property under s. 77.52 (1) (b)
22 or (c), or taxable service is purchased for resale, or otherwise exempt from the tax,
23 except that no certificate is required for ~~sales of cattle, sheep, goats, and pigs that are~~
24 ~~sold at an animal market, as defined in s. 95.68 (1) (ag), and no certificate is required~~
25 ~~for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a~~

SENATE BILL 446

1 ~~warehouse in or from which the commodity is deliverable on a contract for future~~
2 ~~delivery subject to the rules of a commodity market regulated by the U.S. commodity~~
3 ~~futures trading commission if upon the sale the commodity is not removed from the~~
4 ~~warehouse the sale of tangible personal property, items or property under s. 77.52~~
5 ~~(1) (b) or (c), and services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14),~~
6 ~~(15), (17), (20n), (21), (22b), (30), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51),~~
7 ~~and (52), except as provided in s. 77.54 (30) (e) and (f).~~

8 **SECTION 175.** 77.53 (11) of the statutes is renumbered 77.53 (11) (a) and
9 amended to read:

10 77.53 **(11)** (a) ~~The certificate referred to in under sub. (10) relieves the person~~
11 ~~selling the property, items or property under s. 77.52 (1) (b) or (c), or service from the~~
12 ~~burden of proof of the tax otherwise applicable only if taken in good faith the seller~~
13 ~~obtains a fully completed exemption certificate, or the information required to prove~~
14 ~~the exemption, from a person who is engaged as a seller of tangible personal property~~
15 ~~or taxable services and who holds the permit provided for by s. 77.52 (9) and who, at~~
16 ~~the time of purchasing the purchaser no later than 90 days after the date of the sale~~
17 ~~of the tangible personal property, items or property under s. 77.52 (1) (b) or (c), or~~
18 ~~taxable service, intends to sell it in the regular course of operations or is unable to~~
19 ~~ascertain at the time of purchase whether the property or service will be sold or will~~
20 ~~be used for some other purpose, or if taken in good faith from a person claiming~~
21 ~~exemption, except as provided in par. (b). The certificate under sub. (10) shall not~~
22 ~~relieve the seller of the tax otherwise applicable if the seller fraudulently fails to~~
23 ~~collect sales tax or solicits the purchaser to claim an unlawful exemption, accepts an~~
24 ~~exemption certificate from a purchaser who claims to be an entity that is not subject~~
25 ~~to the taxes imposed under this subchapter, if the subject of the transaction sought~~

SENATE BILL 446

1 to be covered by the exemption certificate is received by the purchaser at a location
2 operated by the seller in this state and the exemption certificate clearly and
3 affirmatively indicates that the claimed exemption is not available in this state. The
4 certificate shall be signed by and bear the name and address of provide information
5 that identifies the purchaser and shall indicate the number of the permit issued to
6 the purchaser, the general character of tangible personal property or taxable service
7 sold by the purchaser and the basis for the claimed exemption and a paper certificate
8 shall be signed by the purchaser. The certificate shall be substantially in the form
9 that the department prescribes by rule.

10 **SECTION 176.** 77.53 (11) (b) of the statutes is created to read:

11 77.53 **(11)** (b) If the seller has not obtained a fully completed exemption
12 certificate or the information required to prove the exemption, as provided in par. (a),
13 the seller may, no later than 120 days after the department requests that the seller
14 substantiate the exemption, either provide proof of the exemption to the department
15 by other means or obtain, in good faith, a fully completed exemption certificate from
16 the purchaser.

17 **SECTION 177.** 77.53 (12) of the statutes is amended to read:

18 77.53 **(12)** If a purchaser who gives a certificate makes any storage or use of
19 the property, items or property under s. 77.52 (1) (b) or (c), or service other than
20 retention, demonstration, or display while holding it for sale in the regular course
21 of operations as a seller, the storage or use is taxable as of the time the property, items
22 or property under s. 77.52 (1) (b) or (c), or service is first so stored or used.

23 **SECTION 178.** 77.53 (14) of the statutes is amended to read:

SENATE BILL 446

1 77.53 (14) It is presumed that tangible personal property, items or property
2 under s. 77.52 (1) (b) or (c), or taxable services shipped or brought to this state by the
3 purchaser were purchased from or serviced by a retailer.

4 **SECTION 179.** 77.53 (15) of the statutes is amended to read:

5 77.53 (15) It is presumed that tangible personal property, items or property
6 under s. 77.52 (1) (b) or (c), or taxable services delivered outside this state to ~~a~~
7 ~~purchaser known by the retailer to be~~ a resident of this state were purchased from
8 a retailer for storage, use, or other consumption in this state and stored, used, or
9 otherwise consumed in this state. ~~This presumption may be controverted by a~~
10 ~~written statement, signed by the purchaser or an authorized representative, and~~
11 ~~retained by the seller that the property or service was purchased for use at a~~
12 ~~designated point outside this state.~~ This presumption may also be controverted by
13 other evidence satisfactory to the department that the property, item, or service was
14 not purchased for storage, use, or other consumption in this state.

15 **SECTION 180.** 77.53 (16) of the statutes is amended to read:

16 77.53 (16) If the purchase, rental or lease of tangible personal property, items
17 or property under s. 77.52 (1) (b) or (c), or service subject to the tax imposed by this
18 section was subject to a sales tax by another state in which the purchase was made,
19 the amount of sales tax paid the other state shall be applied as a credit against and
20 deducted from the tax, to the extent thereof, imposed by this section, except no credit
21 may be applied against and deducted from a sales tax paid on the purchase of direct
22 mail, if the direct mail purchaser did not provide to the seller a direct pay permit, a
23 direct mail form, or other information that indicates the appropriate taxing
24 jurisdiction to which the direct mail is delivered to the ultimate recipients. In this
25 subsection “sales tax” includes a use or excise tax imposed on the use of tangible

SENATE BILL 446

1 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable service
2 by the state in which the sale occurred and “state” includes the District of Columbia
3 ~~but does not include~~ and the commonwealth of Puerto Rico ~~or~~ but does not include
4 the several territories organized by congress.

5 **SECTION 181.** 77.53 (17) of the statutes, as affected by 2007 Wisconsin Act 11,
6 is amended to read:

7 77.53 (17) This section does not apply to tangible personal property or items
8 or property under s. 77.52 (1) (b) or (c) purchased outside this state, as determined
9 under s. 77.522, other than motor vehicles, boats, snowmobiles, recreational
10 vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles and
11 airplanes registered or titled or required to be registered or titled in this state, which
12 is brought into this state by a nondomiciliary for the person’s own storage, use or
13 other consumption while temporarily within this state when such property or item
14 is not stored, used or otherwise consumed in this state in the conduct of a trade,
15 occupation, business or profession or in the performance of personal services for
16 wages or fees.

17 **SECTION 182.** 77.53 (17m) of the statutes is amended to read:

18 77.53 (17m) This section does not apply to a boat purchased in a state
19 contiguous to this state, as determined under s. 77.522, by a person domiciled in that
20 state if the boat is berthed in this state’s boundary waters adjacent to the state of the
21 domicile of the purchaser and if the transaction was an exempt occasional sale under
22 the laws of the state in which the purchase was made.

23 **SECTION 183.** 77.53 (17r) (a) of the statutes is amended to read:

24 77.53 (17r) (a) It is purchased in another state, as determined under s. 77.522.

SENATE BILL 446

1 **SECTION 184.** 77.53 (18) of the statutes, as affected by 2007 Wisconsin Act 11,
2 is amended to read:

3 77.53 **(18)** This section does not apply to the storage, use or other consumption
4 in this state of household goods or items or property under s. 77.52 (1) (b) or (c) for
5 personal use or to aircraft, motor vehicles, boats, snowmobiles, mobile homes,
6 manufactured homes, as defined in s. 101.91 (2), recreational vehicles, as defined in
7 s. 340.01 (48r), trailers, semitrailers and all-terrain vehicles, for personal use,
8 purchased by a nondomiciliary of this state outside this state, as determined under
9 s. 77.522, 90 days or more before bringing the goods, items, or property into this state
10 in connection with a change of domicile to this state.

11 **SECTION 185.** 77.54 (1) of the statutes is amended to read:

12 77.54 **(1)** The ~~gross receipts~~ sales price from the sale of and the storage, use or
13 other consumption in this state of tangible personal property, items and property
14 under s. 77.52 (1) (b) and (c) and services the ~~gross receipts~~ sales price from the sale
15 of which, or the storage, use or other consumption of which, this state is prohibited
16 from taxing under the constitution or laws of the United States or under the
17 constitution of this state.

18 **SECTION 186.** 77.54 (2) of the statutes is amended to read:

19 77.54 **(2)** The ~~gross receipts~~ sales price from sales of and the storage, use or
20 other consumption of tangible personal property becoming an ingredient or
21 component part of an article of tangible personal property or which is consumed or
22 destroyed or loses its identity in the manufacture of tangible personal property in
23 any form destined for sale, except as provided in sub. (30) (a) 6.

24 **SECTION 187.** 77.54 (2m) of the statutes is amended to read:

SENATE BILL 446

1 77.54 (2m) The ~~gross receipts~~ sales price from the sales of and the storage, use
2 or other consumption of tangible personal property or services that become an
3 ingredient or component of shoppers guides, newspapers or periodicals or that are
4 consumed or lose their identity in the manufacture of shoppers guides, newspapers
5 or periodicals, whether or not the shoppers guides, newspapers or periodicals are
6 transferred without charge to the recipient. In this subsection, “shoppers guides”,
7 “newspapers” and “periodicals” have the meanings under sub. (15). The exemption
8 under this subdivision does not apply to advertising supplements that are not
9 newspapers.

10 **SECTION 188.** 77.54 (3) (a) of the statutes, as affected by 2005 Wisconsin Act
11 366, is amended to read:

12 77.54 (3) (a) The ~~gross receipts~~ sales price from the sales of and the storage, use,
13 or other consumption of tractors and machines, including accessories, attachments,
14 and parts, lubricants, nonpowered equipment, and other tangible personal property
15 that are used exclusively and directly, or are consumed or lose their identities, in the
16 business of farming, including dairy farming, agriculture, horticulture, floriculture,
17 silviculture, and custom farming services, but excluding automobiles, trucks, and
18 other motor vehicles for highway use; excluding personal property that is attached
19 to, fastened to, connected to, or built into real property or that becomes an addition
20 to, component of, or capital improvement of real property; and excluding tangible
21 personal property used or consumed in the erection of buildings or in the alteration,
22 repair or improvement of real property, regardless of any contribution that that
23 personal property makes to the production process in that building or real property
24 and regardless of the extent to which that personal property functions as a machine,
25 except as provided in par. (c).

SENATE BILL 446

1 **SECTION 189.** 77.54 (3m) (intro.) of the statutes, as affected by 2005 Wisconsin
2 Act 366, is amended to read:

3 77.54 **(3m)** (intro.) The ~~gross receipts~~ sales price from the sale of and the
4 storage, use or other consumption of the following items if they are used exclusively
5 by the purchaser or user in the business of farming; including dairy farming,
6 agriculture, horticulture, floriculture, silviculture, and custom farming services:

7 **SECTION 190.** 77.54 (4) of the statutes is amended to read:

8 77.54 **(4)** ~~Gross receipts~~ The sales price from the sale of tangible personal
9 property and items and property under s. 77.52 (1) (b) and (c), and the storage, use
10 or other consumption in this state of tangible personal property and items and
11 property under s. 77.52 (1) (b) and (c) which is the subject of any such sale, by any
12 elementary school or secondary school, exempted as such from payment of income or
13 franchise tax under ch. 71, whether public or private.

