



State of Wisconsin
2007 - 2008 LEGISLATURE

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stays RM

2007 BILL

in 1-30-08

due Fri - 2-1

reger

VH

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)

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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.,

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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 (1a), 77.51 (1b),
3 77.51 (1ba), 77.51 (1f), 77.51 (1fm), 77.51 (1n), 77.51 (1p), 77.51 (1r), 77.51 (2k),
4 77.51 (2m), 77.51 (3c), 77.51 (3n), 77.51 (3p), 77.51 (3pa), 77.51 (3pb), 77.51
5 (3pc), 77.51 (3pd), 77.51 (3pe), 77.51 (3pf), 77.51 (3pj), 77.51 (3pm), 77.51 (3pn),
6 77.51 (3po), 77.51 (3pq), 77.51 (3rm), 77.51 (3t), 77.51 (5d), 77.51 (5n), 77.51
7 (5r), 77.51 (7g), 77.51 (7k), 77.51 (7m), 77.51 (8m), 77.51 (9p), 77.51 (9s), 77.51
8 (10d), 77.51 (10f), 77.51 (10m), 77.51 (10n), 77.51 (10r), 77.51 (10s), 77.51 (11d),
9 77.51 (11m), 77.51 (12m), 77.51 (12p), 77.51 (13g) (c), 77.51 (13rm), 77.51 (13rn),
10 77.51 (15a), 77.51 (15b), 77.51 (17w), 77.51 (17x), 77.51 (21n), 77.51 (21p), 77.51
11 (21q), 77.51 (22) (bm), 77.51 (24), 77.51 (25), 77.51 (26), 77.52 (1) (b), 77.52 (1)
12 (c), 77.52 (1) (d), 77.52 (2) (a) 5. am., 77.52 (2) (a) 5. c., 77.52 (2) (a) 13m., 77.52
13 (7b), 77.52 (14) (am), 77.52 (20), 77.52 (21), 77.52 (22), 77.52 (23), 77.522, 77.524
14 (1) (ag), 77.53 (9m) (b), 77.53 (9m) (c), 77.53 (11) (b), 77.54 (20n), 77.54 (20r),
15 77.54 (22b), 77.54 (50), 77.54 (51), 77.54 (52), 77.58 (6m), 77.58 (9a), 77.585,
16 77.59 (2m), 77.59 (9n), 77.59 (9p) (b), 77.59 (9r), 77.60 (13), 77.61 (2) (b), 77.61
17 (3m), 77.61 (5m), 77.61 (16), 77.61 (17), 77.65 (4) (fm), 77.67, 77.73 (3) and 77.77
18 (1) (b) of the statutes; **relating to:** the streamlined sales and use tax
19 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

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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).

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

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1 card, in payment for the ~~soda water beverages, food or beverages~~ food and food
2 ingredient, as defined in s. 77.51 (3t).

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

4 71.07 (5e) (b) *Filing claims.* Subject to the limitations provided in this
5 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
6 taxable year following the taxable year in which the claimant claims ~~an exemption~~
7 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
8 the taxes imposed under ss. 71.02 and 71.08, up to the amount of those taxes, in each
9 taxable year for 2 years, the amount certified by the department of commerce that
10 resulted from the claimant claimed as an exemption claiming a deduction under s.
11 ~~77.54 (48)~~ 77.585 (9).

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

13 71.07 (5e) (c) 1. No credit may be allowed under this subsection unless the
14 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

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

16 71.07 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
17 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
18 by all claimants under this subsection and ss. 71.28 (5e), 71.47 (5e), and ~~77.54 (48)~~
19 77.585 (9) is \$7,500,000, as determined by the department of commerce.

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

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

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1 year for 2 years, the amount certified by the department of commerce that resulted
2 from the claimant claimed as an exemption claiming a deduction under s. ~~77.54 (48)~~
3 77.585 (9).

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

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

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

8 71.28 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
9 use tax resulting from the deductions claimed under s. ~~77.585 (9)~~ that may be claimed
10 by all claimants under this subsection and ss. 71.07 (5e), 71.47 (5e), and ~~77.54 (48)~~
11 77.585 (9) is \$7,500,000, as determined by the department of commerce.

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

13 71.47 (5e) (b) *Filing claims.* Subject to the limitations provided in this
14 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
15 taxable year following the taxable year in which the claimant claims ~~an exemption~~
16 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
17 the taxes imposed under s. 71.43, up to the amount of those taxes, in each taxable
18 year for 2 years, the amount certified by the department of commerce that resulted
19 from the claimant claimed as an exemption claiming a deduction under s. ~~77.54 (48)~~
20 77.585 (9).

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

22 71.47 (5e) (c) 1. No credit may be allowed under this subsection unless the
23 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

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

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1 71.47 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
2 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
3 by all claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and ~~77.54 (48)~~
4 77.585 (9) is \$7,500,000, as determined by the department of commerce.

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

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

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

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

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

24 73.03 (50b) To waive the fee established under sub. (50) for applying for and
25 renewing the business tax registration certificate, if the person who is applying for

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1 or renewing the certificate is not required for purposes of ch. 77 to hold such a
2 certificate.

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

4 73.03 (61) To do all of the following related to the Uniform Sales and Use Tax
5 Administration Act:

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

7 (b) Pursuant to the agreement, as defined in s. 77.65 (2) (a), certify certified
8 service providers, as defined in s. 77.51 (1g), and certified automated systems, as
9 defined in s. 77.524 (1) (am).

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

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

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

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

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

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

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

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

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

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

9 **SECTION 20.** 77.51 (1a) of the statutes is created to read:
10 77.51 (1a) "Additional digital goods" means video greeting cards sent by
11 electronic mail, finished artwork, periodicals, and video or electronic games. For
12 purposes of this subchapter, the sale of or the storage, use, or other consumption of
13 a digital code is treated the same as the sale of or the storage, use, or other
14 consumption of any additional digital goods for which the digital code relates,

15 **SECTION 21.** 77.51 (1b) of the statutes is created to read:
16 77.51 (1b) "Alcoholic beverage" means a beverage that is suitable for human
17 consumption and that contains 0.5 percent or more of alcohol by volume.

18 **SECTION 22.** 77.51 (1ba) of the statutes is created to read:
19 77.51 (1ba) "Ancillary services" means services that are associated with or
20 incidental to providing telecommunications services, including detailed
21 telecommunications billing, directory assistance, vertical service, and voice mail
22 services, but not including specified digital goods.

23 **SECTION 23.** 77.51 (1f) of the statutes is created to read:
24 77.51 (1f) "Bundled transaction" means the retail sale of 2 or more products,
25 not including real property and services to real property, if the products are distinct

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1 and identifiable products and sold for one nonitemized price. "Bundled transaction"
2 does not include any of the following:

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

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

8 2. The retail sale of a service and specified digital goods or additional digital
9 goods, if such goods are essential to the use of the service, and provided exclusively
10 in connection with the service, and if the true object of the transaction is the service.

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

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

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

24 (e) The retail sale of taxable tangible personal property or items or property
25 under s. 77.52 (1) (b) or (c) and tangible personal property or items or property under

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1 s. 77.52 (1) (b) or (c) that is exempt from the taxes imposed under this subchapter,
2 if the transaction includes food and food ingredients, drugs, durable medical
3 equipment, mobility-enhancing equipment, prosthetic devices, or medical supplies
4 and if the seller's purchase price or the sales price of the taxable tangible personal
5 property or items or property under s. 77.52 (1) (b) or (c) is no greater than 50 percent
6 of the seller's total purchase price or sales price of all the tangible personal property
7 or items or property under s. 77.52 (1) (b) or (c) included in what would otherwise be
8 a bundled transaction, as determined by the seller using either the seller's purchase
9 price or the sales price, but not a combination of both.

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

11 77.51 (1fm) "Candy" means a preparation of sugar, honey, or other natural or
12 artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or
13 flavorings in the form of bars, drops, or pieces. "Candy" does not include a
14 preparation that contains flour or that requires refrigeration.

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

16 77.51 (1n) "Computer" means an electronic device that accepts information in
17 digital or similar form and that manipulates such information to achieve a result
18 based on a sequence of instructions.

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

20 77.51 (1p) "Computer software" means a set of coded instructions designed to
21 cause a computer or automatic data processing equipment to perform a task.

22 "Computer software" does not include specified digital goods.

23 **SECTION 27.** 77.51 (1r) of the statutes is created to read:

24 77.51 (1r) "Conference bridging service" means an ancillary service that links
25 2 or more participants of an audio or video conference call and may include providing

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1 a telephone number, but does not include the telecommunications services used to
2 reach the conference bridge.

