



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0728/2

JK:lmk:ff

3
stays

DOA:.....Easton, BB0171 - Streamlined sales and use tax agreement provisions

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

in 1-18-07

DN

DO NOT GO

1 AN ACT ...; relating to: the budget. ✓

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

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

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1 SECTION 1. 20.435 (3) (bm) of the statutes is repealed.

2 SECTION 2. 20.566 (1) (ho) of the statutes is created to read:

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

7 SECTION 3. 46.513 of the statutes is repealed.

8 SECTION 4. 66.0615 (1m) (f) 2. of the statutes is amended to read:

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

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

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

21 SECTION 6. 73.03 (28e) of the statutes is created to read:

22 (22) 73.03 (28e) To participate ^{as a member state of the} in the governing board ^{of the} ~~of the~~ multistate streamlined
23 sales tax project and to allocate a portion of the amount collected under ch. 77
24 through the project ^{agreement} to the appropriation under s. 20.566 (1) (ho) to pay the dues

*which administers the agreement, as defined in s. 77.65(2)(a), and enter
into contracts/necessary to implement the agreement or behalf of the states
that are member states;*

streamlined sales tax

governing board

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necessary to participate in the ~~project~~. The department shall allocate the remainder of such collections to the general fund.

3

SECTION 7. 73.03 (50) (d) of the statutes is amended to read:

4

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

12

SECTION 8. 73.03 (50b) of the statutes is created to read:

13

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

17

SECTION 9. 73.03 (61) of the statutes is created to read:

18

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

20

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

21

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

24

(c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish performance standards and eligibility criteria for a seller that sells tangible personal

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1 property or taxable services in at least 5 states that are signatories to the agreement,
2 as defined in s. 77.65 (2) (a); that has total annual sales revenue of at least
3 \$500,000,000; that has a proprietary system that calculates the amount of tax owed
4 to each taxing jurisdiction in which the seller sells tangible personal property or
5 taxable services; and that has entered into a performance agreement with the states
6 that are signatories to the agreement, as defined in s. 77.65 (2) (a). For purposes of
7 this paragraph, "seller" includes an affiliated group of sellers using the same
8 proprietary system to calculate the amount of tax owed in each taxing jurisdiction
9 in which the sellers sell tangible personal property or taxable services.

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

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

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

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

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

5 **SECTION 10.** 76.07 (4g) (b) 8. of the statutes is amended to read:

6 76.07 (4g) (b) 8. Determine transport-related revenue by adding public service
7 revenue allocated to this state on the basis of routes for which the company is
8 authorized to receive subsidy payments, mutual aid allocated to this state on the
9 basis of the ratio of transport revenues allocated to this state to transport revenues
10 everywhere in the previous year, in-flight sales allocated to this state as they are
11 allocated under s. ~~77.51 (14r)~~ 77.522 and all other transport-related revenues from
12 sales made in this state.

13 ~~**SECTION 11.** 77.51 (1) of the statutes is renumbered 77.51 (1a).~~

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

15 77.51 (1b) "Alcoholic beverage" means a beverage that is suitable for human
16 consumption and that contains 0.5 percent or more of alcohol by volume.

17 **SECTION 13.** 77.51 (1bd) of the statutes is created to read:

18 77.51 (1bd) "Ancillary services" means services that are associated with or
19 incidental to providing telecommunications services, including detailed
20 telecommunications billing, directory assistance, vertical service, and voice mail
21 services. *but not including digital books*

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

23 77.51 (1bm) "Bundled transaction" means the retail sale of 2 or more products,
24 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) 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 (c) The retail sale of services, if one of the services is essential to the use or
9 receipt of another service, and provided exclusively in connection with the other
10 service, and if the true object of the transaction is the other service.

11 (d) A transaction that includes taxable and nontaxable ~~tangible~~ products, if the
12 purchase price or the sales price of the taxable products is no greater than 10 percent

13 of the total purchase price or sales price of all the ^{bundled} products included in what would

14 otherwise be a bundled transaction, as determined by the seller using either the
15 purchase price or the sales price, but not a combination of both, or, in the case of a
16 service contract, the full term of the service contract.

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

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

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

6 **SECTION 16.** 77.51 (1n) of the statutes is created to read:

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

10 **SECTION 17.** 77.51 (1p) of the statutes is created to read:

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

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13 **SECTION 18.** 77.51 (1r) of the statutes is created to read:

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

18 **SECTION 19.** 77.51 (2k) of the statutes is created to read:

19 77.51 (2k) "Delivered electronically" means delivered to a purchaser by means
20 other than by tangible storage media.

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

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

1 SECTION 21. 77.51 (3c) of the statutes is created to read:

2 77.51 (3c) "Detailed telecommunications billing service" means an ancillary
3 service that separately indicates information pertaining to individual calls on a
4 customer's billing statement.

5 SECTION 22. 77.51 (3p) of the statutes is created to read:

6 77.51 (3p) "Dietary supplement" means a product, other than tobacco, that is
7 intended to supplement a person's diet, if all of the following apply:

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

- 10 1. A vitamin.
- 11 2. A mineral.
- 12 3. An herb or other botanical.
- 13 4. An amino acid.
- 14 5. A dietary substance that is intended for human consumption to supplement
- 15 the diet by increasing total dietary intake.
- 16 6. A concentrate, metabolite, constituent, or extract.

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

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

23 SECTION 23. 77.51 (3pd) of the statutes is created to read:

24 77.51 (3pd) "Direct mail" means printed material that is delivered by the U.S.
25 postal service or other delivery service to a mass audience or to addressees on a

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

9 SECTION 24. 77.51 (3pe) of the statutes is created to read:

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

12 SECTION 25. 77.51 (3pf) of the statutes is created to read:

13 77.51 (3pf) "Distinct and identifiable product" does not include any of the
14 following: *packaging; including*

15 (a) *for* containers, boxes, sacks, bags, bottles, *and envelopes; and other*
16 *materials; including* guides, ~~envelopes, and other materials,~~ wrapping, labels, tags, *and* instruction
17 immaterial to, the retail sale of any product.