14 **SECTION 191.** 77.54 (5) (intro.) of the statutes is amended to read:

15 77.54 **(5)** (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
16 use or other consumption of:

17 **SECTION 192.** 77.54 (6) (intro.) of the statutes is amended to read:

18 77.54 **(6)** (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
19 use or other consumption of:

20 **SECTION 193.** 77.54 (7m) of the statutes is amended to read:

21 77.54 **(7m)** Occasional sales of tangible personal property, items or property
22 under s. 77.52 (1) (b) and (c), or services, including admissions or tickets to an event;
23 by a neighborhood association, church, civic group, garden club, social club or similar
24 nonprofit organization; not involving entertainment for which payment in the
25 aggregate exceeds \$500 for performing or as reimbursement of expenses unless

SENATE BILL 446

1 access to the event may be obtained without payment of a direct or indirect admission
2 fee; conducted by the organization if the organization is not engaged in a trade or
3 business and is not required to have a seller's permit. For purposes of this
4 subsection, an organization is engaged in a trade or business and is required to have
5 a seller's permit if its sales of tangible personal property, items and property under
6 s. 77.52 (1) (b) and (c). and services, not including sales of tickets to events, and its
7 events occur on more than 20 days during the year, unless its receipts do not exceed
8 \$25,000 during the year. The exemption under this subsection does not apply to gross
9 receipts the sales price from the sale of bingo supplies to players or to the sale, rental
10 or use of regular bingo cards, extra regular cards and special bingo cards.

11 **SECTION 194.** 77.54 (8) of the statutes is amended to read:

12 77.54 **(8)** Charges for ~~interest, financing or insurance,~~ not including contracts
13 under s. 77.52 (2) (a) 13m., where such charges are separately set forth upon the
14 invoice given by the seller to the purchaser.

15 **SECTION 195.** 77.54 (9) of the statutes is amended to read:

16 77.54 **(9)** The ~~gross receipts~~ sales price from sales of tickets or admissions to
17 public and private elementary and secondary school activities, where the entire net
18 proceeds therefrom are expended for educational, religious or charitable purposes.

19 **SECTION 196.** 77.54 (9a) (intro.) of the statutes is amended to read:

20 77.54 **(9a)** (intro.) The ~~gross receipts~~ sales price from sales to, and the storage
21 by, use by or other consumption of tangible personal property, items and property
22 under s. 77.52 (1) (b) and (c). and taxable services by:

23 **SECTION 197.** 77.54 (10) of the statutes is amended to read:

24 77.54 **(10)** The ~~gross receipts~~ sales price from the sale of all admission fees,
25 admission stickers or camping fees under s. 27.01 (7) to (11) and all admission fees

SENATE BILL 446

1 to any museum operated by a nonprofit corporation under a lease agreement with
2 the state historical society.

3 **SECTION 198.** 77.54 (11) of the statutes is amended to read:

4 77.54 (11) The ~~gross receipts~~ sales price from the sales of and the storage, use
5 or other consumption in this state of motor vehicle fuel, general aviation fuel or
6 alternate fuel, subject to taxation under ch. 78, unless the motor vehicle fuel or
7 alternate fuel tax is refunded under s. 78.75 because the buyer does not use the fuel
8 in operating a motor vehicle upon the public highways.

9 **SECTION 199.** 77.54 (12) of the statutes is amended to read:

10 77.54 (12) The ~~gross receipts~~ sales price from the sales of and the storage, use
11 or other consumption in this state of rail freight or passenger cars, locomotives or
12 other rolling stock used in railroad operations, or accessories, attachments, parts,
13 lubricants or fuel therefor.

14 **SECTION 200.** 77.54 (13) of the statutes is amended to read:

15 77.54 (13) The ~~gross receipts~~ sales price from the sales of and the storage, use
16 or other consumption in this state of commercial vessels and barges of 50-ton burden
17 or over primarily engaged in interstate or foreign commerce or commercial fishing,
18 and the accessories, attachments, parts and fuel therefor.

19 **SECTION 201.** 77.54 (14) (intro.) of the statutes is amended to read:

20 77.54 (14) (intro.) The ~~gross receipts~~ sales price from the sales of and the
21 storage, use, or other consumption in this state of ~~medicines~~ drugs that are any of
22 the following:

23 **SECTION 202.** 77.54 (14) (a) of the statutes is amended to read:

SENATE BILL 446

1 77.54 (14) (a) Prescribed for the treatment of a human being by a person
2 authorized to prescribe the ~~medicines~~ drugs, and dispensed on prescription filled by
3 a registered pharmacist in accordance with law.

4 **SECTION 203.** 77.54 (14) (b) of the statutes is amended to read:

5 77.54 (14) (b) Furnished by a licensed physician, surgeon, podiatrist, or dentist
6 to a patient who is a human being for treatment of the patient.

7 **SECTION 204.** 77.54 (14) (f) (intro.) of the statutes is amended to read:

8 77.54 (14) (f) (intro.) Furnished without charge to any of the following if the
9 ~~medicine~~ drug may not be dispensed without a prescription:

10 **SECTION 205.** 77.54 (14g) of the statutes is repealed.

11 **SECTION 206.** 77.54 (14s) of the statutes is repealed.

12 **SECTION 207.** 77.54 (15) of the statutes is amended to read:

13 77.54 (15) The ~~gross receipts~~ sales price from the sale of and the storage, use
14 or other consumption of all newspapers, of periodicals sold by subscription and
15 regularly issued at average intervals not exceeding 3 months, or issued at average
16 intervals not exceeding 6 months by an educational association or corporation sales
17 to which are exempt under sub. (9a) (f), of controlled circulation publications sold to
18 commercial publishers for distribution without charge or mainly without charge or
19 regularly distributed by or on behalf of publishers without charge or mainly without
20 charge to the recipient and of shoppers guides which distribute no less than 48 issues
21 in a 12-month period. In this subsection, “shoppers guide” means a community
22 publication delivered, or attempted to be delivered, to most of the households in its
23 coverage area without a required subscription fee, which advertises a broad range
24 of products and services offered by several types of businesses and individuals. In
25 this subsection, “controlled circulation publication” means a publication that has at

SENATE BILL 446

1 least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes
2 not more than 75% of its pages to advertising and that is not conducted as an
3 auxiliary to, and essentially for the advancement of, the main business or calling of
4 the person that owns and controls it.

5 **SECTION 208.** 77.54 (16) of the statutes is amended to read:

6 77.54 (16) The ~~gross receipts~~ sales price from the sale of and the storage, use
7 or other consumption of fire trucks and fire fighting equipment, including
8 accessories, attachments, parts and supplies therefor, sold to volunteer fire
9 departments.

10 **SECTION 209.** 77.54 (17) of the statutes is amended to read:

11 77.54 (17) The ~~gross receipts~~ sales price from the sales of and the storage, use
12 or other consumption of water, that is not food and food ingredient, when delivered
13 through mains.

14 **SECTION 210.** 77.54 (18) of the statutes is amended to read:

15 77.54 (18) When the sale, lease or rental of a service or property, including
16 items and property under s. 77.52 (1) (b) and (c), that was previously exempt or not
17 taxable under this subchapter becomes taxable, and the service or property is
18 furnished under a written contract by which the seller is unconditionally obligated
19 to provide the service or property for the amount fixed under the contract, the seller
20 is exempt from sales or use tax on the ~~gross receipts~~ sales price for services or
21 property provided until the contract is terminated, extended, renewed or modified.
22 However, from the time the service or property becomes taxable until the contract
23 is terminated, extended, renewed or modified the user is subject to use tax, measured
24 by the sales purchase price, on the service or property purchased under the contract.

25 **SECTION 211.** 77.54 (20) of the statutes is repealed.

SENATE BILL 446

1 **SECTION 212.** 77.54 (20m) of the statutes is repealed.

2 **SECTION 213.** 77.54 (20n) of the statutes is created to read:

3 77.54 **(20n)** (a) The sales price from the sale of and the storage, use, or other
4 consumption of food and food ingredients, except candy, soft drinks, dietary
5 supplements, and prepared food.

6 (b) The sales price from the sale of and the storage, use, or other consumption
7 of food and food ingredients, except soft drinks, sold by hospitals, sanatoriums,
8 nursing homes, retirement homes, community-based residential facilities, as
9 defined in s. 50.01 (1g), or day care centers registered under ch. 48, including
10 prepared food that is sold to the elderly or handicapped by persons providing mobile
11 meals on wheels. In this paragraph, “retirement home” means a nonprofit
12 residential facility where 3 or more unrelated adults or their spouses have their
13 principal residence and where support services, including meals from a common
14 kitchen, are available to residents.

15 (c) The sales price from the sale of and the storage, use, or other consumption
16 of food and food ingredients, furnished in accordance with any contract or agreement
17 or paid for to such institution through the use of an account of such institution, by
18 a public or private institution of higher education to any of the following:

19 1. An undergraduate student, a graduate student, or a student enrolled in a
20 professional school if the student is enrolled for credit at the public or private
21 institution of higher education and if the food and food ingredients are consumed by
22 the student.

23 2. A national football league team.

24 **SECTION 214.** 77.54 (20r) of the statutes is created to read:

SENATE BILL 446

1 77.54 **(20r)** The sales price from the sales of and the storage, use, or other
2 consumption of candy, soft drinks, dietary supplements, and prepared foods, and
3 disposable products that are transferred with such items, furnished for no
4 consideration by a restaurant to the restaurant's employee during the employee's
5 work hours.

6 **SECTION 215.** 77.54 (21) of the statutes is amended to read:

7 77.54 **(21)** The ~~gross receipts~~ sales price from the sales of and the storage, use
8 or other consumption of caskets and burial vaults for human remains.

9 **SECTION 216.** 77.54 (22) of the statutes is repealed.

10 **SECTION 217.** 77.54 (22b) of the statutes is created to read:

11 77.54 **(22b)** The sales price from the sale of and the storage, use, or other
12 consumption of durable medical equipment that is for use in a person's home,
13 mobility-enhancing equipment, and prosthetic devices, and accessories for such
14 equipment or devices, if the equipment or devices are used for a human being.

15 **SECTION 218.** 77.54 (23m) of the statutes, as affected by 2007 Wisconsin Act 20,
16 is amended to read:

17 77.54 **(23m)** The ~~gross receipts~~ sales price from the sale, license, lease or rental
18 of or the storage, use or other consumption of motion picture film or tape, and motion
19 pictures or radio or television programs for listening, viewing, or broadcast, and
20 advertising materials related thereto, sold, licensed, leased or rented to a motion
21 picture theater or radio or television station.

22 **SECTION 219.** 77.54 (25) of the statutes, as affected by 2007 Wisconsin Act 20,
23 is amended to read:

24 77.54 **(25)** The ~~gross receipts~~ sales price from the sale of and the storage of
25 printed material which is designed to advertise and promote the sale of merchandise,

SENATE BILL 446

1 or to advertise the services of individual business firms, which printed material is
2 purchased and stored for the purpose of subsequently transporting it outside the
3 state by the purchaser for use thereafter solely outside the state. This subsection
4 does not apply to catalogs and the envelopes in which the catalogs are mailed.

5 **SECTION 220.** 77.54 (25m) of the statutes, as affected by 2007 Wisconsin Act 20,
6 is amended to read:

7 77.54 (25m) The ~~gross receipts~~ sales price from the sale of and the storage, use,
8 or other consumption of catalogs, and the envelopes in which the catalogs are mailed,
9 that are designed to advertise and promote the sale of merchandise or to advertise
10 the services of individual business firms.