3 **SECTION 28.** 77.51 (2k) of the statutes is created to read:

4 77.51 (2k) “Delivered electronically” means delivered to a purchaser by means
5 other than by tangible storage media.

6 **SECTION 29.** 77.51 (2m) of the statutes is created to read:

7 77.51 (2m) “Delivery charges” means charges by a seller to prepare and deliver
8 tangible personal property or services to a location designated by the purchaser of
9 the tangible personal property or services, including charges for transportation,
10 shipping, postage, handling, crating, and packing.

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

12 77.51 (3c) “Detailed telecommunications billing service” means an ancillary
13 service that separately indicates information pertaining to individual calls on a
14 customer’s billing statement.

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

16 77.51 (3n) “Dietary supplement” means a product, other than tobacco, that is
17 intended to supplement a person’s diet, if all of the following apply:

18 (a) The product contains any of the following ingredients or any combination
19 of any of the following ingredients:

20 1. A vitamin.

21 2. A mineral.

22 3. An herb or other botanical.

23 4. An amino acid.

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

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

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

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

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

9 77.51 (3p) "Digital audio works" means works that result from the fixation of
10 a series of musical, spoken, or other sounds that are transferred electronically,
11 including prerecorded or live music, prerecorded or live readings of books or other
12 written materials, prerecorded or live speeches, or ringtones, but not including audio
13 greeting cards sent by electronic mail.

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

15 77.51 (3pa) "Digital audiovisual works" means a series of related images that,
16 when shown in succession, impart an impression of motion, along with
17 accompanying sounds, if any, that are transferred electronically. "Digital
18 audiovisual works" includes motion pictures, musical videos, news programs, and
19 live events, but does not include video greeting cards sent by electronic mail or video
20 or electronic games.

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

22 77.51 (3pb) "Digital books" means works that are generally recognized as
23 books and are transferred electronically. "Digital books" includes novels, nonfiction
24 works, and short stories, but does not include newspapers, periodicals, chat room
25 discussions, or blogs.

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

2 77.51 (3pc) "Digital code" means a code that provides the person who holds the
3 code a right to obtain an additional digital good, a digital audiovisual work, digital
4 audio work, or digital book and that may be obtained by any means, including
5 tangible forms and electronic mail, regardless of whether the code is designated as
6 song code, video code, or book code. "Digital code" includes codes used to access or
7 obtain any specified digital goods, or any additional digital goods that have been
8 previously purchased, and promotion cards or codes that are purchased by a retailer
9 or other business entity for use by the retailer's or entity's customers. "Digital code"
10 does not include the following:

11 1. A code that represents any redeemable card, gift card, or gift certificate that
12 entitles the holder of such card or certificate to select any specified digital goods or
13 additional digital goods at the cash value indicated by the card or certificate.

14 2. Digital cash that represents a monetary value that a customer may use to
15 pay for a future purchase.

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

17 77.51 (3pd) "Direct mail" means printed material that is delivered by the U.S.
18 postal service or other delivery service to a mass audience or to addressees on a
19 mailing list provided by or at the direction of the purchaser of the printed material,
20 if the cost of the printed material or any tangible personal property or items or
21 property under s. 77.52 (1) (b) or (c) included with the printed material is not billed
22 directly to the recipients of the printed material. "Direct mail" includes any tangible
23 personal property or items or property under s. 77.52 (1) (b) or (c) provided directly
24 or indirectly by the purchaser of the printed material to the seller of the printed
25 material for inclusion in any package containing the printed material, including

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1 billing invoices, return envelopes, and additional marketing materials. "Direct mail"
2 does not include multiple items of printed material delivered to a single address.

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

4 77.51 (3pe) "Directory assistance" means an ancillary service that provides
5 telephone numbers or addresses.

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

7 77.51 (3pf) "Distinct and identifiable product" does not include any of the
8 following:

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

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

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

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

18 77.51 (3pj) "Drug" means a compound, substance, or preparation, or any
19 component of them, other than food and food ingredients, dietary supplements, or
20 alcoholic beverages, to which any of the following applies:

21 (a) It is listed in the United States Pharmacopoeia, Homeopathic
22 Pharmacopoeia of the United States, or National Formulary, or any supplement to
23 any of them.

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

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

2 **SECTION 40.** 77.51 (3pm) of the statutes is created to read:

3 77.51 (3pm) "Durable medical equipment" means equipment, including the
4 repair parts and replacement parts for the equipment that is primarily and
5 customarily used for a medical purpose related to a person; that can withstand
6 repeated use; that is not generally useful to a person who is not ill or injured; and that
7 is not placed in or worn on the body. "Durable medical equipment" does not include
8 mobility-enhancing equipment.

9 **SECTION 41.** 77.51 (3pn) of the statutes is created to read:

10 77.51 (3pn) "Eight hundred service" means a telecommunications service that
11 allows a caller to dial a toll-free number without incurring a charge for the call and
12 is marketed under "800," "855," "866," "877," or "888" toll-free calling, or any other
13 number designated as toll-free by the federal communications commission.

14 **SECTION 42.** 77.51 (3po) of the statutes is created to read:

15 77.51 (3po) "Electronic" means relating to technology having electrical, digital,
16 magnetic, wireless, optical, electromagnetic, or similar capabilities.

17 **SECTION 43.** 77.51 (3pq) of the statutes is created to read:

18 77.51 (3pq) "Finished artwork" means the final art used for actual
19 reproduction by photomechanical or other processes or for display purposes.
20 "Finished artwork" also includes all of the following items regardless of whether such
21 items are reproduced:

- 22 (a) Drawings.
- 23 (b) Paintings.
- 24 (c) Designs.
- 25 (d) Photographs.

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- (e) Lettering.
- (f) Paste-ups.
- (g) Mechanicals.
- (h) Assemblies.
- (i) Charts.
- (j) Graphs.
- (k) Illustrative materials.

SECTION 44. 77.51 (3rm) of the statutes is created to read:

77.51 (3rm) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

SECTION 45. 77.51 (3t) of the statutes is created to read:

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

SECTION 46. 77.51 (4) of the statutes, as affected by 2007 Wisconsin Acts 11 and 20, is repealed.

SECTION 47. 77.51 (5) of the statutes is amended to read:

77.51 (5) For purposes of subs. (13) (e) and (f) and ~~(14) (L)~~ (15a) and s. 77.52 (2m), "incidental" means depending upon or appertaining to something else as primary; something necessary, appertaining to, or depending upon another which is termed the principal; something incidental to the main purpose of the service.

Tangible personal property ~~items~~ or property under s. 77.52 (1) (b) or (c) specified digital goods, or additional digital goods transferred by a service provider is incidental to the service if the purchaser's main purpose or objective is to obtain the

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service rather than the property or ~~goods~~ ^{items}, even though the property or ~~goods~~ ^e may be necessary or essential to providing the service.

3

SECTION 48. 77.51 (5d) of the statutes is created to read:

4

77.51 (5d) "International telecommunications services" means

5

telecommunications services that originate or terminate in the United States,

6

including the District of Columbia and any U.S. territory or possession and originate

7

or terminate outside of the United States, including the District of Columbia and any

8

U.S. territory or possession.

9

SECTION 49. 77.51 (5n) of the statutes is created to read:

10

77.51 (5n) "Interstate telecommunications services" means

11

telecommunications services that originate in one state or U.S. territory or

12

possession and terminate in a different state or U.S. territory or possession.

13

SECTION 50. 77.51 (5r) of the statutes is created to read:

14

77.51 (5r) "Intrastate telecommunications services" means

15

telecommunications services that originate in one state or U.S. territory or

16

possession and terminate in the same state or U.S. territory or possession.

17

SECTION 51. 77.51 (6m) of the statutes is renumbered 77.51 (5m).

18

SECTION 52. 77.51 (7) of the statutes is repealed and recreated to read:

19

77.51 (7) (a) "Lease or rental" means any transfer of possession or control of

20

tangible personal property for a fixed or indeterminate term and for consideration

21

and includes:

22

1. A transfer that includes future options to purchase or extend.

23

2. Agreements related to the transfer of possession or control of motor vehicles

24

or trailers, if the amount of any consideration may be increased or decreased by

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

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

4 1. A transfer of possession or control of tangible personal property under a
5 security agreement or deferred payment plan, if such agreement or plan requires
6 transferring title to the tangible personal property after making all required
7 payments.

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

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

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

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

24 **SECTION 53.** 77.51 (7g) of the statutes is created to read:

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1 77.51 (7g) "Load-and-leave" means delivery to a purchaser by using a tangible
2 storage media that is not physically transferred to the purchaser.