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

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

23 SECTION 26. 77.51 (3pj) of the statutes is created to read:

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

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

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

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

10 **SECTION 27.** 77.51 (3pm) of the statutes is created to read:

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

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

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

22 **SECTION 29.** 77.51 (3pp) of the statutes is created to read:

23 77.51 (3pp) "Electronic" means relating to technology having electrical,
24 digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

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specified digital goods, or additional digital goods

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

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

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

8 **SECTION 32.** 77.51 (4) of the statutes is repealed.

9 **SECTION 33.** 77.51 (5) of the statutes is amended to read:

10 77.51 (5) For purposes of subs. (13) (e) and (f) and ~~(14) (L)~~ (15a) and s. 77.52
11 (2m), "incidental" means depending upon or appertaining to something else as
12 primary; something necessary, appertaining to, or depending upon another which is
13 termed the principal; something incidental to the main purpose of the service.

14 Tangible personal property transferred by a service provider is incidental to the
15 service if the purchaser's main purpose or objective is to obtain the service rather
16 than the property, *or goods* even though the property *or goods* may be necessary or essential to
17 providing the service.

18 **SECTION 34.** 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 35.** 77.51 (7g) of the statutes is created to read:

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 36.** 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 37.** 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.

17 **SECTION 38.** 77.51 (8m) of the statutes is created to read:

18 77.51 (8m) "Nine hundred service" means an inbound toll telecommunications
19 service purchased by a subscriber that allows the subscriber's customers to call the
20 subscriber's prerecorded announcement or live service. "Nine hundred service" does
21 not include any charge for collection services provided by the seller of the
22 telecommunications services to the subscriber or for any product or service the
23 subscriber sells to the subscriber's customers. A "nine hundred service" is
24 designated with the "900" number or any other number designated by the federal
communications commission.

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1 **SECTION 39.** 77.51 (9p) of the statutes is created to read:

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

7 **SECTION 40.** 77.51 (9s) of the statutes is created to read:

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

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

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

20 **SECTION 42.** 77.51 (10d) of the statutes is created to read:

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

1 SECTION 43. 77.51 (10f) of the statutes is created to read:

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

8 SECTION 44. 77.51 (10m) of the statutes is created to read:

9 77.51 (10m) (a) "Prepared food" means:

- 10 1. Food and food ingredients sold in a heated state.
- 11 2. Food and food ingredients heated by the retailer, except as provided in par.
- 12 (b).

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

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

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

or hand
physically

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" under par. (a) 2. and 4. does not include:

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

9 2. Two or more food ingredients mixed or combined by a retailer for sale as a
10 single item, sold unheated, and sold by volume or weight.

11 3. Bakery items made by a retailer, including breads, rolls, pastries, buns,
12 biscuits, bagels, croissants, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,
13 cookies, and tortillas.

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

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

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

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

physically

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 *of hand* give the utensils to the purchaser or, in the case of plates, bowls, glasses, or cups that
7 are necessary to receive the food, to make such items available to the purchaser.

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

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

20 b. For a retailer whose percentage determined under subd. 1. is greater than
21 75 percent, the retailer's packaging of 4 or more bakery products individually
22 selected by the purchaser and sold for a single price does make not the bakery
23 products prepared food even if the retailer provides, or makes available, utensils to
24 the purchaser.

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

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

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

22 **SECTION 45.** 77.51 (10n) of the statutes is created to read:

23 **77.51 (10n)** "Prescription" means an order, formula, or recipe that is issued by
24 any oral, written, electronic, or other means of transmission and by a person who is
25 authorized by the laws of this state to issue such an order, formula, or recipe.

1 SECTION 46. 77.51 (10r) of the statutes is created to read:

2 77.51 (10r) "Prewritten computer software" means any of the following:

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

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

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

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

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

17 SECTION 47. 77.51 (10s) of the statutes is created to read:

18 77.51 (10s) "Private communication service" means a telecommunications
19 service that entitles the customer to exclusive or priority use of a communications
20 channel or group of communications channels, regardless of the manner in which the
21 communications channel or group of communications channels is connected, and
22 includes switching capacity, extension lines, stations, and other associated services
23 that are provided in connection with the use of such channel or channels.

24 SECTION 48. 77.51 (11m) of the statutes is created to read:

Sec. 77.51 (11d)
*77.51 (11d) product includes tangible personal property,
specified digital goods, additional digital goods, and services*

INSERT
20-4

1 77.51 (11m) "Prosthetic device" means a device, including the repair parts and
2 replacement parts for the device, that is placed in or worn on the body to artificially
3 replace a missing portion of the body; to prevent or correct a physical deformity or
4 malfunction; or to support a weak or deformed portion of the body.

5 **SECTION 49.** 77.51 (12m) of the statutes is created to read:

6 77.51 (12m) (a) "Purchase price" means the total amount of consideration,
7 including cash, credit, property, and services, for which tangible personal property
8 or services are sold, leased, or rented, valued in money, whether paid in money or
9 otherwise, without any deduction for the following:

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10 1. The seller's cost of the property sold.

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

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

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

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

24 5. Installation charges.

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1 6. The value of exempt tangible personal property, if the exempt tangible
2 personal property ^{are} ~~is~~ sold as a bundled transaction that includes taxable tangible
3 personal property and sold by the seller as a single product or piece of merchandise.

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

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

INSERT A

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

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

15 4. Delivery charges for direct mail.

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

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

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

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

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

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

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

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

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

24 4. The purchaser presents a coupon, certificate, or other documentation to the
25 seller to claim the price reduction or discount, if the coupon, certificate, or other

1 documentation is authorized, distributed, or granted by the 3rd party with the
2 understanding that the 3rd party will reimburse the seller for the amount of the price
3 reduction or discount.

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

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

9 SECTION 50. 77.51 (12p) of the statutes is created to read:

10 77.51 (12p) "Purchaser" means a person to whom a sale of tangible personal
11 property is made or to whom a service is furnished.