11 **SECTION 221.** 77.54 (26) of the statutes, as affected by 2007 Wisconsin Act 19,
12 is amended to read:

13 77.54 (26) The ~~gross receipts~~ sales price from the sales of and the storage, use,
14 or other consumption of tangible personal property and property under s. 77.52 (1)
15 (b) and (c) which becomes a component part of an industrial waste treatment facility
16 that is exempt under s. 70.11 (21) or that would be exempt under s. 70.11 (21) if the
17 property were taxable under ch. 70, or tangible personal property and property
18 under s. 77.52 (1) (b) and (c) which becomes a component part of a waste treatment
19 facility of this state or any agency thereof, or any political subdivision of the state or
20 agency thereof as provided in s. 40.02 (28). The exemption includes replacement
21 parts therefor, and also applies to chemicals and supplies used or consumed in
22 operating a waste treatment facility and to purchases of tangible personal property
23 and property under s. 77.52 (1) (b) and (c) made by construction contractors who
24 transfer such property to their customers in fulfillment of a real property
25 construction activity. This exemption does not apply to tangible personal property

SENATE BILL 446

1 and property under s. 77.52 (1) (b) and (c) installed in fulfillment of a written
2 construction contract entered into, or a formal written bid made, prior to July 31,
3 1975.

4 **SECTION 222.** 77.54 (26m) of the statutes is amended to read:

5 77.54 **(26m)** The ~~gross receipts~~ sales price from the sale of and the storage, use
6 or other consumption of waste reduction or recycling machinery and equipment,
7 including parts therefor, exclusively and directly used for waste reduction or
8 recycling activities which reduce the amount of solid waste generated, reuse solid
9 waste, recycle solid waste, compost solid waste or recover energy from solid waste.
10 The exemption applies even though an economically useful end product results from
11 the use of the machinery and equipment. For the purposes of this subsection, “solid
12 waste” means garbage, refuse, sludge or other materials or articles, whether these
13 materials or articles are discarded or purchased, including solid, semisolid, liquid or
14 contained gaseous materials or articles resulting from industrial, commercial,
15 mining or agricultural operations or from domestic use or from public service
16 activities.

17 **SECTION 223.** 77.54 (27) of the statutes is amended to read:

18 77.54 **(27)** The ~~gross receipts~~ sales price from the sale of semen used for
19 artificial insemination of livestock.

20 **SECTION 224.** 77.54 (28) of the statutes is amended to read:

21 77.54 **(28)** The ~~gross receipts~~ sales price from the sale of and the storage, use
22 or other consumption to or by the ultimate consumer of ~~apparatus or equipment for~~
23 ~~the injection of insulin or the treatment of diabetes and supplies used to determine~~
24 blood sugar level.

25 **SECTION 225.** 77.54 (29) of the statutes is amended to read:

SENATE BILL 446

1 77.54 (29) The ~~gross receipts~~ sales price from the sales of and the storage, use
2 or other consumption of equipment used in the production of maple syrup.

3 **SECTION 226.** 77.54 (30) (a) (intro.) of the statutes is amended to read:

4 77.54 (30) (a) (intro.) The ~~gross receipts~~ sales price from the sale of:

5 **SECTION 227.** 77.54 (30) (c) of the statutes is amended to read:

6 77.54 (30) (c) If fuel or electricity is sold partly for a use exempt under this
7 subsection and partly for a use which is not exempt under this subsection, no tax
8 shall be collected on that percentage of the ~~gross receipts~~ sales price equal to the
9 percentage of the fuel or electricity which is used for an exempt use, as specified in
10 an exemption certificate provided by the purchaser to the seller.

11 **SECTION 228.** 77.54 (31) of the statutes, as affected by 2007 Wisconsin Act 11,
12 is amended to read:

13 77.54 (31) The ~~gross receipts~~ sales price from the sale of and the storage, use
14 or other consumption in this state, but not the lease or rental, of used mobile homes,
15 as defined in s. 101.91 (10), and used manufactured homes, as defined in s. 101.91
16 (12).

17 **SECTION 229.** 77.54 (32) of the statutes is amended to read:

18 77.54 (32) The ~~gross receipts~~ sales price from charges, including charges for a
19 search, imposed by an authority, as defined in s. 19.32 (1), for copies of a public record
20 that a person may examine and use under s. 16.61 (12) or for copies of a record under
21 s. 19.35 (1).

22 **SECTION 230.** 77.54 (33) of the statutes is amended to read:

23 77.54 (33) The ~~gross receipts~~ sales price from sales of and the storage, use or
24 other consumption of medicines drugs used on farm livestock, not including
25 workstock.

SENATE BILL 446

1 **SECTION 231.** 77.54 (35) of the statutes is amended to read:

2 77.54 (35) The ~~gross receipts~~ sales price from the sales of tangible personal
3 property, items or property under s. 77.52 (1) (b) or (c), tickets or admissions by any
4 baseball team affiliated with the Wisconsin Department of American Legion
5 baseball.

6 **SECTION 232.** 77.54 (36) of the statutes, as affected by 2007 Wisconsin Act 11,
7 is amended to read:

8 77.54 (36) The ~~gross receipts~~ sales price from the rental for a continuous period
9 of one month or more of a mobile home, as defined in s. 101.91 (10), or a manufactured
10 home, as defined in s. 101.91 (2), that is used as a residence. In this subsection, “one
11 month” means a calendar month or 30 days, whichever is less, counting the first day
12 of the rental and not counting the last day of the rental.

13 **SECTION 233.** 77.54 (37) of the statutes is amended to read:

14 77.54 (37) The ~~gross receipts~~ sales price from revenues collected under s.
15 146.70 (3) and the surcharge established by rule by the public service commission
16 under s. 146.70 (3m) (f) for customers of wireless providers, as defined in s. 146.70
17 (3m) (a) 6.

18 **SECTION 234.** 77.54 (38) of the statutes is amended to read:

19 77.54 (38) The ~~gross receipts~~ sales price from the sale of and the storage, use
20 or other consumption of snowmobile trail groomers and attachments for them that
21 are purchased, stored, used or consumed by a snowmobile club that meets at least
22 3 times a year, that has at least 10 members, that promotes snowmobiling and that
23 participates in the department of natural resources’ snowmobile program under s.
24 350.12 (4) (b).

25 **SECTION 235.** 77.54 (39) of the statutes is amended to read:

SENATE BILL 446

1 77.54 (39) The ~~gross receipts~~ sales price from the sale of and the storage, use
2 or other consumption of off-highway, heavy mechanical equipment such as feller
3 bunchers, slashers, delimiters, chippers, hydraulic loaders, loaders,
4 skidder-forwarders, skidders, timber wagons and tractors used exclusively and
5 directly in the harvesting or processing of raw timber products in the field by a person
6 in the logging business. In this subsection, “heavy mechanical equipment” does not
7 include hand tools such as axes, chains, chain saws and wedges.

8 **SECTION 236.** 77.54 (40) of the statutes is repealed.

9 **SECTION 237.** 77.54 (41) of the statutes is amended to read:

10 77.54 (41) The ~~gross receipts~~ sales price from the sale of building materials,
11 supplies and equipment to; and the storage, use or other consumption of those kinds
12 of property by; owners, contractors, subcontractors or builders if that property is
13 acquired solely for or used solely in, the construction, renovation or development of
14 property that would be exempt under s. 70.11 (36).

15 **SECTION 238.** 77.54 (42) of the statutes is amended to read:

16 77.54 (42) The ~~gross receipts~~ sales price from the sale of and the storage, use
17 or other consumption of animal identification tags provided under s. 93.06 (1h) and
18 standard samples provided under s. 93.06 (1s).

19 **SECTION 239.** 77.54 (43) of the statutes is amended to read:

20 77.54 (43) The ~~gross receipts~~ sales price from the sale of and the storage, use
21 or other consumption of raw materials used for the processing, fabricating or
22 manufacturing of, or the attaching to or incorporating into, printed materials that
23 are transported and used solely outside this state.

24 **SECTION 240.** 77.54 (44) of the statutes, as affected by 2005 Wisconsin Act 141,
25 is amended to read:

SENATE BILL 446

1 77.54 **(44)** The ~~gross receipts~~ sales price from the collection of low-income
2 assistance fees that are charged under s. 16.957 (4) (a) or (5) (a).

3 **SECTION 241.** 77.54 (45) of the statutes is amended to read:

4 77.54 **(45)** The ~~gross receipts~~ sales price from the sale of and the use or other
5 consumption of a onetime license or similar right to purchase admission to
6 professional football games at a football stadium, as defined in s. 229.821 (6), that
7 is granted by a municipality; a local professional football stadium district; or a
8 professional football team or related party, as defined in s. 229.821 (12); if the person
9 who buys the license or right is entitled, at the time the license or right is transferred
10 to the person, to purchase admission to at least 3 professional football games in this
11 state during one football season.

12 **SECTION 242.** 77.54 (46) of the statutes is amended to read:

13 77.54 **(46)** The ~~gross receipts~~ sales price from the sale of and the storage, use,
14 or other consumption of the U.S. flag or the state flag. This subsection does not apply
15 to a representation of the U.S. flag or the state flag.

16 **SECTION 243.** 77.54 (46m) of the statutes is amended to read:

17 77.54 **(46m)** The ~~gross receipts~~ sales price from the sale of and the storage, use,
18 or other consumption of telecommunications services, if the telecommunications
19 services are obtained by using the rights to purchase telecommunications services,
20 including purchasing reauthorization numbers, by paying in advance and by using
21 an access number and authorization code; and if the tax imposed under s. 77.52 or
22 77.53 was previously paid on the sale or purchase of such rights.

23 **SECTION 244.** 77.54 (47) (intro.) of the statutes is amended to read:

24 77.54 **(47)** (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
25 use, or other consumption of all of the following:

SENATE BILL 446

1 **SECTION 245.** 77.54 (47) (b) 1. of the statutes is amended to read:

2 77.54 **(47)** (b) 1. The shooting facility is required to pay the tax imposed under
3 s. 77.52 on its ~~gross receipts~~ the sales price from charges for shooting at the facility.

4 **SECTION 246.** 77.54 (47) (b) 2. of the statutes, as affected by 2007 Wisconsin Act
5 20, is amended to read:

6 77.54 **(47)** (b) 2. The shooting facility is a nonprofit organization that charges
7 for shooting at the facility, but is not required to pay the tax imposed under s. 77.52
8 on its ~~gross receipts~~ sales price from such charges because the charges are for
9 occasional sales, as provided under sub. (7m), or because the charges satisfy the
10 exemption under s. 77.52 (2) (a) 2. b.

11 **SECTION 247.** 77.54 (48) (a) of the statutes, as created by 2005 Wisconsin Act
12 479, is renumbered 77.585 (9) (a) and amended to read:

13 77.585 **(9)** (a) Subject to 2005 Wisconsin Act 479, section 17, ~~the gross receipts~~
14 ~~from the sale of and the storage, use, or other consumption~~ a purchaser may claim
15 as a deduction that portion of its purchase price of Internet equipment used in the
16 broadband market for which the tax was imposed under this subchapter, if the
17 purchaser certifies to the department of commerce, in the manner prescribed by the
18 department of commerce, that the purchaser will, within 24 months after July 1,
19 2007, make an investment that is reasonably calculated to increase broadband
20 Internet availability in this state. The purchaser shall claim the deduction in the
21 same reporting period as the purchaser paid the tax imposed under this subchapter.

22 **SECTION 248.** 77.54 (48) (b) of the statutes, as created by 2005 Wisconsin Act
23 479, is renumbered 77.585 (9) (b).