3 **SECTION 54.** 77.51 (7k) of the statutes is created to read:

4 77.51 (7k) "Mobile wireless service" means a telecommunications service for
5 which the origination or termination points of the service's transmission,
6 conveyance, or routing are not fixed, regardless of the technology used to transmit,
7 convey, or route the service. "Mobile wireless service" includes a telecommunications
8 service provided by a commercial mobile radio service provider.

9 **SECTION 55.** 77.51 (7m) of the statutes is created to read:

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

18 **SECTION 56.** 77.51 (8m) of the statutes is created to read:

19 77.51 (8m) "Nine hundred service" means an inbound toll telecommunications
20 service purchased by a subscriber that allows the subscriber's customers to call the
21 subscriber's prerecorded announcement or live service. "Nine hundred service" does
22 not include any charge for collection services provided by the seller of the
23 telecommunications services to the subscriber or for any product or service the
24 subscriber sells to the subscriber's customers. A "nine hundred service" is

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1 designated with the "900" number or any other number designated by the federal
2 communications commission.

3 **SECTION 57.** 77.51 (9) (a) of the statutes is amended to read:

4 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, items or
5 property under s. 77.52 (1) (b) or (c), specified digital goods, additional digital goods,

6 or taxable services where the infrequency, in relation to the other circumstances,

7 including the sales price and the gross profit, support the inference that the seller

8 is not pursuing a vocation, occupation or business or a partial vocation or occupation

9 or part-time business as a vendor of personal property, items or property under s.

10 77.52 (1) (b) or (c), specified digital goods, additional digital goods, or taxable

11 services. No sale of any tangible personal property, items or property under s. 77.52

12 (1) (b) or (c), specified digital goods, additional digital goods, or taxable service may

13 be deemed an occasional sale if at the time of such sale the seller holds or is required

14 to hold a seller's permit, except that this provision does not apply to an organization

15 required to hold a seller's permit solely for the purpose of conducting bingo games

16 and except as provided in par. (am).

17 **SECTION 58.** 77.51 (9) (am) of the statutes is amended to read:

18 77.51 (9) (am) The sale of personal property, other than inventory held for sale,

19 previously used by a seller to conduct its trade or business at a location after that

20 person has ceased actively operating in the regular course of business as a seller of

21 tangible personal property, items or property under s. 77.52 (1) (b) or (c), specified

22 digital goods, additional digital goods, or taxable services at that location, even

23 though the seller holds a seller's permit for one or more other locations.

24 **SECTION 59.** 77.51 (9p) of the statutes is created to read:

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1 77.51 (9p) "One nonitemized price" does not include a price that is separately
2 identified by product on a binding sales document, or other sales-related document,
3 that is made available to the customer in paper or electronic form, including an
4 invoice, a bill of sale, a receipt, a contract, a service agreement, a lease agreement,
5 a periodic notice of rates and services, a rate card, or a price list.

6 **SECTION 60.** 77.51 (9s) of the statutes is created to read:

7 77.51 (9s) "Paging service" means a telecommunications service that transmits
8 coded radio signals to activate specific pagers and may include messages or sounds.

9 **SECTION 61.** 77.51 (10) of the statutes is amended to read:

10 77.51 (10) "Person" includes any natural person, firm, partnership, limited
11 liability company, joint venture, joint stock company, association, public or private
12 corporation, the United States, the state, including any unit or division of the state,
13 any county, city, village, town, municipal utility, municipal power district or other
14 governmental unit, cooperative, unincorporated cooperative association, estate,
15 trust, receiver, personal representative, any other fiduciary, any other legal entity,
16 and any representative appointed by order of any court or otherwise acting on behalf
17 of others. "Person" also includes the owner of a single-owner entity that is
18 disregarded as a separate entity under ch. 71.

19 **SECTION 62.** 77.51 (10d) of the statutes is created to read:

20 77.51 (10d) "Prepaid calling service" means the right to exclusively access
21 telecommunications services, if that right is paid for in advance of providing such
22 services, requires using an access number or authorization code to originate calls,
23 and is sold in predetermined units or dollars that decrease with use in a known
24 amount.

25 **SECTION 63.** 77.51 (10f) of the statutes is created to read:

BILL**SECTION 63**

1 77.51 (10f) "Prepaid wireless calling service" means a telecommunications
2 service that provides the right to utilize mobile wireless service as well as other
3 nontelecommunications services, including the download of digital products
4 delivered electronically, content, and ancillary services, and that is paid for prior to
5 use and sold in predetermined dollar units whereby the number of units declines
6 with use in a known amount.

7 **SECTION 64.** 77.51 (10m) of the statutes is created to read:

8 77.51 (10m) (a) "Prepared food" means:

9 1. Food and food ingredients sold in a heated state.

10 2. Food and food ingredients heated by the retailer, except as provided in par.

11 (b).

12 3. Food and food ingredients sold with eating utensils that are provided by the
13 retailer of the food and food ingredients, including plates, knives, forks, spoons,
14 glasses, cups, napkins, or straws. In this subdivision, "plate" does not include a
15 container or packaging used to transport food and food ingredients. For purposes of
16 this subdivision, a retailer provides utensils if any of the following applies:

17 a. The utensils are available to purchasers and the retailer's sales of prepared
18 food under subs. 1. and 2., soft drinks, and alcoholic beverages at an establishment
19 are more than 75 percent of the retailer's total sales at that establishment, as
20 determined under par. (c).

21 b. For retailers not described under subd. 3. a., the retailer's customary practice
22 is to physically give or hand the utensils to the purchaser, not including plates,
23 glasses, or cups that are necessary for the purchaser to receive the food and food
24 ingredients and that the retailer makes available to the purchaser.

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

3 (b) "Prepared food" does not include:

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

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

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

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

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

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

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

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1 b. A denominator that includes all food and food ingredients, including
2 prepared food, candy, dietary supplements, and soft drinks, but not including
3 alcoholic beverages.

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

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

12 3. For a retailer whose percentage determined under subd. 1. is greater than
13 75 percent, an item sold by the retailer that contains 4 or more servings packaged
14 as 1 item and sold for a single price does not become prepared food simply because
15 the retailer makes utensils available to the purchaser of the item, but does become
16 prepared food if the retailer physically gives or hands utensils to the purchaser of the
17 item. For purposes of this subdivision 3. a., serving sizes are based on the
18 information contained on the label of each item sold, except that, if the item has no
19 label, the serving size is based on the retailer's reasonable determination.

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

23 b. Except as provided in subds. 2. and 3., if a retailer sells food items that have
24 a utensil placed in a package by a person other than the retailer and the person's
25 primary classification in the 2002 North American Industry Classification System,

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1 published by the federal office of management and budget, is manufacturing under
2 subsector 311, the utensils are not considered to be provided by the retailer.

3 5. For purposes of par. (a) 3., a retailer shall determine the percentage for the
4 retailer's tax year or business fiscal year, based on the retailer's data from the
5 retailer's prior tax year or business fiscal year, as soon as practical after the retailer's
6 accounting records are available, but not later than 90 days after the day on which
7 the retailer's tax year or business fiscal year begins. For retailer's with more than
8 one establishment in this state, a single determination under subd. 1. that combines
9 the information for all of the retailer's establishments in this state shall be made
10 annually, as provided in this subdivision, and apply to each of the retailer's
11 establishments in this state. A retailer that has no prior tax year or business fiscal
12 year shall make a good faith estimate of its percentage for purposes of par. (a) 3. for
13 the retailer's first tax year or business fiscal year and shall adjust the estimate
14 prospectively after the first 3 months of the retailer's operations if the actual
15 percentage is materially different from the estimated percentage.

16 **SECTION 65.** 77.51 (10n) of the statutes is created to read:

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

20 **SECTION 66.** 77.51 (10r) of the statutes is created to read:

21 77.51 (10r) "Prewritten computer software" means any of the following:

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

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

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

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

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

11 **SECTION 67.** 77.51 (10s) of the statutes is created to read:

12 77.51 (10s) "Private communication service" means a telecommunications
13 service that entitles the customer to exclusive or priority use of a communications
14 channel or group of communications channels, regardless of the manner in which the
15 communications channel or group of communications channels is connected, and
16 includes switching capacity, extension lines, stations, and other associated services
17 that are provided in connection with the use of such channel or channels.

18 **SECTION 68.** 77.51 (11d) of the statutes is created to read:

19 77.51 (11d) "Product" includes tangible personal property, items or property
20 under s. 77.52 (1) (b) and (c), specified digital goods, additional digital goods, and
21 services.