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23-11

12 SECTION 51. 77.51 (13) (o) of the statutes is amended to read:

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

15 SECTION 52. 77.51 (13g) (intro.) of the statutes is amended to read:

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

19 SECTION 53. 77.51 (13g) (c) of the statutes is created to read:

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

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23 SECTION 54. 77.51 (13rm) of the statutes is created to read:

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

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1 SECTION 55. 77.51 (14) (intro.) of the statutes is amended to read:

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

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7 SECTION 56. 77.51 (14) (a) of the statutes is amended to read:

8 77.51 (14) (a) Any sale at an auction in respect to tangible personal property
9 which is sold to a successful bidder. ~~The proceeds from, except the sale of property~~ or goods
10 sold at auction which is bid in by the seller and on which title does not pass to a new
11 purchaser shall be deducted ~~from the gross proceeds of the sale and the tax paid only~~
12 on the net proceeds.

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13 **SECTION 57.** 77.51 (14) (d) of the statutes is repealed.

14 **SECTION 58.** 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4.

15 **SECTION 59.** 77.51 (14) (i) of the statutes is repealed.

16 **SECTION 60.** 77.51 (14) (j) of the statutes is amended to read:

17 77.51 (14) (j) The granting of possession of tangible personal property by a
18 lessor to a lessee, or to another person at the direction of the lessee. Such a
19 transaction is deemed a continuing sale in this state ~~by the lessor for the duration~~
20 ~~of the lease as respects any period of time the leased property is situated in this state,~~
21 ~~irrespective of the time or place of delivery of the property to the lessee or such other~~
22 person.

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D

23 **SECTION 61.** 77.51 (14) (k) of the statutes is repealed.

24 **SECTION 62.** 77.51 (14) (L) of the statutes is repealed.

25 **SECTION 63.** 77.51 (14r) of the statutes is repealed.

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1 SECTION 64. 77.51 (15) of the statutes is repealed.

2 SECTION 65. 77.51 (15a) of the statutes is created to read:

3 77.51 (15a) (a) "Sales, lease, or rental for resale, sublease, or subrent" includes
4 transfers of tangible personal property to a service provider that the service provider
5 transfers in conjunction with but not incidental to the selling, performing, or
6 furnishing of any service, and transfers of tangible personal property to a service
7 provider that the service provider physically transfers in conjunction with the
8 selling, performing, or furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20. This
9 paragraph does not apply to sub. (2).

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

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

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16 2. Any sale of tangible personal property to a purchaser even though such
17 property ^{or goods} may be used or consumed by some other person to whom such purchaser
18 transfers the tangible personal property ^{or goods} without valuable consideration, such as
19 gifts, and advertising specialties distributed gratis apart from the sale of other
20 tangible personal property or service.

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21 3. Transfers of tangible personal property to a service provider that the service
22 provider transfers in conjunction with the selling, performing, or furnishing of any
23 service, if the tangible personal property ^{or goods} is incidental to the service, unless the
24 service provider is selling, performing, or furnishing services under s. 77.52 (2) (a)
25 7., 10., 11., or 20.

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1 **SECTION 66.** 77.51 (15b) of the statutes is created to read:

2 77.51 **(15b)** (a) "Sales price" means the total amount of consideration, including
3 cash, credit, property, and services, for which tangible personal property or services
4 are sold, leased, or rented, valued in money, whether received in money or otherwise,
5 without any deduction for the following:

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6 1. The seller's cost of the property sold.

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

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

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

13 b. If a shipment includes property that is subject to tax under this subchapter
14 and property that is not subject to tax under this subchapter, the amount of the
15 delivery charge allocated to the property that is subject to tax under this subchapter
16 based on the total sales price of the property that is subject to tax under this
17 subchapter as compared to the total sales price of all the property or on the total
18 weight of the property that is subject to tax under this subchapter as compared to the
19 total weight of all the property.

20 5. Installation charges.

21 6. The value of exempt tangible personal property, if the exempt tangible
22 personal property ^{is} sold as a bundled transaction that includes taxable tangible
23 personal property and sold by the seller as a single product or piece of merchandise.

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

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1 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
2 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
3 taken by a purchaser on a sale.

4 2. Interest, financing, and carrying charges from credit that is extended on a
5 sale of tangible personal property or services, if the amount of the interest, financing,
6 or carrying charges is separately stated on the invoice, bill of sale, or similar
7 document that the seller gives to the purchaser.

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

11 4. Delivery charges for direct mail.

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

16 6. If a person who purchases a motor vehicle presents a statement issued under
17 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the
18 statement to the seller within 60 days from the date of receiving a refund under s.
19 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under
20 s. 218.0171 (2) (cq), but not to exceed the sales price from the sale of the motor vehicle.
21 This subdivision applies only to the first motor vehicle purchased by a person after
22 receiving a refund under s. 218.0171 (2) (b) 2. b.

23 7. Thirty-five percent of the sales price, excluding trade-ins, of a new mobile
24 home, as defined in s. 340.01 (29), that is a primary housing unit or of a new mobile
25 home, as defined in s. 340.01 (29), that is transported in 2 unattached sections if the

1 total size of the combined sections, not including additions and attachments, is at
2 least 984 square feet measured when the sections are ready for transport. This
3 subdivision does not apply to a lease or rental.

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

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

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

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

16 3. The amount of the consideration that is attributable to the sale is a fixed
17 amount and the seller is able to determine that amount at the time of the sale to the
18 purchaser.

19 4. Any of the following also applies:

20 a. The purchaser presents a coupon, certificate, or other documentation to the
21 seller to claim the price reduction or discount, if the coupon, certificate, or other
22 documentation is authorized, distributed, or granted by the 3rd party with the
23 understanding that the 3rd party will reimburse the seller for the amount of the price
24 reduction or discount.

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

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

6 **SECTION 67.** 77.51 (17) of the statutes is amended to read:

7 **77.51 (17)** "Seller" includes every person selling, leasing, or renting tangible
8 personal property or selling, performing, or furnishing services of a kind the gross
9 receipts sales price from the sale, lease, rental, performance, or furnishing of which
10 are is required to be included in the measure of the sales tax.

11 **SECTION 68.** 77.51 (17m) of the statutes is repealed and recreated to read:

12 **77.51 (17m)** "Service address" means any of the following:

13 (a) The location of the telecommunications equipment to which a customer's
14 telecommunications service is charged and from which the telecommunications
15 service originates or terminates, regardless of where the telecommunications service
16 is billed or paid.