24 **SECTION 249.** 77.54 (49) of the statutes is amended to read:

SENATE BILL 446

1 77.54 (49) The ~~gross receipts~~ sales price from the sale of and the storage, use,
2 or other consumption of taxable services and tangible personal property, or items or
3 property under s. 77.52 (1) (b) or (c), that is physically transferred to the purchaser
4 as a necessary part of services that are subject to the taxes imposed under s. 77.52
5 (2) (a) 7., 10., 11., and 20., if the seller and the purchaser of such services and property
6 or item are members of the same affiliated group under section 1504 of the Internal
7 Revenue Code and are eligible to file a single consolidated return for federal income
8 tax purposes. For purposes of this subsection, if a seller purchases a taxable service,
9 item or property under s. 77.52 (1) (b) or (c), or tangible personal property, as
10 described in the subsection, that is subsequently sold to a member of the seller's
11 affiliated group and the sale is exempt under this subsection from the taxes imposed
12 under this subchapter, the original purchase of the taxable service, item or property
13 under s. 77.52 (1) (b) or (c), or tangible personal property by the seller is not
14 considered a sale for resale or exempt under this subsection.

15 **SECTION 250.** 77.54 (51) of the statutes is created to read:

16 77.54 (51) The sales price from the sales of and the storage, use, or other
17 consumption of products sold in a transaction that would be a bundled transaction,
18 except that it contains taxable and nontaxable products as described in s. 77.51 (1f)
19 (d), and except that the first person combining the products shall pay the tax imposed
20 under this subchapter on the person's purchase price of the taxable items.

21 **SECTION 251.** 77.54 (52) of the statutes is created to read:

22 77.54 (52) The sales price from the sales of and the storage, use, or other
23 consumption of products sold in a transaction that would be a bundled transaction,
24 except that the transaction meets the conditions described in s. 77.51 (1f) (e).

SENATE BILL 446

1 **SECTION 252.** 77.54 (54) of the statutes, as created by 2007 Wisconsin Act 20,
2 is amended to read:

3 77.54 **(54)** The ~~gross receipts~~ sales price from the sale of and the storage, use,
4 or other consumption of tangible personal property, items and property under s.
5 77.52 (1) (b) and (c), and taxable services that are sold by a home exchange service
6 that receives moneys from the appropriation account under s. 20.485 (1) (g) and is
7 operated by the department of veterans affairs.

8 **SECTION 253.** 77.54 (56) of the statutes, as created by 2007 Wisconsin Act 20,
9 is amended to read:

10 77.54 **(56)** (a) The ~~gross receipts~~ sales price from the sale of and the storage,
11 use, or other consumption of a product whose power source is wind energy, direct
12 radiant energy received from the sun, or gas generated from anaerobic digestion of
13 animal manure and other agricultural waste, if the product produces at least 200
14 watts of alternating current or 600 British thermal units per day, except that the
15 exemption under this subsection does not apply to an uninterruptible power source
16 that is designed primarily for computers.

17 (b) Except for the sale of electricity or energy that is exempt from taxation
18 under sub. (30), the ~~gross receipts~~ sales price from the sale of and the storage, use,
19 or other consumption of electricity or energy produced by a product described under
20 par. (a).

21 **SECTION 254.** 77.55 (1) (intro.) of the statutes is amended to read:

22 77.55 **(1)** (intro.) There ~~are~~ is exempted from the computation of the amount
23 of the sales tax the ~~gross receipts~~ sales price from the sale of any tangible personal
24 property, items or property under s. 77.52 (1) (b) or (c), or services to:

25 **SECTION 255.** 77.55 (2) of the statutes is amended to read:

SENATE BILL 446

1 77.55 (2) There ~~are~~ is exempted from the computation of the amount of the sales
2 tax the ~~gross receipts~~ sales price from sales of tangible personal property, and items
3 and property under s. 77.52 (1) (b) and (c), to a common or contract carrier, shipped
4 by the seller via the purchasing carrier under a bill of lading whether the freight is
5 paid in advance, or the shipment is made freight charges collect, to a point outside
6 this state and the property or item is actually transported to the out-of-state
7 destination for use by the carrier in the conduct of its business as a carrier.

8 **SECTION 256.** 77.55 (2m) of the statutes is amended to read:

9 77.55 (2m) There ~~are~~ is exempted from the computation of the amount of sales
10 tax the ~~gross receipts~~ sales price from sales of railroad crossties to a common or
11 contract carrier, shipped wholly or in part by way of the purchasing carrier under a
12 bill of lading, whether the freight is paid in advance or the shipment is made freight
13 charges collect, to a point outside this state if the property is transported to the
14 out-of-state destination for use by the carrier in the conduct of its business as a
15 carrier. Interruption of the shipment for storage, drying, processing or creosoting of
16 the railroad crossties in this state does not invalidate the exemption under this
17 subsection.

18 **SECTION 257.** 77.55 (3) of the statutes is amended to read:

19 77.55 (3) There ~~are~~ is exempted from the computation of the amount of the sales
20 tax the ~~gross receipts~~ sales price from sales of tangible personal property, and items
21 and property under s. 77.52 (1) (b) and (c), purchased for use solely outside this state
22 and delivered to a forwarding agent, export packer, or other person engaged in the
23 business of preparing goods for export or arranging for their exportation, and
24 actually delivered to a port outside the continental limits of the United States prior
25 to making any use thereof.

SENATE BILL 446

1 **SECTION 258.** 77.56 (1) of the statutes is amended to read:

2 77.56 **(1)** The storage, use or other consumption in this state of property,
3 including items and property under s. 77.52 (1) (b) and (c), the gross receipts sales
4 price from the sale of which are is reported to the department in the measure of the
5 sales tax, is exempted from the use tax.

6 **SECTION 259.** 77.57 of the statutes is amended to read:

7 **77.57 Liability of purchaser.** If a purchaser certifies in writing to a seller
8 that the property or items or property under s. 77.52 (1) (b) or (c) purchased will be
9 used in a manner or for a purpose entitling the seller to regard the gross receipts sales
10 price from the sale as exempted by this subchapter from the computation of the
11 amount of the sales tax and uses the property or items or property under s. 77.52 (1)
12 (b) or (c) in some other manner or for some other purpose, the purchaser is liable for
13 payment of the sales tax. The tax shall be measured by the sales price of the property
14 or items or property under s. 77.52 (1) (b) or (c) to the purchaser, ~~but if the taxable~~
15 ~~use first occurs more than 6 months after the sale to the purchaser, the purchaser~~
16 ~~may use as the measure of the tax either that sales price or the fair market value of~~
17 ~~the property at the time the taxable use first occurs.~~

18 **SECTION 260.** 77.58 (3) (a) of the statutes is amended to read:

19 77.58 **(3)** (a) For purposes of the sales tax a return shall be filed by every seller.
20 For purposes of the use tax a return shall be filed by every retailer engaged in
21 business in this state and by every person purchasing tangible personal property,
22 items or property under s. 77.52 (1) (b) or (c), or services, the storage, use, or other
23 consumption of which is subject to the use tax, who has not paid the use tax due to
24 a retailer required to collect the tax. If a qualified subchapter S subsidiary is not
25 regarded as a separate entity under ch. 71, the owner of that subsidiary shall include

SENATE BILL 446

1 the information for that subsidiary on the owner's return. Returns shall be signed
2 by the person required to file the return or by a duly authorized agent but need not
3 be verified by oath. If a single-owner entity is disregarded as a separate entity under
4 ch. 71, the owner shall include the information from the entity on the owner's return.

5 **SECTION 261.** 77.58 (3) (b) of the statutes is amended to read:

6 77.58 (3) (b) ~~For purposes of the sales tax the return shall show the gross~~
7 ~~receipts of the seller during the preceding reporting period. For purposes of the use~~
8 ~~tax, in case of a return filed by a retailer, the return shall show the total sales price~~
9 ~~of the property or taxable services sold, the storage, use or consumption of which~~
10 ~~became subject to the use tax during the preceding reporting period. In case of a sales~~
11 ~~or use tax return filed by a purchaser, the return shall show the total sales price of~~
12 ~~the property and taxable services purchased, the storage, use or consumption of~~
13 ~~which became subject to the use tax during the preceding reporting period. The~~
14 ~~return shall also show the amount of the taxes for the period covered by the return~~
15 ~~and such other information as the department deems necessary for the proper~~
16 ~~administration of this subchapter.~~

17 **SECTION 262.** 77.58 (6) of the statutes is amended to read:

18 77.58 (6) For the purposes of the sales tax ~~gross receipts, the sales price~~ from
19 rentals or leases of tangible personal property or items or property under s. 77.52 (1)
20 (b) or (c) shall be reported and the tax paid in accordance with such rules as the
21 department prescribes.

22 **SECTION 263.** 77.58 (6m) of the statutes is created to read:

23 77.58 (6m) (a) The department may, in cases where it is satisfied that an undue
24 hardship would otherwise result, permit the reporting of a sales price or purchase
25 price on some basis other than the accrual basis.

SENATE BILL 446

1 (b) The entire sales price of credit transactions shall be reported in the period
2 in which the sale is made without reduction in the amount of tax payable by the
3 retailer by reason of the retailer's transfer at a discount of any open account, note,
4 conditional sales contract, lease contract, or other evidence of indebtedness.

5 **SECTION 264.** 77.58 (9a) of the statutes is created to read:

6 **77.58 (9a)** In addition to filing a return as provided in this section, a person
7 described under s. 77.524 (3), (4), or (5) shall provide to the department any
8 information that the department considers necessary for the administration of this
9 subchapter, in the manner prescribed by the department, except that the
10 department may not require that the person provide such information to the
11 department more than once every 180 days.

12 **SECTION 265.** 77.585 of the statutes is created to read:

13 **77.585 Return adjustments. (1)** (a) In this subsection, "bad debt" means the
14 portion of the sales price or purchase price that the seller has reported as taxable
15 under this subchapter and that the seller may claim as a deduction under section 166
16 of the Internal Revenue Code. "Bad debt" does not include financing charges or
17 interest, sales or use taxes imposed on the sales price or purchase price, uncollectible
18 amounts on property or items or property under s. 77.52 (1) (b) or (c) that remain in
19 the seller's possession until the full sales price or purchase price is paid, expenses
20 incurred in attempting to collect any debt, debts sold or assigned to 3rd parties for
21 collection, and repossessed property.

22 (b) A seller may claim as a deduction on a return under s. 77.58 the amount of
23 any bad debt that the seller writes off as uncollectible in the seller's books and records
24 and that is eligible to be deducted as a bad debt for federal income tax purposes,
25 regardless of whether the seller is required to file a federal income tax return. A

SENATE BILL 446

1 seller who claims a deduction under this paragraph shall claim the deduction on the
2 return under s. 77.58 that is submitted for the period in which the seller writes off
3 the amount of the deduction as uncollectible in the seller's books and records and in
4 which such amount is eligible to be deducted as bad debt for federal income tax
5 purposes. If the seller subsequently collects in whole or in part any bad debt for
6 which a deduction is claimed under this paragraph, the seller shall include the
7 amount collected in the return filed for the period in which the amount is collected
8 and shall pay the tax with the return.

9 (c) For purposes of computing a bad debt deduction or reporting a payment
10 received on a previously claimed bad debt, any payment made on a debt or on an
11 account is applied first to the price of the property, items or property under s. 77.52
12 (1) (b) or (c), or service sold, and the proportionate share of the sales tax on that
13 property, items or property under s. 77.52 (1) (b) or (c), or service, and then to interest,
14 service charges, and other charges related to the sale.