22 **SECTION 69.** 77.51 (11m) of the statutes is created to read:

23 77.51 (11m) "Prosthetic device" means a device, including the repair parts and
24 replacement parts for the device, that is placed in or worn on the body to artificially

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1 replace a missing portion of the body; to prevent or correct a physical deformity or
2 malfunction; or to support a weak or deformed portion of the body.

3 **SECTION 70.** 77.51 (12) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
4 is repealed and recreated to read:

5 77.51 (12) (a) Any transfer of title, possession, ownership, enjoyment, or use
6 by: cash or credit transaction, exchange, barter, lease or rental, conditional or
7 otherwise, in any manner or by any means whatever of tangible personal property,
8 items or property under s. 77.52 (1) (b) or (c), specified digital goods, or additional
9 digital goods for a consideration, including any transaction for which a person's
10 books and records show the transaction created, with regard to the transferee, an
11 obligation to pay a certain amount of money or an increase in accounts payable or,
12 with regard to the transferor, a right to receive a certain amount of money or an
13 increase in accounts receivable;

14 **SECTION 71.** 77.51 (12) (b) of the statutes is amended to read:

15 77.51 (12) (b) A transaction whereby the possession of property, items or
16 property under s. 77.52 (1) (b) or (c), specified digital goods, or additional digital
17 goods is transferred but the seller retains the title as security for the payment of the
18 price.

19 **SECTION 72.** 77.51 (12m) of the statutes is created to read:

20 77.51 (12m) (a) "Purchase price" means the total amount of consideration,
21 including cash, credit, property, and services, for which tangible personal property,
22 items or property under s. 77.52 (1) (b) or (c), specified digital goods, additional digital
23 goods, or services are sold, leased, or rented, valued in money, whether paid in money
24 or otherwise, without any deduction for the following:

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1 1. The seller's cost of the property, items or property under s. 77.52 (1) (b) or
2 (c) ~~specified digital goods, or additional digital goods~~ sold.

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

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

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

9 b. If a shipment includes property that is subject to tax under this subchapter
10 and property that is not subject to tax under this subchapter, the amount of the
11 delivery charge that the seller allocates to the property that is subject to tax under
12 this subchapter based on the total purchase price of the property that is subject to
13 tax under this subchapter as compared to the total purchase price of all the property
14 or on the total weight of the property that is subject to tax under this subchapter as
15 compared to the total weight of all the property, except that if the seller does not make
16 the allocation under this subd. 4. b., the purchaser shall allocate the delivery charge
17 amount, consistent with this subd. 4. b.

18 5. Installation charges.

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

20 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
21 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
22 taken by a purchaser on a sale.

23 2. Interest, financing, and carrying charges from credit that is extended on a
24 sale of tangible personal property, items or property under s. 77.52 (1) (b) or (c),
25 specified digital goods, additional digital goods, or services, if the amount of the

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1 interest, financing, or carrying charges is separately stated on the invoice, bill of sale,
2 or similar document that the seller gives to the purchaser.

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

6 4. Delivery charges for direct mail.

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

11 6. If a person who purchases a motor vehicle presents a statement issued under
12 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the
13 statement to the seller within 60 days from the date of receiving a refund under s.
14 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under
15 s. 218.0171 (2) (cq), but not to exceed the purchase price from the sale of the motor
16 vehicle. This subdivision applies only to the first motor vehicle purchased by a
17 person after receiving a refund under s. 218.0171 (2) (b) 2. b.

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

24 8. At the retailer's option; except that after the retailer chooses an option the
25 retailer may not use the other option for other sales without the department's written

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1 approval; either 35 percent of the purchase price of a manufactured building, as
2 defined in s. 101.71 (6), or an amount equal to the purchase price of the manufactured
3 building minus the cost of materials that become an ingredient or component part
4 of the building.

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

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

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

11 3. The amount of the consideration that is attributable to the sale is a fixed
12 amount and the seller is able to determine that amount at the time of the sale to the
13 purchaser.

14 4. Any of the following also applies:

15 a. The purchaser presents a coupon, certificate, or other documentation to the
16 seller to claim the price reduction or discount, if the coupon, certificate, or other
17 documentation is authorized, distributed, or granted by the 3rd party with the
18 understanding that the 3rd party will reimburse the seller for the amount of the price
19 reduction or discount.

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

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

25 **SECTION 73.** 77.51 (12p) of the statutes is created to read:

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1 77.51 (12p) "Purchaser" means a person to whom a sale of tangible personal
2 property is made or to whom a service is furnished.

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

4 77.51 (13) (a) Every seller who makes any sale, regardless of whether the sale
5 is mercantile in nature, of tangible personal property, items or property under s.
6 77.52 (1) (b) or (c), (specified digital goods, or additional digital goods), or a service
7 specified under s. 77.52 (2) (a).

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

9 77.51 (13) (b) Every person engaged in the business of making sales of tangible
10 personal property, ^{or} items or property under s. 77.52 (1) (b) or (c), (specified digital
11 goods, or additional digital goods) for storage, use or consumption or in the business
12 of making sales at auction of tangible personal property, ^{or} items or property under s.
13 77.52 (1) (b) or (c), (specified digital goods, or additional digital goods) owned by the
14 person or others for storage, use or other consumption.

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

16 77.51 (13) (c) When the department determines that it is necessary for the
17 efficient administration of this subchapter to regard any salespersons,
18 representatives, peddlers or canvassers as the agents of the dealers, distributors,
19 supervisors or employers under whom they operate or from whom they obtain the
20 tangible personal property, ^{or} items or property under s. 77.52 (1) (b) or (c), (specified
21 digital goods, or additional digital goods) sold by them, irrespective of whether they
22 are making the sales on their own behalf or on behalf of such dealers, distributors,
23 supervisors or employers, the department may so regard them and may regard the
24 dealers, distributors, supervisors or employers as retailers for purposes of this
25 subchapter.

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1 SECTION 77. 77.51 (13) (d) of the statutes is amended to read:

2 77.51 (13) (d) Every wholesaler to the extent that the wholesaler sells tangible
3 personal property ^{or} items or property under s. 77.52 (1) (b) or (c) specified digital
4 goods, or additional digital goods to a person other than a seller as defined in sub.
5 (17) provided such wholesaler is not expressly exempt from the sales tax on such sale
6 or from collecting the use tax on such sale.

7 SECTION 78. 77.51 (13) (e) of the statutes is amended to read:

8 77.51 (13) (e) A person selling tangible personal property ^{or} items or property
9 under s. 77.52 (1) (b) or (c) specified digital goods, or additional digital goods to a
10 service provider who transfers the property in conjunction with the selling,
11 performing or furnishing of any service and the property is ^{items} ~~or goods~~ are incidental
12 to the service, unless the service provider is selling, performing or furnishing
13 services under s. 77.52 (2) (a) 7., 10., 11. and 20. This subsection does not apply to
14 sub. (2).

15 SECTION 79. 77.51 (13) (f) of the statutes is amended to read:

16 77.51 (13) (f) A service provider who transfers tangible personal property ^{or}
17 items or property under s. 77.52 (1) (b) or (c) specified digital goods, or additional
18 digital goods in conjunction with but not incidental to the selling, performing or
19 furnishing of any service and a service provider selling, performing or furnishing
20 services under s. 77.52 (2) (a) 7., 10., 11. and 20. This subsection does not apply to
21 sub. (2).

22 SECTION 80. 77.51 (13) (k) of the statutes is amended to read:

23 77.51 (13) (k) ~~As respects~~ With respect to a lease, any person deriving rentals
24 from a lease of tangible personal property ^{or} items or property under s. 77.52 (1) (b) or
25 (c) specified digital goods, or additional digital goods situated in this state.

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1 **SECTION 81.** 77.51 (13) (m) of the statutes is amended to read:

2 77.51 (13) (m) A person selling tangible personal property ^{or} ~~items or property~~
3 under s. 77.52 (1) (b) or (c) specified digital goods, or additional digital goods to a
4 veterinarian to be used or furnished by the veterinarian in the performance of
5 services in some manner related to domestic animals, including pets or poultry.

6 **SECTION 82.** 77.51 (13) (n) of the statutes is amended to read:

7 77.51 (13) (n) A person selling household furniture, furnishings, equipment,
8 appliances or other items of tangible personal property ^{or} ~~items or property~~ under s.
9 77.52 (1) (b) or (c) specified digital goods, or additional digital goods to a landlord for
10 use by tenants in leased or rented living quarters.