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

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

25 **SECTION 69.** 77.51 (17w) of the statutes is created to read:

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1 77.51 (17w) "Soft drink" means a beverage that contains less than 0.5 percent
2 of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not
3 include a beverage that contains milk or milk products; soy, rice, or similar milk
4 substitutes; or more than 50 percent vegetable or fruit juice by volume.

5 SECTION 70. 77.51 (20) of the statutes is amended to read:

6 77.51 (20) "Tangible personal property" means ~~all tangible personal property~~
7 ~~of every kind and description that can be seen, weighed, measured, felt, or touched,~~
8 ~~or that is in any other manner perceptible to the senses,~~ and includes electricity,
9 natural gas, steam and, water, and also leased property affixed to realty if the lessor
10 has the right to remove the property upon breach or termination of the lease
11 agreement, unless the lessor of the property is also the lessor of the realty to which
12 the property is affixed. "Tangible personal property" also includes coins and stamps
13 of the United States sold or traded as collectors' items above their face value and
14 computer programs except custom computer programs prewritten computer
15 software *but does not include digital books*

16 SECTION 71. 77.51 (21) of the statutes is amended to read:

17 77.51 (21) "Taxpayer" means the person who is required to pay, collect, or
18 account for or who is otherwise directly interested in the taxes imposed by this
19 subchapter, including a certified service provider.

20 SECTION 72. 77.51 (21m) of the statutes is amended to read:

21 77.51 (21m) "Telecommunications Internet access services" means sending
22 messages and information transmitted through the use of local, toll and wide-area
23 telephone service; channel services; telegraph services; teletypewriter; computer
24 exchange services; cellular mobile telecommunications service; specialized mobile
25 radio; stationary two-way radio; paging service; or any other form of mobile and

(pzin) restore
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1 portable one-way or two-way communications; or any other transmission of
2 messages or information by electronic or similar means between or among points by
3 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.
4 ~~“Telecommunications services” does not include sending collect telecommunications~~
5 ~~that are received outside of the state.~~

6 **SECTION 73.** 77.51 (21n) of the statutes is created to read:

7 77.51 (21n) “Telecommunications services” means electronically transmitting,
8 conveying, or routing voice, data, audio, video, or other information or signals to a
9 point or between or among points. “Telecommunications services” includes the
10 transmission, conveyance, or routing of such information or signals in which
11 computer processing applications are used to act on the content’s form, code, or
12 protocol for transmission, conveyance, or routing purposes, regardless of whether
13 the service is referred to as a voice over Internet protocol service or classified by the
14 federal communications commission as an enhanced or value-added service.
15 “Telecommunications services” does not include any of the following:

16 (a) Data processing and information services that allow data to be generated,
17 acquired, stored, processed, or retrieved and delivered to a purchaser by an electronic
18 transmission, if the purchaser’s primary purpose for the underlying transaction is
19 the processed data.

20 (b) Installing or maintaining wiring or equipment on a customer’s premises.

21 (c) Tangible personal property.

22 (d) Advertising, including directory advertising.

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

24 (f) ~~Internet access service.~~ *Telecommunications*

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

6 (h) Ancillary services.

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

9 SECTION 74. 77.51 (21p) of the statutes is created to read:

10 77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,
11 and any other item that contains tobacco.

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12 SECTION 75. 77.51 (22) (bm) of the statutes is created to read:

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13 77.51 (22) (bm) In this subsection, "exercise of any right or power over tangible
14 personal property or taxable services" includes distributing, selecting recipients,
15 determining mailing schedules, or otherwise directing the distribution,
16 dissemination, or disposal of tangible personal property or taxable services,
17 regardless of whether the purchaser of such property or services owns or physically
18 possesses, in this state, the property or services.

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Goods

19 SECTION 76. 77.51 (24) of the statutes is created to read:

20 77.51 (24) "Value-added non-voice data service" means a service in which
21 computer processing applications are used to act on the form, content, code, or
22 protocol of the data provided by the service and are used primarily for a purpose other
23 than for transmitting, conveying, or routing data.

24 SECTION 77. 77.51 (25) of the statutes is created to read:

1 77.51 (25) "Vertical service" means an ancillary service that is provided with
2 one or more telecommunications services and allows customers to identify callers
3 and to manage multiple calls and call connections, including conference bridging
4 services.

5 **SECTION 78.** 77.51 (26) of the statutes is created to read:

6 77.51 (26) "Voice mail service" means an ancillary service that allows a
7 customer to store, send, or receive recorded messages, not including any vertical
8 service that the customer must have to use the voice mail service.

9 **SECTION 79.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a) and amended
10 to read:

11 77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible
12 personal property, including accessories, components, attachments, parts, supplies
13 and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the
14 gross receipts sales price from the sale, license, lease or rental of tangible personal
15 property, including accessories, components, attachments, parts, supplies and
16 materials, sold, leased or rented at retail in this state as determined under
s. 77.522

17 **SECTION 80.** 77.52 (1) (b) of the statutes is created to read:

18 77.52 (1) (b) For the privilege of selling at retail coins and stamps of the United
19 States that are sold or traded as collectors' items above their face value, a tax is
20 imposed on all retailers at the rate of 5 percent of the sales price from the sale of such
21 coins and stamps.

22 **SECTION 81.** 77.52 (1) (c) of the statutes is created to read:

23 77.52 (1) (c) For the privilege of leasing property that is affixed to real property,
24 a tax is imposed on all retailers at the rate of 5 percent of the sales price from the lease
25 of such property, if the lessor has the right to remove the leased property upon breach

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as determined under s. 77.522,

1 or termination of the lease agreement, unless the lessor of the leased property is also
2 the lessor of the real property to which the leased property is affixed.

3 SECTION 82. 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 to consumers or users, a
6 tax is imposed upon all persons selling, licensing, performing or furnishing the
7 services at the rate of 5% of the ~~gross receipts~~ sales price from the sale, license,
8 performance or furnishing of the services.