15 (d) A seller may obtain a refund of the tax collected on any bad debt amount
16 deducted under par. (b) that exceeds the amount of the seller's taxable sales as
17 provided under s. 77.59 (4), except that the period for making a claim as determined
18 under s. 77.59 (4) begins on the date on which the return on which the bad debt could
19 be claimed would have been required to be submitted to the department under s.
20 77.58.

21 (e) If a seller is using a certified service provider, the certified service provider
22 may claim a bad debt deduction under this subsection on the seller's behalf if the
23 seller has not claimed and will not claim the same deduction. A certified service
24 provider who receives a bad debt deduction under this subsection shall credit that

SENATE BILL 446

1 deduction to the seller and a certified service provider who receives a refund under
2 this subsection shall submit that refund to the seller.

3 (f) If a bad debt relates to the retail sales of tangible personal property, items
4 or property under s. 77.52 (1) (b) or (c), or taxable services that occurred in this state
5 and in one or more other states, as determined under s. 77.522, the total amount of
6 such bad debt shall be apportioned among the states in which the underlying sales
7 occurred in a manner prescribed by the department to arrive at the amount of the
8 deduction under par. (b).

9 (2) If a lessor of tangible personal property or items or property under s. 77.52
10 (1) (b) or (c) has reimbursed the vendor for the sales tax on the sale of the property
11 or items by the vendor to the lessor, the tax due from the lessor on the rental receipts
12 may be offset by a credit equal to the tax otherwise due on the rental receipts from
13 the property or items for the reporting period. The credit shall expire when the
14 cumulative rental receipts equal the sales price upon which the vendor paid sales
15 taxes to this state.

16 (3) If a purchaser of tangible personal property or items or property under s.
17 77.52 (1) (b) or (c) has reimbursed the vendor of the property or items for the sales
18 tax on the sale and subsequently, before making any use of the property or items
19 other than retention, demonstration, or display while holding it for sale or rental,
20 makes a taxable sale of the property or items, the tax due on the taxable sale may
21 be offset by the tax reimbursed.

22 (4) A seller may claim a deduction on any part of the sales price or purchase
23 price that the seller refunds in cash or credit as a result of returned property or items
24 or property under s. 77.52 (1) (b) or (c) or adjustments in the sales price or purchase
25 price after the sale has been completed, if the seller has included the refunded price

SENATE BILL 446

1 in a prior return made by the seller and has paid the tax on such price, and if the seller
2 has returned to the purchaser in cash or in credit all tax previously paid by the
3 purchaser on the amount of the refund at the time of the purchase. A deduction
4 under this subsection shall be claimed on the return for the period in which the
5 refund is paid.

6 (5) No reduction in the amount of tax payable by the retailer is allowable in the
7 event property or items or property under s. 77.52 (1) (b) or (c) sold on credit are
8 repossessed except where the entire consideration paid by the purchaser is refunded
9 to the purchaser or where a credit for a worthless account is allowable under sub. (1).

10 (6) A purchaser who is subject to the use tax on the storage, use, or other
11 consumption of fuel may claim a deduction from the purchase price that is subject
12 to the use tax for fuel taxes refunded by this state or the United States to the
13 purchaser that is included in the purchase price of the fuel.

14 (7) For sales tax purposes, if a retailer establishes to the department's
15 satisfaction that the sales tax has been added to the total amount of the sales price
16 and has not been absorbed by the retailer, the total amount of the sales price shall
17 be the amount received exclusive of the sales tax imposed.

18 (8) A sale or purchase involving transfer of ownership of property or items or
19 property under s. 77.52 (1) (b) or (c) is completed at the time when possession is
20 transferred by the seller or the seller's agent to the purchaser or the purchaser's
21 agent, except that for purposes of sub. (1) a common carrier or the U.S. postal service
22 shall be considered the agent of the seller, regardless of any f.o.b. point and
23 regardless of the method by which freight or postage is paid.

24 **SECTION 266.** 77.59 (2m) of the statutes is created to read:

SENATE BILL 446

1 77.59 (2m) The department may audit, or may authorize others to audit, sellers
2 and certified service providers who are registered with the department pursuant to
3 the agreement, as defined in s. 77.65 (2) (a).

4 **SECTION 267.** 77.59 (5m) of the statutes is amended to read:

5 77.59 (5m) A seller who receives a refund under sub. (4) (a) or (b) of taxes that
6 the seller has collected from buyers, who collects amounts as taxes erroneously from
7 buyers, but who does not remit such amounts to the state, or who is entitled to a
8 refund under sub. (4) (a) or (b) that is offset under sub. (5), shall submit the taxes and
9 related interest to the buyers from whom the taxes were collected, or to the
10 department if the seller cannot locate the buyers, within 90 days after the date of the
11 refund, after the date of the offset, or after discovering that the seller has collected
12 taxes erroneously from the buyers. If the seller does not submit the taxes and related
13 interest to the department or the buyers within that period, the seller shall submit
14 to the department any part of a refund or taxes that the seller does not submit to a
15 buyer or to the department along with a penalty of 25% of the amount not submitted
16 or, in the case of fraud, a penalty equal to the amount not submitted. A person who
17 collects amounts as taxes erroneously from buyers for a real property construction
18 activity or nontaxable service may reduce the taxes and interest that he or she is
19 required to submit to the buyer or to the department under this subsection for that
20 activity or service by the amount of tax and interest subsequently due and paid on
21 the sale of or the storage, use, or other consumption of tangible personal property or
22 items or property under s. 77.52 (1) (b) or (c) that is are used by the person in that
23 activity or service and transferred to the buyer.

24 **SECTION 268.** 77.59 (9) of the statutes is amended to read:

SENATE BILL 446

1 77.59 (9) If any person fails to file a return, the department shall make an
2 estimate of the amount of the ~~gross receipts~~ sales price of the ~~person~~ person's sales,
3 or, as the case may be, of the amount of the total ~~sales~~ purchase price of tangible
4 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable service
5 sold or purchased by the person, the sale by or the storage, use, or other consumption
6 of which in this state is subject to sales or use tax. The estimate shall be made for
7 the period in respect to which the person failed to make a return and shall be based
8 upon any information which is in the department's possession or may come into its
9 possession. Upon the basis of this estimate the department shall compute and
10 determine the amount required to be paid to the state, adding to the sum thus arrived
11 at a penalty equal to 25% thereof. One or more such determinations may be made
12 for one or for more than one period. When a business is discontinued a determination
13 may be made at any time thereafter, within the periods specified in sub. (3), as to
14 liability arising out of that business.

15 **SECTION 269.** 77.59 (9n) of the statutes is created to read:

16 77.59 (9n) (a) Notwithstanding s. 73.03 (47), no seller or certified service
17 provider is liable for tax, interest, or penalties imposed on a transaction under this
18 subchapter in the circumstances covered under sections 306, 328, and 502 of the
19 agreement, as defined in s. 77.65 (2) (a).

20 (b) A purchaser is not liable for the tax, interest, or penalties imposed on a
21 transaction under this subchapter in the circumstances covered by section 331 of the
22 agreement, as defined in s. 77.65 (2) (a).

23 **SECTION 270.** 77.59 (9p) (b) of the statutes is created to read:

24 77.59 (9p) (b) If a customer purchases a service that is not subject to 4 USC 116
25 to 126, as amended by P.L. 106–252, tangible personal property, or items or property

SENATE BILL 446

1 under s. 77.52 (1) (b) or (c), and if the customer believes that the amount of the tax
2 assessed for the sale of the service, property, or items, under this subchapter is
3 erroneous, the customer may request that the seller correct the alleged error by
4 sending a written notice to the seller. The notice shall include a description of the
5 alleged error and any other information that the seller reasonably requires to process
6 the request. Within 60 days from the date that a seller receives a request under this
7 paragraph, the seller shall review its records to determine the validity of the
8 customer's claim. If the review indicates that there is no error as alleged, the seller
9 shall explain the findings of the review in writing to the customer. If the review
10 indicates that there is an error as alleged, the seller shall correct the error and shall
11 refund the amount of any tax collected erroneously, along with the related interest,
12 as a result of the error from the customer, consistent with s. 77.59 (4). A customer
13 may take no other action against the seller, or commence any action against the
14 seller, to correct an alleged error in the amount of the tax assessed under this
15 subchapter on a service that is not subject to 4 USC 116 to 126, as amended by P.L.
16 106–252, tangible personal property, or items or property under s. 77.52 (1) (b) or (c)
17 unless the customer has exhausted his or her remedies under this paragraph.

18 **SECTION 271.** 77.59 (9r) of the statutes is created to read:

19 77.59 (9r) With regard to a purchaser's request for a refund under this section,
20 a seller is presumed to have reasonable business practices if the seller uses a certified
21 service provider, a certified automated system, as defined in s. 77.524 (1) (am), or a
22 proprietary system certified by the department to collect the taxes imposed under
23 this subchapter and if the seller has remitted to the department all taxes collected
24 under this subchapter, less any deductions, credits, or allowances.

25 **SECTION 272.** 77.60 (13) of the statutes is created to read:

SENATE BILL 446

1 77.60 (13) A person who uses any of the following documents in a manner that
2 is prohibited by or inconsistent with this subchapter, or provides incorrect
3 information to a seller or certified service provider related to the use of such
4 documents or regarding an exemption to the taxes imposed under this subchapter,
5 shall pay a penalty of \$250 for each invoice or bill of sale related to the prohibited or
6 inconsistent use or incorrect information:

7 (a) An exemption certificate described under ss. 77.52 (13) and 77.53 (10).

8 (b) A direct pay permit under s. 77.52 (17m).

9 (c) A direct mail form, as defined in s. 77.522 (1) (a) 1.

10 **SECTION 273.** 77.61 (1) (b) of the statutes is amended to read:

11 77.61 (1) (b) In the case of ~~a motor vehicle~~ motor vehicles, boats, snowmobiles,
12 recreational vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain
13 vehicles, or aircraft purchased from a ~~licensed Wisconsin motor vehicle dealer~~
14 retailer, the registrant shall present proof that the tax has been paid to such dealer
15 retailer.

16 **SECTION 274.** 77.61 (1) (c) of the statutes, as affected by 2007 Wisconsin Act 11,
17 is amended to read:

18 77.61 (1) (c) In the case of motor vehicles, boats, snowmobiles, recreational
19 vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles, or
20 aircraft registered or titled, or required to be registered or titled, in this state
21 purchased from persons who are not ~~Wisconsin boat, trailer, or semitrailer dealers,~~
22 ~~licensed Wisconsin aircraft, motor vehicle, or recreational vehicle, as defined in s.~~
23 ~~340.01 (48r), dealers or registered Wisconsin snowmobile or all-terrain vehicle~~
24 ~~dealers~~ retailers, the purchaser shall file a sales tax return and pay the tax prior to

SENATE BILL 446

1 registering or titling the motor vehicle, boat, snowmobile, recreational vehicle, as
2 defined in s. 340.01 (48r), semitrailer, all-terrain vehicle, or aircraft in this state.

3 **SECTION 275.** 77.61 (2) of the statutes is renumbered 77.61 (2) (intro.) and
4 amended to read:

5 77.61 (2) (intro.) In order to protect the revenue of the state:

6 (a) Except as provided in par. (b), the department may require any person who
7 is or will be liable to it for the tax imposed by this subchapter to place with it, before
8 or after a permit is issued, the security, not in excess of \$15,000, that the department
9 determines. In determining the amount of security to require under this subsection,
10 the department may consider the person's payment of other taxes administered by
11 the department and any other relevant facts. If any taxpayer fails or refuses to place
12 that security, the department may refuse or revoke the permit. If any taxpayer is
13 delinquent in the payment of the taxes imposed by this subchapter, the department
14 may, upon 10 days' notice, recover the taxes, interest, costs and penalties from the
15 security placed with the department by the taxpayer in the following order: costs,
16 penalties, delinquent interest, delinquent tax. No interest may be paid or allowed
17 by the state to any person for the deposit of security. Any security deposited under
18 this subsection shall be returned to the taxpayer if the taxpayer has, for 24
19 consecutive months, complied with all the requirements of this subchapter.