11 **SECTION 83.** 77.51 (13) (o) of the statutes is amended to read:

12 77.51 (13) (o) A person selling medicine drugs for animals to a veterinarian.
13 As used in this paragraph, "animal" includes livestock, pets and poultry.

14 **SECTION 84.** 77.51 (13g) (intro.) of the statutes is amended to read:

15 77.51 (13g) (intro.) Except as provided in sub. (13h), "retailer engaged in
16 business in this state", ~~unless otherwise limited by federal statute~~, for purposes of
17 the use tax, means any of the following:

18 **SECTION 85.** 77.51 (13g) (c) of the statutes is created to read:

19 77.51 (13g) (c) Any retailer selling tangible personal property or taxable
20 services for storage, use, or other consumption in this state, unless otherwise limited
21 by federal law.

22 **SECTION 86.** 77.51 (13r) of the statutes is amended to read:

23 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall
24 be deemed the consumer of the tangible personal property, items or property under

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1 s. 77.52 (1) (b) or (c), specified digital goods, additional digital goods, or services
2 purchased.

3 SECTION 87. 77.51 (13rm) of the statutes is created to read:

4 77.51 (13rm) "Retail sale" or "sale at retail" means any sale, lease, or rental
5 for any purpose other than resale, sublease, or subrent.

6 SECTION 88. 77.51 (13rn) of the statutes is created to read:

7 77.51 (13rn) "Ringtones" means digitized sound files that are downloaded onto
8 a device and that may be used to alert the customer with regard to a communication.
9 "Ringtones" includes MP3 or musical tones, polyphonic tones, and synthetic music
10 mobile application format tones, but does not include ring-back tones.

11 SECTION 89. 77.51 (14) (intro.) of the statutes is amended to read:

12 77.51 (14) (intro.) "Sale", "sale, lease or rental", "retail sale", "sale at retail", or
13 equivalent terms include includes any one or all of the following: the transfer of the
14 ownership of, title to, possession of, or enjoyment of tangible personal property, items
15 or property under s. 77.52 (1) (b) or (c), specified digital goods, additional digital
16 goods, or services for use or consumption but not for resale as tangible personal
17 property, items or property under s. 77.52 (1) (b) or (c), specified digital goods,
18 additional digital goods, or services and includes:

19 SECTION 90. 77.51 (14) (a) of the statutes is amended to read:

20 77.51 (14) (a) Any sale at an auction ~~in~~ with respect to tangible personal
21 property, items or property under s. 77.52 (1) (b) or (c), specified digital goods, or
22 additional digital goods which is are sold to a successful bidder. The proceeds from,
23 except the sale of property, items, or goods sold at auction which is are bid in by the
24 seller and on which title does not pass to a new purchaser shall be deducted from the
25 gross proceeds of the sale and the tax paid only on the net proceeds.

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1 SECTION 91. 77.51 (14) (b) of the statutes is amended to read:

2 77.51 (14) (b) The furnishing or distributing of tangible personal property,
3 items or property under s. 77.52 (1) (b) or (c), specified digital goods, additional digital
4 goods, or taxable services for a consideration by social clubs and fraternal
5 organizations to their members or others.

6 SECTION 92. 77.51 (14) (c) of the statutes is amended to read:

7 77.51 (14) (c) A transaction whereby the possession of tangible personal
8 property is ^{or} ~~items or property under s. 77.52 (1) (b) or (c), items or property under s.~~
9 ~~77.52 (1) (b) or (c) specified digital goods, or additional digital goods~~ are transferred
10 but the seller retains the title as security for the payment of the price.

11 SECTION 93. 77.51 (14) (d) of the statutes is repealed.

12 SECTION 94. 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4.

13 SECTION 95. 77.51 (14) (h) of the statutes is amended to read:

14 77.51 (14) (h) A transfer for a consideration of the title or possession of tangible
15 personal property, ^{or} ~~items or property under s. 77.52 (1) (b) or (c)~~ specified digital
16 goods, or additional digital goods which has have been produced, fabricated, or
17 printed to the special order of the customer or of any publication.

18 SECTION 96. 77.51 (14) (i) of the statutes is repealed.

19 SECTION 97. 77.51 (14) (j) of the statutes is amended to read:

20 77.51 (14) (j) The granting of possession of tangible personal property ^{or} ~~items~~
21 ~~or property under s. 77.52 (1) (b) or (c)~~ specified digital goods, or additional digital
22 goods by a lessor to a lessee, or to another person at the direction of the lessee. Such
23 a transaction is deemed a continuing sale in this state ~~by the lessor for the duration~~
24 of the lease as respects any period of time the leased property is situated in this state,

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1 irrespective of the time or place of delivery of the property to the lessee or such other
2 person.

3 SECTION 98. 77.51 (14) (k) of the statutes is repealed.

4 SECTION 99. 77.51 (14) (L) of the statutes is repealed.

5 SECTION 100. 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) (b)
7 or (c) specified digital goods, or additional digital goods to a corporation upon its
8 organization solely in consideration for the issuance of its stock;

9 SECTION 101. 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) specified digital goods, or additional digital goods to a newly formed
12 partnership solely in consideration for a partnership interest therein;

13 SECTION 102. 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. 77.52
15 (1) (b) or (c) specified digital goods, or additional digital goods to a limited liability
16 company upon its organization solely in consideration for a membership interest;

17 SECTION 103. 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) (b)
19 or (c) specified digital goods, or additional digital goods to a corporation, solely in
20 consideration for the issuance of its stock, pursuant to a merger or consolidation;

21 SECTION 104. 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 (1)
23 (b) or (c) specified digital goods, or additional digital goods to a limited liability
24 company, solely in consideration for a membership interest, pursuant to a merger;

25 SECTION 105. 77.51 (14g) (d) of the statutes is amended to read:

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77.51 (14g) (d) The distribution of property ^{or} items or property under s. 77.52
(1) (b) or (c) specified digital goods, or additional digital goods by a corporation to its
stockholders as a dividend or in whole or partial liquidation;

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SECTION 106. 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
(1) (b) or (c) specified digital goods, or additional digital goods by a partnership to
its partners in whole or partial liquidation;

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SECTION 107. 77.51 (14g) (em) of the statutes is amended to read:

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77.51 (14g) (em) The distribution of property ^{or} items or property under s. 77.52
(1) (b) or (c) specified digital goods, or additional digital goods by a limited liability
company to its members in whole or partial liquidation;

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SECTION 108. 77.51 (14g) (f) of the statutes is amended to read:

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77.51 (14g) (f) Repossession of property ^{or} items or property under s. 77.52 (1)
(b) or (c) specified digital goods, or additional digital goods by the seller from the
purchaser when the only consideration is cancellation of the purchaser's obligation
to pay the remaining balance of the purchase price;

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SECTION 109. 77.51 (14g) (g) of the statutes is amended to read:

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77.51 (14g) (g) The transfer of property ^{or} items or property under s. 77.52 (1) (b)
or (c) specified digital goods, or additional digital goods in a reorganization as
defined in section 368 of the internal revenue code in which no gain or loss is
recognized for franchise or income tax purposes; or

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SECTION 110. 77.51 (14g) (h) of the statutes is amended to read:

23

77.51 (14g) (h) Any transfer of all or substantially all the property ^{or} items or
property under s. 77.52 (1) (b) or (c) specified digital goods, or additional digital
goods held or used by a person in the course of an activity requiring the holding of

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1 a seller's permit, if after the transfer the real or ultimate ownership of the property
2 ~~items or goods~~ is substantially similar to that which existed before the transfer. For
3 the purposes of this section, stockholders, bondholders, partners, members or other
4 persons holding an interest in a corporation or other entity are regarded as having
5 the real or ultimate ownership of the property, ~~items or goods~~ of the corporation or
6 other entity. In this paragraph, "substantially similar" means 80% or more of
7 ownership.

8 SECTION 111. 77.51 (14r) of the statutes is repealed.

9 SECTION 112. 77.51 (15) of the statutes, as affected by 2007 Wisconsin Act 11,
10 is repealed.

11 SECTION 113. 77.51 (15a) of the statutes is created to read:

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

21 (b) "Sales, lease, or rental for resale, sublease, or subrent" does not include any
22 of the following:

23 1. The sale of building materials, supplies, and equipment to owners,
24 contractors, subcontractors, or builders for use in real property construction

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1 activities or the alteration, repair, or improvement of real property, regardless of the
2 quantity of such materials, supplies, and equipment sold.