9 SECTION 83. 77.52 (2) (a) 5. a. of the statutes is renumbered 77.52 (2) (a) 5. and
10 amended to read:

intrastate, interstate, and international
interstate 800

11 77.52 (2) (a) 5. The sale of telecommunications services, except services subject
12 ~~to 4 USC 116 to 126, as amended by P.L. 106 252, that either originate or terminate~~
13 ~~in this state; except services that are obtained by means of a toll-free number, that~~
14 ~~originate outside this state and that terminate in this state; and are charged to a~~
15 ~~service address in this state, regardless of the location where that charge is billed or~~
16 ~~paid; and the sale of the rights to purchase telecommunications services, including~~
17 ~~purchasing reauthorization numbers, by paying in advance and by using an access~~
18 ~~number and authorization code, except sales that are subject to subd. 5. b~~

19 telecommunications Internet access services, and ancillary services, including
20 conference bridging services, directory assistance, 800 services, not including 800
21 services that originate outside of this state and terminate in this state, fixed wireless
22 services, mobile wireless services, 900 services, paging services, prepaid calling
23 services, prepaid wireless calling services, private communications services, vertical
24 services, and voice mail services. The tax imposed under this subdivision does not

intrastate, interstate, and international



1 ~~apply to~~ detailed telecommunications billing services ~~or value-added non-voice data~~
2 ~~services.~~

3 SECTION 84. 77.52 (2) (a) 5. b. of the statutes is repealed.

4 SECTION 85. 77.52 (2) (a) 5m. of the statutes is amended to read:

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

12 SECTION 86. 77.52 (2) (a) 10. of the statutes is amended to read:

13 77.52 (2) (a) 10. Except for services provided by veterinarians and except for
14 installing or applying tangible personal property that, subject to par. (ag), when
15 installed or applied, will constitute an addition or capital improvement of real
16 property, the repair, service, alteration, fitting, cleaning, painting, coating, towing,
17 inspection, and maintenance of all items of tangible personal property unless, at the
18 time of that ~~the~~ repair, service, alteration, fitting, cleaning, painting, coating,
19 towing, inspection, or maintenance, a sale in this state of the type of property
20 repaired, serviced, altered, fitted, cleaned, painted, coated, towed, inspected, or
21 maintained would have been exempt to the customer from sales taxation under this
22 subchapter, other than the exempt sale of a motor vehicle or truck body to a
23 nonresident under s. 77.54 (5) (a) and other than nontaxable sales under s. 77.51
24 ~~(14r) juvenile~~ 77.522 or unless the repair, service, alteration, fitting, cleaning,
25 painting, coating, towing, inspection, or maintenance is provided under a contract

1 that is subject to tax under subd. 13m. The tax imposed under this subsection applies
2 to the repair, service, alteration, fitting, cleaning, painting, coating, towing,
3 inspection, or maintenance of items listed in par. (ag), regardless of whether the
4 installation or application of tangible personal property related to the items is an
5 addition to or a capital improvement of real property, except that the tax imposed
6 under this subsection does not apply to the original installation or the complete
7 replacement of an item listed in par. (ag), if that the installation or replacement is
8 a real property construction activity under s. 77.51 (2).

9 **SECTION 87.** 77.52 (2) (a) 13m. of the statutes is created to read:

10 77.52 (2) (a) 13m. The sale of contracts, including service contracts,
11 maintenance agreements, and warranties, that provide, in whole or in part, for the
12 future performance of or payment for the repair, service, alteration, fitting, cleaning,
13 painting, coating, towing, inspection, or maintenance of tangible personal property,
14 unless the sale, lease, or rental in this state of the property to which the contract
15 relates is or was exempt, to the purchaser of the contract, from taxation under this
16 subchapter.

17 **SECTION 88.** 77.52 (3m) of the statutes is repealed.

18 **SECTION 89.** 77.52 (3n) of the statutes is repealed.

19 **SECTION 90.** 77.52 (6) of the statutes is repealed.

20 **SECTION 91.** 77.52 (7) of the statutes is amended to read:

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

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

10 **SECTION 92.** 77.52 (7b) of the statutes is created to read:

11 77.52 (7b) Any person who may register under sub. (7) may designate an agent,
 12 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the
 13 manner prescribed by the department.

14 **SECTION 93.** 77.52 (13) of the statutes is amended to read:

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

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1 to the rules of a commodity market regulated by the U.S. commodity futures trading
2 commission if upon the sale the commodity is not removed from the warehouse the
3 sale of tangible personal property that is exempt under s. 77.54 (7), (7m), (8), (10),
4 (11), (14), (14b), (15), (17), (20n), (21), (22b), (30), (31), (32), (35), (36), (37), (42), (44),
5 (45), and (46), except as provided in s. 77.54 (30) (e) and (f).

6 SECTION 94. 77.52 (14) (a) (intro.) and 1. and (b) of the statutes are consolidated,
7 renumbered 77.52 (14) (a) and amended to read:

8 77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller from the
9 burden of proof only if any of the following is true: 1. ~~The certificate is taken in good~~
10 ~~faith~~ the seller obtains a fully completed exemption certificate, or the information
11 required to prove the exemption, from a person who is engaged as a seller of tangible
12 personal property or taxable services and who holds the permit provided for in sub.
13 (9) and who, at the time of purchasing purchaser no later than 90 days after the date
14 of the sale of the tangible personal property or services, intends to sell it in the
15 regular course of operations or is unable to ascertain at the time of purchase whether
16 the property or service will be sold or will be used for some other purpose. (b) except
17 as provided in par. (am). The certificate under sub. (13) shall not relieve the seller
18 of the burden of proof if the seller fraudulently fails to collect sales tax, solicits the
19 purchaser to claim an unlawful exemption, accepts an exemption certificate from a
20 purchaser who claims to be an entity that is not subject to the taxes imposed under
21 this subchapter, if the subject of the transaction sought to be covered by the
22 exemption certificate is received by the purchaser at a location operated by the seller
23 in this state and the exemption certificate clearly and affirmatively indicates that
24 the claimed exemption is not available in this state. The certificate referred to in sub.
25 (13) shall be signed by and bear the name and address of provide information that

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1 identifies the purchaser; and shall indicate ~~the general character of the tangible~~
2 ~~personal property or service sold by the purchaser and the basis for the claimed~~
3 ~~exemption and a paper certificate shall be signed by the purchaser.~~ The certificate
4 shall be in such form as the department prescribes by rule.