20 **SECTION 276.** 77.61 (2) (b) of the statutes is created to read:

21 77.61 (2) (b) A certified service provider who has contracted with a seller, and
22 filed an application, to collect and remit sales and use taxes imposed under this
23 subchapter on behalf of the seller shall submit a surety bond to the department to
24 guarantee the payment of sales and use taxes, including any penalty and interest on
25 such payment. The department shall approve the form and contents of a bond

SENATE BILL 446

1 submitted under this paragraph and shall determine the amount of such bond. The
2 surety bond shall be submitted to the department within 60 days after the date on
3 which the department notifies the certified service provider that the certified service
4 provider is registered to collect sales and use taxes imposed under this subchapter.
5 If the department determines, with regards to any one certified service provider, that
6 no bond is necessary to protect the tax revenues of this state, the secretary of revenue
7 or the secretary's designee may waive the requirements under this paragraph with
8 regard to that certified service provider. Any bond submitted under this paragraph
9 shall remain in force until the secretary of revenue or the secretary's designee
10 releases the liability under the bond.

11 **SECTION 277.** 77.61 (3) of the statutes is repealed.

12 **SECTION 278.** 77.61 (3m) of the statutes is created to read:

13 77.61 **(3m)** A retailer shall use a straight mathematical computation to
14 determine the amount of the tax that the retailer may collect from the retailer's
15 customers. The retailer shall calculate the tax amount by combining the applicable
16 tax rates under this subchapter and subch. V and multiplying the combined tax rate
17 by the sales price or purchase price of each item or invoice, as appropriate. The
18 retailer shall calculate the tax amount to the 3rd decimal place, disregard tax
19 amounts of less than 0.5 cent, and consider tax amounts of at least 0.5 cent but less
20 than 1 cent to be an additional cent. The use of a straight mathematical computation,
21 as provided in this subsection, shall not relieve the retailer from liability for payment
22 of the full amount of the tax levied under this subchapter.

23 **SECTION 279.** 77.61 (4) (a) of the statutes is amended to read:

24 77.61 **(4)** (a) Every seller and retailer and every person storing, using or
25 otherwise consuming in this state tangible personal property, items or property

SENATE BILL 446

1 under s. 77.52 (1) (b) or (c), or taxable services purchased from a retailer shall keep
2 such records, receipts, invoices, and other pertinent papers and records, including
3 machine-readable records, in such form as the department requires. The
4 department may, after giving notice, require any person to keep whatever records are
5 needed for the department to compute the sales or use taxes the person should pay.
6 Thereafter, the department shall add to any taxes assessed on the basis of
7 information not contained in the records required a penalty of 25% of the amount of
8 the tax so assessed in addition to all other penalties under this chapter.

9 **SECTION 280.** 77.61 (4) (c) of the statutes is amended to read:

10 77.61 (4) (c) For reporting the sales tax and collecting and reporting the use tax
11 imposed on the retailer under s. 77.53 (3) and the accounting connected with it,
12 retailers, not including certified service providers that receive compensation under
13 s. 73.03 (61) (h), may deduct 0.5% of those taxes payable or \$10 for that reporting
14 period required under s. 77.58 (1), whichever is greater, but not more than the
15 amount of the sales taxes or use taxes that is payable under ss. 77.52 (1) and 77.53
16 (3) for that reporting period required under s. 77.58 (1), as administration expenses
17 if the payment of the taxes is not delinquent. For purposes of calculating the
18 retailer's discount under this paragraph, the taxes on retail sales reported by
19 retailers under subch. V, including taxes collected and remitted as required under
20 s. 77.785, shall be included if the payment of those taxes is not delinquent.

21 **SECTION 281.** 77.61 (5m) of the statutes is created to read:

22 77.61 (5m) (a) In this subsection, "personally identifiable information" means
23 any information that identifies a person.

24 (b) A certified service provider may use personally identifiable information as
25 necessary only for the administration of its system to perform a seller's sales and use

SENATE BILL 446

1 tax functions and shall provide consumers clear and conspicuous notice of its practice
2 regarding such information, including what information it collects, how it collects
3 the information, how it uses the information, how long, if at all, it retains the
4 information, and under what circumstances it discloses the information to states
5 participating in the agreement, as defined in 77.65 (2) (a).

6 (c) A certified service provider may collect, use, and retain personally
7 identifiable information only to verify exemption claims, to investigate fraud, and to
8 ensure its system's reliability.

9 (d) A certified service provider shall provide sufficient technical, physical, and
10 administrative safeguards to protect personally identifiable information from
11 unauthorized access and disclosure.

12 (e) For purposes of this subchapter, the state shall provide to consumers public
13 notice of the state's practices related to collecting, using, and retaining personally
14 identifiable information.

15 (f) The state shall not retain personally identifiable information obtained for
16 purposes of administering this subchapter unless the state is otherwise required to
17 retain the information by law or as provided under the agreement, as defined in s.
18 77.65 (2) (a).

19 (g) For purposes of this subchapter, the state shall provide an individual
20 reasonable access to that individual's personally identifiable information and the
21 right to correct any inaccurately recorded information.

22 (h) If any person, other than another state that is a signatory to the agreement,
23 as defined in s. 77.65 (2) (a), or a person authorized under state law to access the
24 information, requests access to an individual's personally identifiable information,

SENATE BILL 446

1 the state shall make a reasonable and timely effort to notify the individual of the
2 request.

3 **SECTION 282.** 77.61 (11) of the statutes, as affected by 2007 Wisconsin Act ...
4 (this act), is amended to read:

5 77.61 (11) Any city, village or town clerk or other official whose duty it is to issue
6 licenses or permits to engage in a business involving the sale at retail of tangible
7 personal property or items or property under s. 77.52 (1) (b) or (c) subject to tax under
8 this subchapter, or the furnishing of services so subject to tax, shall, before issuing
9 such license or permit, require proof that the person to whom such license or permit
10 is to be issued is the holder of a seller's permit or is registered to collect, report, and
11 remit use tax under this subchapter or has been informed by an employee of the
12 department that the department will issue a seller's permit to that person or register
13 that person to collect, report, and remit use tax.

14 **SECTION 283.** 77.61 (16) of the statutes is created to read:

15 77.61 (16) Any person who remits taxes and files returns under this subchapter
16 may designate an agent, as defined in s. 77.524 (1) (ag), to remit such taxes and file
17 such returns with the department in a manner prescribed by the department.

18 **SECTION 284.** 77.61 (17) of the statutes is created to read:

19 77.61 (17) With regard to services subject to the tax under s. 77.52 (2) or the
20 lease, rental, or license of tangible personal property and property and items
21 specified under s. 77.52 (1) (b) and (c), an increase in the tax rate applies to the first
22 billing period beginning on or after the rate increase's effective date and a decrease
23 in the tax rate applies to bills that are rendered on or after the rate decrease's
24 effective date.

25 **SECTION 285.** 77.63 of the statutes is repealed and recreated to read:

SENATE BILL 446

1 **77.63 Collection compensation.** The following persons may retain a portion
2 of sales and use taxes collected on retail sales under this subchapter and subch. V
3 in an amount determined by the department and by contracts that the department
4 enters into jointly with other states as a member state of the streamlined sales tax
5 governing board pursuant to the agreement, as defined in s. 77.65 (2) (a):

6 **(1)** A certified service provider.

7 **(2)** A seller that uses a certified automated system, as defined in s. 77.524 (1)
8 (am).

9 **(3)** A seller that sells tangible personal property, items or property under s.
10 77.52 (1) (b) or (c), or taxable services in at least 5 states that are signatories to the
11 agreement, as defined in s. 77.65 (2) (a); that has total annual sales revenue of at
12 least \$500,000,000; that has a proprietary system that calculates the amount of tax
13 owed to each taxing jurisdiction in which the seller sells tangible personal property,
14 items or property under s. 77.52 (1) (b) or (c), or taxable services; and that has entered
15 into a performance agreement with the states that are signatories to the agreement,
16 as defined in s. 77.65 (2) (a). For purposes of this subsection, “seller” includes an
17 affiliated group of sellers using the same proprietary system to calculate the amount
18 of tax owed in each taxing jurisdiction in which the sellers sell tangible personal
19 property, items or property under s. 77.52 (1) (b) or (c), or taxable services.

20 **SECTION 286.** 77.65 (2) (a) of the statutes is amended to read:

21 77.65 (2) (a) “Agreement” means the streamlined sales and use tax agreement,
22 including amendments to the agreement.

23 **SECTION 287.** 77.65 (2) (c) of the statutes is repealed.

24 **SECTION 288.** 77.65 (2) (e) of the statutes is amended to read:

SENATE BILL 446

1 77.65 (2) (e) “Seller” means any person who sells, leases, or rents tangible
2 personal property, items or property under s. 77.52 (1) (b) or (c), or services.

3 **SECTION 289.** 77.65 (2) (f) of the statutes is amended to read:

4 77.65 (2) (f) “State” means any state of the United States ~~and~~, the District of
5 Columbia, and the Commonwealth of Puerto Rico.

6 **SECTION 290.** 77.65 (4) (fm) of the statutes is created to read:

7 77.65 (4) (fm) Provide that a seller who registers with the central electronic
8 registration system under par. (f) may cancel the registration at any time, as
9 provided under uniform procedures adopted by the governing board of the states that
10 are signatories to the agreement, but is required to remit any Wisconsin taxes
11 collected pursuant to the agreement to the department.

12 **SECTION 291.** 77.66 of the statutes is amended to read:

13 **77.66 Certification for collection of sales and use tax.** The secretary of
14 revenue shall determine and periodically certify to the secretary of administration
15 the names of persons, and affiliates, as defined in s. 16.70 (1b), of persons, who make
16 sales of tangible personal property, items or property under s. 77.52 (1) (b) and (c),
17 and taxable services that are subject to the taxes imposed under this subchapter but
18 who are not registered to collect and remit such taxes to the department or, if
19 registered, do not collect and remit such taxes.

20 **SECTION 292.** 77.67 of the statutes is created to read:

21 **77.67 Amnesty for new registrants. (1)** A seller is not liable for uncollected
22 and unpaid taxes, including penalties and interest, imposed under this subchapter
23 and subch. V on sales made to purchasers in this state before the seller registers
24 under par. (a), if all of the following apply:

SENATE BILL 446

1 (a) The seller registers with the department, in a manner that the department
2 prescribes, to collect and remit the taxes imposed under this subchapter and subch.
3 V on sales to purchasers in this state in accordance with the agreement, as defined
4 in s. 77.65 (2) (a).

5 (b) The seller registers under par. (a) no later than 365 days after the effective
6 date of this state's participation in the agreement under s. 77.65 (2) (a), as
7 determined by the department.

8 (c) The seller was not registered to collect and remit the taxes imposed under
9 this subchapter and subch. V during the 365 consecutive days immediately before
10 the effective date of this state's participation in the agreement under s. 77.65 (2) (a),
11 as determined by the department.

12 (d) The seller has not received a notice of the commencement of an audit from
13 the department or, if the seller has received a notice of the commencement of an audit
14 from the department, the audit has been fully resolved, including any related
15 administrative and judicial processes, at the time that the seller registers under par.
16 (a).

17 (e) The seller has not committed or been involved in a fraud or an intentional
18 misrepresentation of a material fact.