3 2. Any sale of tangible personal property, items or property under s. 77.52 (1)
4 (b) or (c), specified digital goods, or additional digital goods to a purchaser even
5 though such property, items ^{MOVE} ~~or goods~~ may be used or consumed by some other person
6 to whom such purchaser transfers the property, items ~~or goods~~ without valuable
7 consideration, such as gifts, and advertising specialties distributed at no charge and
8 apart from the sale of other tangible personal property, items or property under s.
9 77.52 (1) (b) or (c), specified digital goods, additional digital goods, or service.

10 3. Transfers of tangible personal property, items or property under s. 77.52 (1)
11 (b) or (c), specified digital goods, or additional digital goods to a service provider that
12 the service provider transfers in conjunction with the selling, performing, or
13 furnishing of any service, if the tangible personal property, items or property under
14 s. 77.52 (1) (b) or (c), specified digital goods, or additional digital goods are incidental
15 to the service, unless the service provider is selling, performing, or furnishing
16 services under s. 77.52 (2) (a) 7., 10., 11., or 20.

17 **SECTION 114.** 77.51 (15b) of the statutes is created to read:

18 77.51 (15b) (a) "Sales price" means the total amount of consideration, including
19 cash, credit, property, and services, for which tangible personal property, items or
20 property under s. 77.52 (1) (b) or (c), specified digital goods, additional digital goods,
21 or services are sold, leased, or rented, valued in money, whether received in money
22 or otherwise, without any deduction for the following:

23 1. The seller's cost of the property, items or property under s. 77.52 (1) (b) or
24 (c), specified digital goods, or additional digital goods sold.

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

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

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

7 b. If a shipment includes property that is subject to tax under this subchapter
8 and property that is not subject to tax under this subchapter, the amount of the
9 delivery charge that the seller allocates to the property that is subject to tax under
10 this subchapter based on the total sales price of the property that is subject to tax
11 under this subchapter as compared to the total sales price of all the property or on
12 the total weight of the property that is subject to tax under this subchapter as
13 compared to the total weight of all the property.

14 5. Installation charges.

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

16 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
17 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
18 taken by a purchaser on a sale.

19 2. Interest, financing, and carrying charges from credit that is extended on a
20 sale of tangible personal property, items or property under s. 77.52 (1) (b) or (c),
21 specified digital goods, additional digital goods, or services, if the amount of the
22 interest, financing, or carrying charges is separately stated on the invoice, bill of sale,
23 or similar document that the seller gives to the purchaser.

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

4 4. Delivery charges for direct mail.

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

9 6. If a person who purchases a motor vehicle presents a statement issued under
10 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the
11 statement to the seller within 60 days from the date of receiving a refund under s.
12 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under
13 s. 218.0171 (2) (cq), but not to exceed the sales price from the sale of the motor vehicle.
14 This subdivision applies only to the first motor vehicle purchased by a person after
15 receiving a refund under s. 218.0171 (2) (b) 2. b.

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

22 8. At the retailer's option; except that after the retailer chooses an option the
23 retailer may not use the other option for other sales without the department's written
24 approval; either 35 percent of the sales price of a manufactured building, as defined
25 in s. 101.71 (6), or an amount equal to the sales price of the manufactured building

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1 minus the cost of materials that become an ingredient or component part of the
2 building.

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

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

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

9 3. The amount of the consideration that is attributable to the sale is a fixed
10 amount and the seller is able to determine that amount at the time of the sale to the
11 purchaser.

12 4. Any of the following also applies:

13 a. The purchaser presents a coupon, certificate, or other documentation to the
14 seller to claim the price reduction or discount, if the coupon, certificate, or other
15 documentation is authorized, distributed, or granted by the 3rd party with the
16 understanding that the 3rd party will reimburse the seller for the amount of the price
17 reduction or discount.

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

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

23 **SECTION 115.** 77.51 (17) (intro.) of the statutes, as affected by 2007 Wisconsin
24 Act 20, is amended to read:

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1 77.51 (17) (intro.) "Seller" includes every person selling, leasing, or renting
2 tangible personal property items or property under s. 77.52 (1) (b) or (c), specified
3 digital goods, or additional digital goods or selling, performing, or furnishing services
4 of a kind the gross receipts sales price from the sale, lease, rental, performance, or
5 furnishing of which are is required to be included in the measure of the sales tax,
6 regardless of all of the following:

7 SECTION 116. 77.51 (17m) of the statutes is repealed and recreated to read:

8 77.51 (17m) "Service address" means any of the following:

9 (a) The location of the telecommunications equipment to which a customer's
10 telecommunications service is charged and from which the telecommunications
11 service originates or terminates, regardless of where the telecommunications service
12 is billed or paid.

13 (b) If the location described under par. (a) is not known by the seller who sells
14 the telecommunications service, the location where the signal of the
15 telecommunications service originates, as identified by the seller's
16 telecommunications system or, if the signal is not transmitted by the seller's
17 telecommunications system, by information that the seller received from the seller's
18 service provider.

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

21 SECTION 117. 77.51 (17w) of the statutes is created to read:

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

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SECTION 118. 77.51 (17x) of the statutes is created to read:

77.51 (17x) "Specified digital goods" means digital audio works, digital audiovisual works, and digital books. For purposes of this subchapter, the sale of or the storage, use, or other consumption of a digital code is treated the same as the sale of or the storage, use, or other consumption of any specified digital goods for which the digital code relates.

SECTION 119. 77.51 (18) of the statutes is amended to read:

77.51 (18) "Storage" includes any keeping or retention in this state of tangible personal property ^{or} items or property under s. 77.52 (1) (b) or (c), specified digital goods, or additional digital goods purchased from a retailer for any purpose except sale in the regular course of business.

SECTION 120. 77.51 (20) of the statutes is amended to read:

77.51 (20) "Tangible personal property" means all tangible personal property of every kind and description that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses, and includes electricity, natural gas, steam and, water, and also leased property affixed to realty if the lessor has the right to remove the property upon breach or termination of the lease agreement, unless the lessor of the property is also the lessor of the realty to which the property is affixed. "Tangible personal property" also includes coins and stamps of the United States sold or traded as collectors' items above their face value and computer programs except custom computer programs prewritten computer software, but does not include items or property under s. 77.52 (1) (b) or (c), specified digital goods, or additional digital goods ^{keep period}

SECTION 121. 77.51 (21) of the statutes is amended to read:

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1 77.51 (21) "Taxpayer" means the person who is required to pay, collect, or
2 account for or who is otherwise directly interested in the taxes imposed by this
3 subchapter, including a certified service provider.

4 **SECTION 122.** 77.51 (21m) of the statutes is amended to read:

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

17 **SECTION 123.** 77.51 (21n) of the statutes is created to read:

18 77.51 (21n) "Telecommunications services" means electronically transmitting,
19 conveying, or routing voice, data, audio, video, or other information or signals to a
20 point or between or among points. "Telecommunications services" includes the
21 transmission, conveyance, or routing of such information or signals in which
22 computer processing applications are used to act on the content's form, code, or
23 protocol for transmission, conveyance, or routing purposes, regardless of whether
24 the service is referred to as a voice over Internet protocol service or classified by the

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1 federal communications commission as an enhanced or value-added service.

2 "Telecommunications services" does not include any of the following:

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

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

8 (c) Tangible personal property.

9 (d) Advertising, including directory advertising.

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

11 (f) Internet access service.

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

17 (h) Ancillary services.

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

20 **SECTION 124.** 77.51 (21p) of the statutes is created to read:

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

23 **SECTION 125.** 77.51 (21q) of the statutes is created to read:

24 77.51 (21q) "Transferred electronically" means accessed or obtained by the
25 purchaser by means other than tangible storage media.

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1 SECTION 126. 77.51 (22) (a) of the statutes is amended to read:

2 77.51 (22) (a) "Use" includes the exercise of any right or power over tangible
3 personal property, items or property under s. 77.52 (1) (b) or (c), specified digital
4 goods, additional digital goods, or taxable services incident to the ownership,
5 possession or enjoyment of the property, ~~goods~~ ^{items}, or services, or the results produced
6 by the services, including installation or affixation to real property and including the
7 possession of, or the exercise of any right or power over tangible personal property
8 items or property under s. 77.52 (1) (b) or (c), specified digital goods, or additional
9 digital goods by a lessee under a lease, except that "use" does not include the
10 activities under sub. (18).