5 **SECTION 95.** 77.52 (14) (a) 2. of the statutes is repealed.

6 **SECTION 96.** 77.52 (14) (am) of the statutes is created to read:

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

13 **SECTION 97.** 77.52 (15) of the statutes is amended to read:

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

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1 SECTION 98. 77.522 of the statutes is created to read:

2 77.522 Sourcing. (1) GENERAL. (a) In this section:

3 1. "Direct mail form" means a form for direct mail prescribed by the
4 department.

5 ~~2. "Product" includes tangible personal property, digital goods, and services.~~

6 3. "Receive" means taking possession of tangible personal property; making
7 first use of services; or taking possession or making first use of digital goods,
8 whichever comes first. "Receive" does not include a shipping company taking
9 possession of tangible personal property on a purchaser's behalf.

10 4. "Transportation equipment" means any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (c) The sale of direct mail occurs at the location from which the direct mail is
25 shipped, if the purchaser does not provide to the seller a direct pay permit, a direct

1 mail form, or other information that indicates the appropriate taxing jurisdiction to
2 which the direct mail is delivered to the ultimate recipients. If the purchaser
3 provides a direct mail form or direct pay permit to the seller, the purchaser shall pay
4 or remit, as appropriate, to the department the tax imposed under s. 77.53 on all
5 purchases for which the tax is due and the seller is relieved from liability for
6 collecting such tax or that satisfy the requirements under par. (e) or (f). A direct mail
7 form provided to a seller under this paragraph shall remain effective for all sales by
8 the seller who received the form to the purchaser who provided the form, unless the
9 purchaser revokes the form in writing and provides such revocation to the seller.

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

20 (b) The lease or rental of motor vehicles, trailers, semitrailers, and aircraft,
21 that are not transportation equipment, occurs at the primary location of such motor
22 vehicles, trailers, semitrailers, or aircraft as indicated by an address for the property
23 that is provided by the lessee and that is available to the lessor in records that the
24 lessor maintains in the ordinary course of the lessor's business, if the use of such an
25 address does not constitute bad faith, except that a lease or rental under this

1 paragraph that requires only one payment occurs at the location determined under
2 sub. (1) (b). The location of a lease or rental as determined under this paragraph shall
3 not be altered by any intermittent use of the property at different locations.

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

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6 (d) A license of tangible personal property shall be treated as a lease or rental
7 of tangible personal property under this subsection.

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

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

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

14 3. "Communications channel" means a physical or virtual path of
15 communications over which signals are transmitted between or among customer
16 channel termination points.

17 4. "Customer" means a person who enters into a contract with a seller of
18 telecommunications services or, in any transaction for which the end user is not the
19 person who entered into a contract with the seller of telecommunications services,
20 the end user of the telecommunications services. "Customer" does not include a
21 person who resells telecommunications services or, for mobile telecommunications
22 services, a serving carrier under an agreement to serve a customer outside the home
23 service provider's licensed service area.

24 5. "Customer channel termination point" means the location where a customer
25 inputs or receives communications.

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

2 7. "Home service provider" means a home service provider under section 124
3 (5) of P.L. 106-252.

4 8. "Mobile telecommunications service" means a mobile telecommunications
5 service under 4 USC 116 to 126, as amended by P.L. 106-252.

6 9. "Place of primary use" means place of primary use, as determined under 4
7 USC 116 to 126, as amended by P.L. 106-252.

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

16 14. "Radio service" means a communication service provided by the use of radio,
17 including radiotelephone, radiotelegraph, paging, and facsimile service.

18 15. "Radiotelegraph service" means transmitting messages from one place to
19 another by means of radio.

20 16. "Radiotelephone service" means transmitting sound from one place to
21 another by means of radio.

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

1 jurisdiction for sales and use tax purposes where the call originates or terminates
2 and where the service address is located.

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

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

9 ~~2. The sale of a telecommunications internet access service and ancillary~~
10 ~~services occurs at the customer's place of primary use.~~

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

16 (f) The sale of a prepaid calling service or a prepaid wireless calling service
17 occurs at the location determined under sub. (1) (b), except that, if the service is a
18 prepaid wireless calling service and the location cannot be determined under sub. (1)
19 (b) 1. to 4., the prepaid wireless calling service occurs at the location determined
20 under sub. (1) (b) 5. c. or at the location associated with the mobile telephone number,
21 as determined by the seller.

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

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

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

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

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

21 (b) The sale of tangible personal property by a retail florist who takes an order
22 from a purchaser occurs at the location where the retail florist takes the order, if the
23 retail florist forwards the order to another retail florist who is at a location other than
24 the location of the florist who takes the order and who transfers the tangible personal
25 property to a person identified by the purchaser.

1 (c) This subsection does not apply to sales occurring on or after January 1, 2008.

2 **SECTION 99.** 77.523 (title) of the statutes is repealed.

3 **SECTION 100.** 77.523 of the statutes is renumbered 77.59 (9p) (a) and amended
4 to read:

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

1 alleged error in the assigned place of primary use or taxing jurisdiction, unless the
2 customer has exhausted his or her remedies under this section paragraph.

3 **SECTION 101.** 77.524 (1) (a) of the statutes is renumbered 77.524 (1) (am).

4 **SECTION 102.** 77.524 (1) (ag) of the statutes is created to read:

5 77.524 (1) (ag) "Agent" means a person appointed by a seller to represent the
6 seller before the states that are signatories to the agreement, as defined in 77.65 (2)
7 (a).

8 **SECTION 103.** 77.524 (1) (b) of the statutes is renumbered 77.51 (1g) and
9 amended to read:

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

15 **SECTION 104.** 77.525 of the statutes is amended to read:

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

24 **SECTION 105.** 77.53 (1) of the statutes is amended to read:

① 77.53 (1) Except as provided in ^{retailer} ~~sub. 57.03 (1m) and (1n)~~, an excise tax is levied
 2 and imposed on the use or consumption in this state of taxable services under s. 77.52
 3 purchased from any retailer, at the rate of 5% of the sales purchase price of those
 4 services; on the storage, use or other consumption in this state of tangible personal
 5 property purchased from any retailer, at the rate of 5% of the sales purchase price
 6 of that property; and on the storage, use or other consumption of tangible personal
 7 property manufactured, processed or otherwise altered, in or outside this state, by
 8 the person who stores, uses or consumes it, from material purchased from any
 9 ^{retailer} retailer, at the rate of 5% of the sales purchase price of that material.