19 (f) The seller collects and remits the taxes imposed under this subchapter and
20 subch. V on sales to purchasers in this state for at least 3 consecutive years after the
21 date on which the seller's collection obligation begins

22 **(2)** Subsection (1) does not apply to taxes imposed under this subchapter and
23 subch. V that are due from the seller for purchases made by the seller.

24 **SECTION 293.** 77.70 of the statutes is amended to read:

SENATE BILL 446

1 **77.70 Adoption by county ordinance.** Any county desiring to impose county
2 sales and use taxes under this subchapter may do so by the adoption of an ordinance,
3 stating its purpose and referring to this subchapter. The county sales and use taxes
4 may be imposed only for the purpose of directly reducing the property tax levy and
5 only in their entirety as provided in this subchapter. That ordinance shall be
6 effective on the first day of January, the first day of April, the first day of July or the
7 first day of October. A certified copy of that ordinance shall be delivered to the
8 secretary of revenue at least 120 days prior to its effective date. The repeal of any
9 such ordinance shall be effective on December 31. A certified copy of a repeal
10 ordinance shall be delivered to the secretary of revenue at least ~~60~~ 120 days before
11 the effective date of the repeal.

12 **SECTION 294.** 77.705 of the statutes is amended to read:

13 **77.705 Adoption by resolution; baseball park district.** A local
14 professional baseball park district created under subch. III of ch. 229, by resolution
15 under s. 229.68 (15), may impose a sales tax and a use tax under this subchapter at
16 a rate of no more than 0.1% of the ~~gross receipts or sales price~~ or purchase price.
17 Those taxes may be imposed only in their entirety. The resolution shall be effective
18 on the first day of the first month January 1, April 1, July 1, or October 1 that begins
19 at least ~~30~~ 120 days after the adoption of the resolution. Any moneys transferred
20 from the appropriation account under s. 20.566 (1) (gd) to the appropriation account
21 under s. 20.835 (4) (gb) shall be used exclusively to retire the district's debt.

22 **SECTION 295.** 77.706 of the statutes is amended to read:

23 **77.706 Adoption by resolution; football stadium district.** A local
24 professional football stadium district created under subch. IV of ch. 229, by
25 resolution under s. 229.824 (15), may impose a sales tax and a use tax under this

SENATE BILL 446

1 subchapter at a rate of 0.5% of the ~~gross receipts or sales price~~ or purchase price.
2 Those taxes may be imposed only in their entirety. The imposition of the taxes under
3 this section shall be effective on the first day ~~of the first month~~ January 1, April 1,
4 July 1, or October 1 that begins at least 30 120 days after the certification of the
5 approval of the resolution by the electors in the district's jurisdiction under s. 229.824
6 (15). Any moneys transferred from the appropriation account under s. 20.566 (1) (ge)
7 to the appropriation account under s. 20.835 (4) (ge) shall be used exclusively to retire
8 the district's debt.

9 **SECTION 296.** 77.707 (1) of the statutes is amended to read:

10 77.707 (1) Retailers and the department of revenue may not collect a tax under
11 s. 77.705 for any local professional baseball park district created under subch. III of
12 ch. 229 after the last day of the calendar quarter ~~during~~ that is at least 120 days from
13 the date on which the local professional baseball park district board makes a
14 certification to the department of revenue under s. 229.685 (2), except that the
15 department of revenue may collect from retailers taxes that accrued before the day
16 after the last day of that calendar quarter and fees, interest and penalties that relate
17 to those taxes.

18 **SECTION 297.** 77.707 (2) of the statutes is amended to read:

19 77.707 (2) Retailers and the department of revenue may not collect a tax under
20 s. 77.706 for any local professional football stadium district created under subch. IV
21 of ch. 229 after the last day of the calendar quarter ~~during~~ that is at least 120 days
22 from the date on which the local professional football stadium district board makes
23 all of the certifications to the department of revenue under s. 229.825 (3), except that
24 the department of revenue may collect from retailers taxes that accrued before the

SENATE BILL 446

1 day after the last day of that calendar quarter and fees, interest and penalties that
2 relate to those taxes.

3 **SECTION 298.** 77.71 (1) of the statutes is amended to read:

4 77.71 (1) For the privilege of selling, licensing, leasing or renting tangible
5 personal property, and the property and items specified under s. 77.52 (1) (b) and (c),
6 and for the privilege of selling, licensing, performing or furnishing services a sales
7 tax is imposed upon retailers at the rate of 0.5% in the case of a county tax or at the
8 rate under s. 77.705 or 77.706 in the case of a special district tax of the ~~gross receipts~~
9 sales price from the sale, licensing, lease or rental of tangible personal property, and
10 the property and items specified under s. 77.52 (1) (b) and (c), except property taxed
11 under sub. (4), sold, licensed, leased or rented at retail in the county or special district
12 or from selling, licensing, performing or furnishing services described under s. 77.52
13 (2) in the county or special district.

14 **SECTION 299.** 77.71 (2) of the statutes is amended to read:

15 77.71 (2) An excise tax is imposed at the rate of 0.5% in the case of a county tax
16 or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the ~~sales~~
17 purchase price upon every person storing, using or otherwise consuming in the
18 county or special district tangible personal property, property and items specified
19 under s. 77.52 (1) (b) and (c), or services if the property, item, or service is subject to
20 the state use tax under s. 77.53, except that a receipt indicating that the tax under
21 sub. (1), (3) or (4) has been paid relieves the buyer of liability for the tax under this
22 subsection and except that if the buyer has paid a similar local tax in another state
23 on a purchase of the same property, item, or services that tax shall be credited against
24 the tax under this subsection and except that for motor vehicles that are used for a
25 purpose in addition to retention, demonstration or display while held for sale in the

SENATE BILL 446

1 regular course of business by a dealer the tax under this subsection is imposed not
2 on the sales purchase price but on the amount under s. 77.53 (1m).

3 **SECTION 300.** 77.71 (3) of the statutes is amended to read:

4 77.71 (3) An excise tax is imposed upon a contractor engaged in construction
5 activities within the county or special district, at the rate of 0.5% in the case of a
6 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax
7 of the sales purchase price of tangible personal property that is used in constructing,
8 altering, repairing or improving real property and that becomes a component part
9 of real property in that county or special district, except that if the contractor has
10 paid the sales tax of a county in the case of a county tax or of a special district in the
11 case of a special district tax in this state on that property, or has paid a similar local
12 sales tax in another state on a purchase of the same property, that tax shall be
13 credited against the tax under this subsection.

14 **SECTION 301.** 77.71 (4) of the statutes, as affected by 2007 Wisconsin Act 11,
15 is amended to read:

16 77.71 (4) An excise tax is imposed at the rate of 0.5 percent in the case of a
17 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax
18 of the sales purchase price upon every person storing, using or otherwise consuming
19 a motor vehicle, boat, ~~snowmobile~~, recreational vehicle, as defined in s. 340.01 (48r),
20 trailer, semitrailer, ~~all-terrain vehicle~~ or aircraft, if that property must be registered
21 or titled with this state and if that property is to be customarily kept in a county that
22 has in effect an ordinance under s. 77.70 or in a special district that has in effect a
23 resolution under s. 77.705 or 77.706, except that if the buyer has paid a similar local
24 sales tax in another state on a purchase of the same property that tax shall be
25 credited against the tax under this subsection.

SENATE BILL 446

1 **SECTION 302.** 77.72 (title) of the statutes is repealed.

2 **SECTION 303.** 77.72 (1) of the statutes is renumbered 77.72 and amended to
3 read:

4 **77.72 General rule for property.** For the purposes of this subchapter, all
5 retail sales of tangible personal property ~~are completed at the time when, and the~~
6 ~~place where, the seller or the seller's agent transfers possession to the buyer or the~~
7 ~~buyer's agent. In this subsection, a common carrier or the U.S. postal service is the~~
8 ~~agent of the seller, regardless of any f.o.b. point and regardless of the method by~~
9 ~~which freight or postage is paid. Rentals and leases of property, except property~~
10 ~~under sub. (2), have a situs at the location of that property, and property and items~~
11 ~~specified under s. 77.52 (1) (b) and (c), and taxable services occur as provided in s.~~
12 77.522.

13 **SECTION 304.** 77.72 (2) and (3) of the statutes are repealed.

14 **SECTION 305.** 77.73 (2) of the statutes is amended to read:

15 **77.73 (2)** Counties and special districts do not have jurisdiction to impose the
16 tax under s. 77.71 (2) in regard to items and property under s. 77.52 (1) (b) and (c)
17 and tangible personal property, except snowmobiles, trailers, semitrailers, and
18 all-terrain vehicles, purchased in a sale that is consummated in another county or
19 special district in this state that does not have in effect an ordinance or resolution
20 imposing the taxes under this subchapter and later brought by the buyer into the
21 county or special district that has imposed a tax under s. 77.71 (2).

22 **SECTION 306.** 77.73 (3) of the statutes is created to read:

23 **77.73 (3)** Counties and special districts have jurisdiction to impose the taxes
24 under this subchapter on retailers who file an application under s. 77.52 (7) or who
25 register under s. 77.53 (9) or (9m), regardless of whether such retailers are engaged

SENATE BILL 446

1 in business in the county or special district, as provided in s. 77.51 (13g). A retailer
2 who files an application under s. 77.52 (7) or who registers under s. 77.53 (9) or (9m)
3 shall collect, report, and remit to the department the taxes imposed under this
4 subchapter for all counties and special districts that have an ordinance or resolution
5 imposing the taxes under this subchapter.

6 **SECTION 307.** 77.75 of the statutes is amended to read:

7 **77.75 Reports.** Every person subject to county or special district sales and use
8 taxes shall, for each reporting period, record that person's sales made in the county
9 or special district that has imposed those taxes separately from sales made
10 elsewhere in this state and file a report of the measure of the county or special district
11 sales and use taxes and the tax due thereon separately as prescribed by the
12 department of revenue.

13 **SECTION 308.** 77.77 (1) of the statutes is renumbered 77.77 (1) (a) and amended
14 to read:

15 **77.77 (1) (a)** The gross receipts sales price from services subject to the tax under
16 s. 77.52 (2) are not or the lease, rental, or license of tangible personal property, and
17 property and items specified under s. 77.52 (1) (b) and (c), is subject to the taxes under
18 this subchapter, and the incremental amount of tax caused by a rate increase
19 applicable to those services, leases, rentals, or licenses is not due, if those services
20 are billed to the customer and paid for before beginning with the first billing period
21 starting on or after the effective date of the county ordinance, special district
22 resolution, or rate increase, regardless of whether the service is furnished or the
23 property or item is leased, rented, or licensed to the customer before or after that
24 date.

25 **SECTION 309.** 77.77 (1) (b) of the statutes is created to read:

SENATE BILL 446

1 77.77 (1) (b) The sales price from services subject to the tax under s. 77.52 (2)
2 or the lease, rental, or license of tangible personal property, and property and items
3 specified under s. 77.52 (1) (b) and (c), is not subject to the taxes under this
4 subchapter, and a decrease in the tax rate imposed under this subchapter on those
5 services first applies, beginning with bills rendered on or after the effective date of
6 the repeal or sunset of a county ordinance or special district resolution imposing the
7 tax or other rate decrease, regardless of whether the service is furnished or the
8 property or item is leased, rented, or licensed to the customer before or after that
9 date.

10 **SECTION 310.** 77.77 (2) of the statutes is repealed.

11 **SECTION 311.** 77.785 (1) of the statutes is amended to read:

12 77.785 (1) All retailers shall collect and report the taxes under this subchapter
13 on the ~~gross receipts~~ sales price from leases and rentals of property or items and
14 property under s. 77.52 (1) (b) and (c) under s. 77.71 (4).