11 SECTION 127. 77.51 (22) (b) of the statutes is amended to read:

12 77.51 (22) (b) In this subsection "enjoyment" includes a purchaser's right to
13 direct the disposition of property, ^{MOVE} items or property under s. 77.52 (1) (b) or (c)
14 specified digital goods, or additional digital goods, whether or not the purchaser has
15 possession of the property ~~or goods~~ ^{items}; "Enjoyment" also includes, but is not limited to,
16 having shipped into this state by an out-of-state supplier printed material which is
17 designed to promote the sale of property, items or property under s. 77.52 (1) (b) or
18 (c), specified digital goods, or additional digital goods, specified digital goods,
19 additional digital goods, or services, or which is otherwise related to the business
20 activities, of the purchaser of the printed material or printing service.

21 SECTION 128. 77.51 (22) (bm) of the statutes is created to read:

22 77.51 (22) (bm) In this subsection, "exercise of any right or power over tangible
23 personal property, items or property under s. 77.52 (1) (b) or (c), specified digital
24 goods, additional digital goods, or taxable services" includes distributing, selecting
25 recipients, determining mailing schedules, or otherwise directing the distribution,

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1 dissemination, or disposal of tangible personal property, items or property under s.
2 77.52 (1) (b) or (c), specified digital goods, additional digital goods, or taxable
3 services, regardless of whether the purchaser of such property, items, goods, or
4 services owns or physically possesses, in this state, the property, items, goods, or
5 services.

6 **SECTION 129.** 77.51 (24) of the statutes is created to read:

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

11 **SECTION 130.** 77.51 (25) of the statutes is created to read:

12 77.51 (25) "Vertical service" means an ancillary service that is provided with
13 one or more telecommunications services and allows customers to identify callers
14 and to manage multiple calls and call connections, including conference bridging
15 services.

16 **SECTION 131.** 77.51 (26) of the statutes is created to read:

17 77.51 (26) "Voice mail service" means an ancillary service that allows a
18 customer to store, send, or receive recorded messages, not including any vertical
19 service that the customer must have to use the voice mail service.

20 **SECTION 132.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a) and amended
21 to read:

22 77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible
23 personal property, including accessories, components, attachments, parts, supplies
24 and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the
25 gross receipts sales price from the sale, license, lease or rental of tangible personal

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1 property, including accessories, components, attachments, parts, supplies and
2 materials, sold, leased or rented at retail in this state, as determined under s. 77.522.

3 **SECTION 133.** 77.52 (1) (b) of the statutes is created to read:

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

8 **SECTION 134.** 77.52 (1) (c) of the statutes is created to read:

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

14 **SECTION 135.** 77.52 (1) (d) of the statutes is created to read:

15 77.52 (1) (d) For the privilege of selling, licensing, leasing, or renting specified
16 digital goods or additional digital goods at retail, regardless of whether the
17 purchaser has the right to permanently use such goods or whether the purchaser's
18 right to access or retain such goods is not permanent, a tax is imposed upon all
19 retailers at the rate of 5 percent of the sales price from the sale, license, lease or rental
20 of such goods.

21 **SECTION 136.** 77.52 (1b) of the statutes, as created by 2007 Wisconsin Act 20,
22 is repealed and recreated to read:

23 77.52 (1b) All sales, leases, or rentals of tangible personal property, items or
24 property under sub. (1) (b) or (c), specified digital goods, or additional digital goods

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1 at retail in this state are subject to the tax imposed under sub. (1) unless an
2 exemption in this subchapter applies.

3 **SECTION 137.** 77.52 (2) (intro.) of the statutes is amended to read:

4 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing
5 the services described under par. (a) at retail in this state, as determined under s.
6 77.522, to consumers or users, a tax is imposed upon all persons selling, licensing,
7 performing or furnishing the services at the rate of 5% of the gross receipts sales price
8 from the sale, license, performance or furnishing of the services.

9 **SECTION 138.** 77.52 (2) (a) 5. a. of the statutes is repealed and recreated to read:

10 77.52 (2) (a) 5. a. The sale of Internet access services.

11 **SECTION 139.** 77.52 (2) (a) 5. am. of the statutes is created to read:

12 77.52 (2) (a) 5. am. The sale of intrastate, interstate, and international
13 telecommunications services, except interstate 800 services.

14 **SECTION 140.** 77.52 (2) (a) 5. b. of the statutes is repealed.

15 **SECTION 141.** 77.52 (2) (a) 5. c. of the statutes is created to read:

16 77.52 (2) (a) 5. c. The sale of ancillary services, except detailed
17 telecommunications billing services.

18 **SECTION 142.** 77.52 (2) (a) 5m. of the statutes is amended to read:

19 77.52 (2) (a) 5m. The sale of services that consist of recording
20 telecommunications messages and transmitting them to the purchaser of the service
21 or at that purchaser's direction, but not including those services if they are merely
22 an that are taxable under subd. 5. or services that are incidental, as defined in s.
23 77.51 (5), element of to another service that is not taxable under this subchapter and
24 sold to that the purchaser of the incidental service and is not taxable under this
25 subchapter.

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1 **SECTION 143.** 77.52 (2) (a) 10. of the statutes is amended to read:

2 77.52 (2) (a) 10. Except for services provided by veterinarians and except for
3 installing or applying tangible personal property that, subject to par. (ag), when
4 installed or applied, will constitute an addition or capital improvement of real
5 property, the repair, service, alteration, fitting, cleaning, painting, coating, towing,
6 inspection, and maintenance of all items of tangible personal property ^{or} ~~items or~~
7 property under sub. (1) (b) or (c), ~~specified digital goods, and additional digital goods,~~
8 unless, at the time of that ~~the~~ repair, service, alteration, fitting, cleaning, painting,
9 coating, towing, inspection, or maintenance, a sale in this state of the type of property
10 repaired, serviced, altered, fitted, cleaned, painted, coated, towed, inspected, or
11 maintained would have been exempt to the customer from sales taxation under this
12 subchapter, other than the exempt sale of a motor vehicle or truck body to a
13 nonresident under s. 77.54 (5) (a) and other than nontaxable sales under s. 77.51
14 ~~(14r) juvenile 77.522 or unless the repair, service, alteration, fitting, cleaning,~~
15 ~~painting, coating, towing, inspection, or maintenance is provided under a contract~~
16 ~~that is subject to tax under subd. 13m.~~ The tax imposed under this subsection applies
17 to the repair, service, alteration, fitting, cleaning, painting, coating, towing,
18 inspection, or maintenance of items listed in par. (ag), regardless of whether the
19 installation or application of tangible personal property ^{or} ~~items or property under sub.~~
20 ~~(1) (b) or (c), ~~specified digital goods, or additional digital goods,~~~~ related to the items
21 is an addition to or a capital improvement of real property, except that the tax
22 imposed under this subsection does not apply to the original installation or the
23 complete replacement of an item listed in par. (ag), if that ~~the~~ installation or
24 replacement is a real property construction activity under s. 77.51 (2).

25 **SECTION 144.** 77.52 (2) (a) 13m. of the statutes is created to read:

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1 77.52 (2) (a) 13m. The sale of contracts, including service contracts,
2 maintenance agreements, and warranties, that provide, in whole or in part, for the
3 future performance of or payment for the repair, service, alteration, fitting, cleaning,
4 painting, coating, towing, inspection, or maintenance of tangible personal property,
5 unless the sale, lease, or rental in this state of the property to which the contract
6 relates is or was exempt, to the purchaser of the contract, from taxation under this
7 subchapter.

8 **SECTION 145.** 77.52 (2m) (a) of the statutes is amended to read:

9 77.52 (2m) (a) With respect to the services subject to tax under sub. (2), no part
10 of the charge for the service may be deemed a sale or rental of tangible personal
11 property ^{or} ~~items~~ or property under sub. (1) (b) or (c) specified digital goods, or
12 additional digital goods, if the property ^{or} ~~items or digital goods~~ transferred by the
13 service provider is are incidental to the selling, performing or furnishing of the
14 service, except as provided in par. (b).

15 **SECTION 146.** 77.52 (2m) (b) of the statutes is amended to read:

16 77.52 (2m) (b) With respect to the services subject to tax under sub. (2) (a) 7.,
17 10., 11. and 20., all property ^{or} ~~items~~ or property under sub. (1) (b) or (c) specified
18 digital goods, or digital additional goods, physically transferred, or transferred
19 electronically, to the customer in conjunction with the selling, performing or
20 furnishing of the service is a sale of tangible personal property ^{or} ~~items~~ or property
21 under sub. (1) (b) or (c) specified digital goods, or additional digital goods/separate
22 from the selling, performing or furnishing of the service.

23 **SECTION 147.** 77.52 (2n) of the statutes, as created by 2007 Wisconsin Act 20,
24 is repealed and recreated to read:

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1 77.52 (2n) The selling, licensing, performing, or furnishing of the services
2 described under sub. (2) (a) at retail in this state, as determined under s. 77.522, is
3 subject to the tax imposed under sub. (2) unless an exemption in this subchapter
4 applies.