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10 **SECTION 106.** 77.53 (3) of the statutes is amended to read:

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11 77.53 (3) Every retailer engaged in business in this state and making sales of
 12 tangible personal property or taxable services ~~for delivery into this state or with~~
 13 ~~knowledge directly or indirectly that the property or service is intended for storage,~~
 14 ~~use or other consumption in that are sourced to this state under s. 77.522,~~ shall, at
 15 the time of making the sales or, if the storage, use or other consumption of the
 16 tangible personal property or taxable service is not then taxable under this section,
 17 at the time the storage, use or other consumption becomes taxable, collect the tax
 18 from the purchaser and give to the purchaser a receipt in the manner and form
 19 prescribed by the department.

20 **SECTION 107.** 77.53 (4) of the statutes is repealed.

21 **SECTION 108.** 77.53 (9) of the statutes is amended to read:

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22 77.53 (9) Every retailer selling tangible personal property or taxable services
 23 for storage, use or other consumption in this state shall register with the department
 24 and obtain a certificate under s. 73.03 (50) and give the name and address of all
 25 agents operating in this state, the location of all distribution or sales houses or offices

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1 or other places of business in this state, the standard industrial code classification
2 of each place of business in this state and the other information that the department
3 requires. Any person who may register under this subsection may designate an
4 agent, as defined in s. 77.524 (1) (ag), to register with the department under this
5 subsection, in the manner prescribed by the department.

6 ~~SECTION 109. 77.53 (9m) of the statutes is renumbered 77.53 (9m) (a).~~

7 SECTION 110. 77.53 (9m) (b) of the statutes is created to read:

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

11 SECTION 111. 77.53 (9m) (c) of the statutes is created to read:

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

15 SECTION 112. 77.53 (10) of the statutes is amended to read:

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16 77.53 (10) For the purpose of the proper administration of this section and to
17 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that

18 tangible personal property or taxable services sold by any person for delivery in this
19 state is sold for storage, use, or other consumption in this state until the contrary is
20 established. The burden of proving the contrary is upon the person who makes the
21 sale unless that person takes from the purchaser a- an electronic or paper certificate,

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22 in a manner prescribed by department, to the effect that the property or taxable
23 service is purchased for resale, or otherwise exempt from the tax, except that no
24 certificate is required for sales of cattle, sheep, goats, and pigs that are sold at an
25 animal market, as defined in s. 95.68 (1) (ag), and no certificate is required for sales

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

8 **SECTION 113.** 77.53 (11) of the statutes is renumbered 77.53 (11) (a) and
9 amended to read:

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

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

8 **SECTION 114.** 77.53 (11) (b) of the statutes is created to read:

9 77.53 (11) (b) If the seller has not obtained a fully completed exemption
10 certificate or the information required to prove the exemption, as provided in par. (a),
11 the seller may, no later than 120 days after the department requests that the seller
12 substantiate the exemption, either provide proof of the exemption to the department
13 by other means or obtain, in good faith, a fully completed exemption certificate from
14 the purchaser.

15 **SECTION 115.** 77.53 (16) of the statutes is amended to read:

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

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1 which the sale occurred and "state" includes the District of Columbia ~~but does not~~
2 ~~include~~ and the commonwealth of Puerto Rico ~~or~~ but does not include the several
3 territories organized by congress.

4 SECTION 116. 77.53 (17) of the statutes is amended to read:

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5 77.53 (17) This section does not apply to tangible personal property purchased
6 outside this state, as determined under s. 77.522, other than motor vehicles, boats,
7 snowmobiles, mobile homes not exceeding 45 feet in length, trailers, semitrailers,
8 all-terrain vehicles and airplanes registered or titled or required to be registered or
9 titled in this state, which is brought into this state by a nondomiciliary for the
10 person's own storage, use or other consumption while temporarily within this state
11 when such property is not stored, used or otherwise consumed in this state in the
12 conduct of a trade, occupation, business or profession or in the performance of
13 personal services for wages or fees.

14 SECTION 117. 77.53 (17m) of the statutes is amended to read:

15 77.53 (17m) This section does not apply to a boat purchased in a state
16 contiguous to this state, as determined under s. 77.522, by a person domiciled in that
17 state if the boat is berthed in this state's boundary waters adjacent to the state of the
18 domicile of the purchaser and if the transaction was an exempt occasional sale under
19 the laws of the state in which the purchase was made.

20 SECTION 118. 77.53 (17r) (a) of the statutes is amended to read:

21 77.53 (17r) (a) It is purchased in another state, as determined under s. 77.522.

22 SECTION 119. 77.53 (18) of the statutes is amended to read:

23 77.53 (18) This section does not apply to the storage, use or other consumption
24 in this state of household goods for personal use or to aircraft, motor vehicles, boats,
25 snowmobiles, mobile homes, trailers, semitrailers and all-terrain vehicles, for

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1 personal use, purchased by a nondomiciliary of this state outside this state, as
2 determined under s. 77.522, 90 days or more before bringing the goods or property
3 into this state in connection with a change of domicile to this state.

4 **SECTION 120.** 77.54 (1) of the statutes is amended to read:

5 77.54 (1) The ~~gross receipts~~ sales price from the sale of and the storage, use or
6 other consumption in this state of tangible personal property and services the ~~gross~~
7 ~~receipts~~ sales price from the sale of which, or the storage, use or other consumption
8 of which, this state is prohibited from taxing under the constitution or laws of the
9 United States or under the constitution of this state.

10 **SECTION 121.** 77.54 (2) of the statutes is amended to read:

11 77.54 (2) The ~~gross receipts~~ sales price from sales of and the storage, use or
12 other consumption of tangible personal property becoming an ingredient or
13 component part of an article of tangible personal property or which is consumed or
14 destroyed or loses its identity in the manufacture of tangible personal property in
15 any form destined for sale, except as provided in sub. (30) (a) 6.