15 **SECTION 312.** 77.785 (2) of the statutes, as affected by 2007 Wisconsin Act 11,
16 is amended to read:

17 77.785 (2) Prior to registration or titling, a retailer of a boat, all-terrain vehicle,
18 trailer and semi-trailer dealers and licensed aircraft, motor vehicle, manufactured
19 home, as defined in s. 101.91 (2), or recreational vehicle, as defined in s. 340.01 (48r),
20 and snowmobile dealers shall collect the taxes under this subchapter on sales of
21 items under s. 77.71 (4). The ~~dealer~~ retailer shall remit those taxes to the
22 department of revenue along with payments of the taxes under subch. III.

23 **SECTION 313.** 77.98 of the statutes is amended to read:

24 **77.98 Imposition.** A local exposition district under subch. II of ch. 229 may
25 impose a tax on the retail sale, except sales for resale, within the district's

SENATE BILL 446

1 jurisdiction under s. 229.43 of products that are subject to a tax under s. 77.54 (20)
2 (c) 1. to 3. and not candy, as defined in s. 77.51 (1fm), prepared food, as defined in s.
3 77.51 (10m), and soft drinks, as defined in s. 77.51 (17w), unless exempt from the
4 sales tax under s. 77.54 (1), (4), (7) (a), (7m), (9), (9a) or (20) (c) 5., (20n) (b) and (c),
5 and (20r).

6 **SECTION 314.** 77.981 of the statutes is amended to read:

7 **77.981 Rate.** The tax under s. 77.98 is imposed on the sale of taxable products
8 at the rate of 0.25% of the ~~gross receipts~~ sales price, except that the district, by a vote
9 of a majority of the authorized members of its board of directors, may impose the tax
10 at the rate of 0.5% of the ~~gross receipts~~ sales price. A majority of the authorized
11 members of the district's board may vote that, if the balance in a special debt service
12 reserve fund of the district is less than the requirement under s. 229.50 (5), the tax
13 rate under this subchapter is 0.5%. The 0.5% rate shall be effective on the next
14 January 1, April 1, July 1 or October 1, and this tax is irrevocable if any bonds issued
15 by the district and secured by the special debt service reserve fund are outstanding.

16 **SECTION 315.** 77.982 (2) of the statutes, as affected by 2007 Wisconsin Act 20,
17 is repealed and recreated to read:

18 77.982 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3), (4),
19 (13), (14), (18), and (19), 77.53 (1b), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60,
20 77.61 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under
21 subch. III, apply to the tax under this subchapter. Section 77.73, as it applies to the
22 taxes under subch. V, applies to the tax under this subchapter.

23 **SECTION 316.** 77.99 of the statutes is amended to read:

24 **77.99 Imposition.** A local exposition district under subch. II of ch. 229 may
25 impose a tax at the rate of 3% of the ~~gross receipts~~ sales price on the rental, but not

SENATE BILL 446

1 for rental and not for rental as a service or repair replacement vehicle, within the
2 district's jurisdiction under s. 229.43, of Type 1 automobiles, as defined in s. 340.01
3 (4) (a), by establishments primarily engaged in short-term rental of passenger cars
4 without drivers, for a period of 30 days or less, unless the sale is exempt from the sales
5 tax under s. 77.54 (1), (4), (7) (a), (7m), (9) or (9a). If the state makes a payment under
6 s. 229.50 (7) to a district's special debt service reserve fund, a majority of the district's
7 authorized board of directors may vote to increase the tax rate under this subchapter
8 to 4%. A resolution to adopt the taxes imposed under this section, or an increase in
9 the tax rate, shall be effective on the first January 1, April 1, July 1, or October 1
10 following the adoption of the resolution or tax increase.

11 **SECTION 317.** 77.991 (2) of the statutes is amended to read:

12 77.991 (2) Sections 77.51 (4) (a), (b) 1., 2., and 4., (c) 1. to 3. and (d) and (14) (a)
13 to (f), (j) and (k), 77.52 (1b), (4), (6), (13), (14), and (18), 77.53 (1b), 77.58 (1) to (5) and
14 (7), 77.59, 77.60, 77.61 (2), (5), (8), (9), and (12) to (14) and 77.62, as they apply to the
15 taxes under subch. III, apply to the tax under this subchapter. Sections 77.72 (1) and
16 (2) (a) and 77.73, as they apply to the taxes under subch. V, apply to the tax under
17 this subchapter. The renter shall collect the tax under this subchapter from the
18 person to whom the passenger car is rented.

19 **SECTION 318.** 77.994 (1) (intro.) of the statutes is amended to read:

20 77.994 (1) (intro.) Except as provided in sub. (2), a municipality or a county all
21 of which is included in a premier resort area under s. 66.1113 may, by ordinance,
22 impose a tax at a rate of 0.5% of the ~~gross receipts~~ sales price from the sale, license,
23 lease, or rental in the municipality or county of goods or services that are taxable
24 under subch. III made by businesses that are classified in the standard industrial

SENATE BILL 446

1 classification manual, 1987 edition, published by the U.S. office of management and
2 budget, under the following industry numbers:

3 **SECTION 319.** 77.9941 (4) of the statutes is amended to read:

4 77.9941 (4) Sections 77.72 (1), (2) (a) and (3) (a), 77.73, 77.74, 77.75, 77.76 (1),
5 (2), and (4), 77.77 (1) and (2), 77.785 (1), and 77.79, as they apply to the taxes under
6 subch. V, apply to the tax under this subchapter.

7 **SECTION 320.** 77.995 (2) of the statutes, as affected by 2007 Wisconsin Act 11,
8 is amended to read:

9 77.995 (2) There is imposed a fee at the rate of 5 percent of the ~~gross receipts~~
10 sales price on the rental, but not for rental and not for rental as a service or repair
11 replacement vehicle of Type 1 automobiles, as defined in s. 340.01 (4) (a); of
12 recreational vehicles, as defined in s. 340.01 (48r); of motor homes, as defined in s.
13 340.01 (33m); and of camping trailers, as defined in s. 340.01 (6m) by establishments
14 primarily engaged in short-term rental of vehicles without drivers, for a period of 30
15 days or less, unless the sale is exempt from the sales tax under s. 77.54 (1), (4), (7)
16 (a), (7m) or (9a). There is also imposed a fee at the rate of 5 percent of the ~~gross~~
17 receipts sales price on the rental of limousines.

18 **SECTION 321.** 77.9951 (2) of the statutes, as affected by 2007 Wisconsin Act 20,
19 is repealed and recreated to read:

20 77.9951 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3),
21 (4), (13), (14), (18), and (19), 77.53 (1b), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59,
22 77.60, 77.61 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes
23 under subch. III, apply to the fee under this subchapter. The renter shall collect the
24 fee under this subchapter from the person to whom the vehicle is rented.

25 **SECTION 322.** 77.996 (6) of the statutes is amended to read:

SENATE BILL 446

1 77.996 (6) “Gross receipts” ~~has the meaning given in s. 77.51 (4) (a), (b) 1. and~~
2 ~~5., (c) 1. to 4., and (d) means the sales price, as defined in s. 77.51 (15b), of tangible~~
3 ~~personal property and taxable services sold by a dry cleaning facility.~~ “Gross
4 receipts” does not include the license fee imposed under s. 77.9961 (1m) that is passed
5 on to customers.

6 **SECTION 323.** 77.9972 (2) of the statutes, as affected by 2007 Wisconsin Act 20,
7 is repealed and recreated to read:

8 77.9972 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3),
9 (4), (13), (14), (18), and (19), 77.53 (1b), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59,
10 77.60, 77.61 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes
11 under subch. III, apply to the fee under this subchapter. Section 77.73, as it applies
12 to the taxes under subch. V, applies to the fee under this subchapter. The renter shall
13 collect the fee under this subchapter from the person to whom the passenger car is
14 rented.

15 **SECTION 324.** 86.195 (3) (b) 3. of the statutes is amended to read:

16 86.195 (3) (b) 3. Fifty percent of the ~~gross receipts~~ sales price, as defined in s.
17 ~~77.51 (15b), of the business are from meal, food, the sale of food product and beverage~~
18 ~~sales and food ingredients, as defined in s. 77.51 (3t), that are taxable under s. 77.54~~
19 ~~(20) (c) subch. III of ch. 77; and~~

20 **SECTION 325.** 218.0171 (2) (cq) of the statutes is amended to read:

21 218.0171 (2) (cq) Upon payment of a refund to a consumer under par. (b) 2. b.,
22 the manufacturer shall provide to the consumer a written statement that specifies
23 the trade-in amount previously applied under s. 77.51 (4) (b) 3. ~~or 3m. or (15) (b) 4.~~
24 ~~or 4m. (12m) (b) 5. or 6. or (15b) (b) 5. or 6.~~ toward the sales price of the motor vehicle

SENATE BILL 446

1 having the nonconformity and the date on which the manufacturer provided the
2 refund.

3 **SECTION 326.** 229.68 (15) of the statutes is amended to read:

4 229.68 (15) Impose, by the adoption of a resolution, the taxes under subch. V
5 of ch. 77. A district may not levy any taxes that are not expressly authorized under
6 subch. V of ch. 77 and that do not receive the affirmative vote of a supermajority of
7 the district board. If a district adopts a resolution which imposes taxes, it shall
8 deliver a certified copy of the resolution to the secretary of revenue at least ~~30~~ 120
9 days before its effective date.

10 **SECTION 327.** 229.824 (15) of the statutes is amended to read:

11 229.824 (15) Impose, by the adoption of a resolution, the taxes under subch. V
12 of ch. 77, except that the taxes imposed by the resolution may not take effect until
13 the resolution is approved by a majority of the electors in the district's jurisdiction
14 voting on the resolution at a referendum, to be held at the first spring primary or
15 September primary following by at least 45 days the date of adoption of the
16 resolution. Two questions shall appear on the ballot. The first question shall be:
17 "Shall a sales tax and a use tax be imposed at the rate of 0.5% in County for
18 purposes related to football stadium facilities in the Professional Football
19 Stadium District?" The 2nd question shall be: "Shall excess revenues from the 0.5%
20 sales tax and use tax be permitted to be used for property tax relief purposes in
21 County?" Approval of the first question constitutes approval of the resolution of the
22 district board. Approval of the 2nd question is not effective unless the first question
23 is approved. The clerk of the district shall publish the notices required under s. 10.06
24 (4) (c), (f) and (i) for any referendum held under this subsection. Notwithstanding
25 s. 10.06 (4) (c), the type A notice under s. 10.01 (2) (a) relating to the referendum is

SENATE BILL 446

1 valid even if given and published late as long as it is given and published prior to the
2 election as early as practicable. A district may not levy any taxes that are not
3 expressly authorized under subch. V of ch. 77. The district may not levy any taxes
4 until the professional football team and the governing body of the municipality in
5 which the football stadium facilities are located agree on how to fund the
6 maintenance of the football stadium facilities. The district may not levy any taxes
7 until the professional football team and the governing body of the municipality in
8 which the football stadium facilities are located agree on how to distribute the
9 proceeds, if any, from the sale of naming rights related to the football stadium
10 facilities. If a district board adopts a resolution that imposes taxes and the resolution
11 is approved by the electors, the district shall deliver a certified copy of the resolution
12 to the secretary of revenue at least 30 120 days before its effective date. If a district
13 board adopts a resolution that imposes taxes and the resolution is not approved by
14 the electors, the district is dissolved.

SECTION 328. Effective date.

(1) This act takes effect on January 1, 2010.

(END)