5 **SECTION 148.** 77.52 (3m) of the statutes is repealed.

6 **SECTION 149.** 77.52 (3n) of the statutes is repealed.

7 **SECTION 150.** 77.52 (4) of the statutes is amended to read:

8 77.52 (4) It is unlawful for any retailer to advertise or hold out or state to the
9 public or to any customer, directly or indirectly, that the tax or any part thereof will
10 be assumed or absorbed by the retailer or that it will not be added to the selling price
11 of the property ^{or} ~~items or property~~ under sub. (1) (b) or (c) specified digital goods, or
12 additional digital goods sold or that if added it, or any part thereof, will be refunded.

13 Any person who violates this subsection is guilty of a misdemeanor.

14 **SECTION 151.** 77.52 (6) of the statutes is repealed.

15 **SECTION 152.** 77.52 (7) of the statutes is amended to read:

16 77.52 (7) Every person desiring to operate as a seller within this state who
17 holds a valid certificate under s. 73.03 (50) shall file with the department an
18 application for a permit for each place of operations. Every application for a permit
19 shall be made upon a form prescribed by the department and shall set forth the name
20 under which the applicant intends to operate, the location of the applicant's place of
21 operations, and the other information that the department requires. The Except as
22 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;
23 in the case of sellers other than sole proprietors, the application shall be signed by
24 the person authorized to act on behalf of such sellers. A nonprofit organization that
25 has ~~gross receipts~~ a sales price taxable under s. 77.54 (7m) shall obtain a seller's

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1 permit and pay taxes under this subchapter on all taxable ~~gross receipts~~ sales prices
2 received after it is required to obtain that permit. If that organization becomes
3 eligible later for the exemption under s. 77.54 (7m) except for its possession of a
4 seller's permit, it may surrender that permit.

5 **SECTION 153.** 77.52 (7b) of the statutes is created to read:

6 77.52 (7b) Any person who may register under sub. (7) may designate an agent,
7 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the
8 manner prescribed by the department.

9 **SECTION 154.** 77.52 (12) of the statutes is amended to read:

10 77.52 (12) A person who operates as a seller in this state without a permit or
11 after a permit has been suspended or revoked or has expired, unless the person has
12 a temporary permit under sub. (11), and each officer of any corporation, partnership
13 member, limited liability company member, or other person authorized to act on
14 behalf of a seller who so operates, is guilty of a misdemeanor. Permits shall be held
15 only by persons actively operating as sellers of tangible personal property, items or
16 property under sub. (1) (b) or (c), ~~specified digital goods, additional digital goods,~~ or
17 taxable services. Any person not so operating shall forthwith surrender that person's
18 permit to the department for cancellation. The department may revoke the permit
19 of a person found not to be actively operating as a seller of tangible personal property,
20 items or property under sub. (1) (b) or (c), ~~specified digital goods, additional digital~~
21 goods, or taxable services.

22 **SECTION 155.** 77.52 (13) of the statutes is amended to read:

23 77.52 (13) For the purpose of the proper administration of this section and to
24 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
25 the tax until the contrary is established. The burden of proving that a sale of tangible

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1 personal property, items or property under sub. (1) (b) or (c), specified digital goods,
 2 additional digital goods, or services is not a taxable sale at retail is upon the person
 3 who makes the sale unless that person takes from the purchaser ~~a~~ an electronic or
 4 a paper certificate, in a manner prescribed by the department, to the effect that the
 5 property, ~~item,~~ digital goods, or service is purchased for resale or is otherwise exempt,
 6 except that no certificate is required for sales of cattle, sheep, goats, and pigs that are
 7 sold at an animal market, as defined in s. 95.68 (1) (ag), and no certificate is required
 8 for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a
 9 warehouse in or from which the commodity is deliverable on a contract for future
 10 delivery subject to the rules of a commodity market regulated by the U.S. commodity
 11 futures trading commission if upon the sale the commodity is not removed from the
 12 warehouse the sale of tangible personal property, items or property under sub. (1) (b)
 13 or (c), specified digital goods, additional digital goods, and services that are exempt
 14 under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21), (22b), (30), (31), (32),
 15 (35), (36), (37), (42), (44), (45), (46), (51), and (52), except as provided in s. 77.54 (30)
 16 (e) and (f).

17 **SECTION 156.** 77.52 (14) (a) (intro.) and 1. and (b) of the statutes are
 18 consolidated, renumbered 77.52 (14) (a) and amended to read:

19 77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller from the
 20 burden of proof of the tax otherwise applicable only if any of the following is true:

21 1. The certificate is taken in good faith the seller obtains a fully completed exemption
 22 certificate, or the information required to prove the exemption, from a person who
 23 is engaged as a seller of tangible personal property or taxable services and who holds
 24 the permit provided for in sub. (9) and who, at the time of purchasing purchaser no
 25 later than 90 days after the date of the sale of the tangible personal property, items

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1 or property under sub. (1) (b) or (c), specified digital goods, additional digital goods,
2 ~~or services, intends to sell it in the regular course of operations or is unable to~~
3 ~~ascertain at the time of purchase whether the property or service will be sold or will~~
4 ~~be used for some other purpose. (b) except as provided in par. (am). The certificate~~
5 under sub. (13) shall not relieve the seller of the tax otherwise applicable if the seller
6 fraudulently fails to collect sales tax, solicits the purchaser to claim an unlawful
7 exemption, accepts an exemption certificate from a purchaser who claims to be an
8 entity that is not subject to the taxes imposed under this subchapter, if the subject
9 of the transaction sought to be covered by the exemption certificate is received by the
10 purchaser at a location operated by the seller in this state and the exemption
11 certificate clearly and affirmatively indicates that the claimed exemption is not
12 available in this state. The certificate referred to in sub. (13) shall be signed by and
13 ~~bear the name and address of~~ provide information that identifies the purchaser, and
14 ~~shall indicate the general character of the tangible personal property or service sold~~
15 ~~by the purchaser and the basis for the claimed exemption and a paper certificate~~
16 shall be signed by the purchaser. The certificate shall be in such form as the
17 department prescribes by rule.

18 **SECTION 157.** 77.52 (14) (a) 2. of the statutes is repealed.

19 **SECTION 158.** 77.52 (14) (am) of the statutes is created to read:

20 77.52 (14) (am) If the seller has not obtained a fully completed exemption
21 certificate or the information required to prove the exemption, as provided in par. (a),
22 the seller may, no later than 120 days after the department requests that the seller
23 substantiate the exemption, either provide proof of the exemption to the department
24 by other means or obtain, in good faith, a fully completed exemption certificate from
25 the purchaser.

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1 SECTION 159. 77.52 (15) of the statutes is amended to read:

2 77.52 (15) If a purchaser who gives a resale certificate purchases tangible

3 personal property, items or property under sub. (1) (b) or (c), specified digital goods, ✓

4 additional digital goods, or taxable services without paying a sales tax or use tax on

5 such purchase because such property, items, goods, or services were for resale makes

6 any use of the property, items, goods, or services other than retention, demonstration

7 or display while holding it the property, items, goods, or services for sale, lease or

8 rental in the regular course of the purchaser's operations, the use shall be taxable

9 to the purchaser under s. 77.53 as of the time that the property is, items, goods, or

10 services are first used by the purchaser, and the sales purchase price of the property,

11 items, goods, or services to the purchaser shall be the measure of the tax. Only when

12 ~~there is an unsatisfied use tax liability on this basis because the seller has provided~~

13 ~~incorrect information about that transaction to the department shall the seller be~~

14 ~~liable for sales tax with respect to the sale of the property to the purchaser.~~

15 SECTION 160. 77.52 (16) of the statutes is amended to read:

16 77.52 (16) Any person who gives a resale certificate for property, items or

17 property under sub. (1) (b) or (c), specified digital goods, additional digital goods, ✓

18 services which that person knows at the time of purchase is not to be resold by that

19 person in the regular course of that person's operations as a seller for the purpose of

20 evading payment to the seller of the amount of the tax applicable to the transaction

21 is guilty of a misdemeanor. Any person certifying to the seller that the sale of

22 property, items or property under sub. (1) (b) or (c), specified digital goods, additional ✓

23 digital goods, or taxable service is exempt, knowing at the time of purchase that it

24 is not exempt, for the purpose of evading payment to the seller of the amount of the

25 tax applicable to the transaction, is guilty of a misdemeanor.