16 **SECTION 122.** 77.54 (2m) of the statutes is amended to read:

17 77.54 (2m) The ~~gross receipts~~ sales price from the sales of and the storage, use
18 or other consumption of tangible personal property or services that become an
19 ingredient or component of shoppers guides, newspapers or periodicals or that are
20 consumed or lose their identity in the manufacture of shoppers guides, newspapers
21 or periodicals, whether or not the shoppers guides, newspapers or periodicals are
22 transferred without charge to the recipient. In this subsection, "shoppers guides",
23 "newspapers" and "periodicals" have the meanings under sub. (15). The exemption
24 under this subdivision does not apply to advertising supplements that are not
25 newspapers.

1 **SECTION 123.** 77.54 (3) (a) of the statutes, as affected by 2005 Wisconsin Act
2 366, is amended to read:

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

17 **SECTION 124.** 77.54 (3m) (intro.) of the statutes, as affected by 2005 Wisconsin
18 Act 366, is amended to read:

19 77.54 (3m) (intro.) The ~~gross receipts~~ sales price from the sale of and the
20 storage, use or other consumption of the following items if they are used exclusively
21 by the purchaser or user in the business of farming; including dairy farming,
22 agriculture, horticulture, floriculture, silviculture, and custom farming services:

23 **SECTION 125.** 77.54 (4) of the statutes is amended to read:

24 77.54 (4) ~~Gross receipts~~ The sales price from the sale of tangible personal
25 property, and the storage, use or other consumption in this state of tangible personal

1 property which is the subject of any such sale, by any elementary school or secondary
2 school, exempted as such from payment of income or franchise tax under ch. 71,
3 whether public or private.

4 **SECTION 126.** 77.54 (5) (intro.) of the statutes is amended to read:

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

7 **SECTION 127.** 77.54 (6) (intro.) of the statutes is amended to read:

8 77.54 (6) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
9 use or other consumption of:

10 **SECTION 128.** 77.54 (7m) of the statutes is amended to read:

11 77.54 (7m) Occasional sales of tangible personal property or services, including
12 admissions or tickets to an event; by a neighborhood association, church, civic group,
13 garden club, social club or similar nonprofit organization; not involving
14 entertainment for which payment in the aggregate exceeds \$500 for performing or
15 as reimbursement of expenses unless access to the event may be obtained without
16 payment of a direct or indirect admission fee; conducted by the organization if the
17 organization is not engaged in a trade or business and is not required to have a
18 seller's permit. For purposes of this subsection, an organization is engaged in a trade
19 or business and is required to have a seller's permit if its sales of tangible personal
20 property and services, not including sales of tickets to events, and its events occur
21 on more than 20 days during the year, unless its receipts do not exceed \$25,000
22 during the year. The exemption under this subsection does not apply to ~~gross receipts~~
23 the sales price from the sale of bingo supplies to players or to the sale, rental or use
24 of regular bingo cards, extra regular cards and special bingo cards.

25 **SECTION 129.** 77.54 (8) of the statutes is amended to read:

1 77.54 (8) Charges for ~~interest, financing or insurance, not including contracts~~
2 under s. 77.52 (2) (a) 13m., where such charges are separately set forth upon the
3 invoice given by the seller to the purchaser.

4 **SECTION 130.** 77.54 (9) of the statutes is amended to read:

5 77.54 (9) The ~~gross receipts~~ sales price from sales of tickets or admissions to
6 public and private elementary and secondary school activities, where the entire net
7 proceeds therefrom are expended for educational, religious or charitable purposes.

8 **SECTION 131.** 77.54 (9a) (intro.) of the statutes is amended to read:

9 77.54 (9a) (intro.) The ~~gross receipts~~ sales price from sales to, and the storage
10 by, use by or other consumption of tangible personal property and taxable services
11 by:

12 **SECTION 132.** 77.54 (10) of the statutes is amended to read:

13 77.54 (10) The ~~gross receipts~~ sales price from the sale of all admission fees,
14 admission stickers or camping fees under s. 27.01 (7) to (11) and all admission fees
15 to any museum operated by a nonprofit corporation under a lease agreement with
16 the state historical society.

17 **SECTION 133.** 77.54 (11) of the statutes is amended to read:

18 77.54 (11) The ~~gross receipts~~ sales price from the sales of and the storage, use
19 or other consumption in this state of motor vehicle fuel, general aviation fuel or
20 alternate fuel, subject to taxation under ch. 78, unless the motor vehicle fuel or
21 alternate fuel tax is refunded under s. 78.75 because the buyer does not use the fuel
22 in operating a motor vehicle upon the public highways.

23 **SECTION 134.** 77.54 (12) of the statutes is amended to read:

24 77.54 (12) The ~~gross receipts~~ sales price from the sales of and the storage, use
25 or other consumption in this state of rail freight or passenger cars, locomotives or

1 other rolling stock used in railroad operations, or accessories, attachments, parts,
2 lubricants or fuel therefor.

3 **SECTION 135.** 77.54 (13) of the statutes is amended to read:

4 77.54 (13) The ~~gross receipts~~ sales price from the sales of and the storage, use
5 or other consumption in this state of commercial vessels and barges of 50-ton burden
6 or over primarily engaged in interstate or foreign commerce or commercial fishing,
7 and the accessories, attachments, parts and fuel therefor.

8 **SECTION 136.** 77.54 (14) (intro.) of the statutes is amended to read:

9 77.54 (14) (intro.) The ~~gross receipts~~ sales price from the sales of and the
10 storage, use, or other consumption in this state of ~~medieines~~ drugs that are any of
11 the following:

12 **SECTION 137.** 77.54 (14) (a) of the statutes is amended to read:

13 77.54 (14) (a) Prescribed for the treatment of a human being by a person
14 authorized to prescribe the ~~medieines~~ drugs, and dispensed on prescription filled by
15 a registered pharmacist in accordance with law.

16 **SECTION 138.** 77.54 (14) (b) of the statutes is amended to read:

17 77.54 (14) (b) Furnished by a licensed physician, surgeon, podiatrist, or dentist
18 to a patient who is a human being for treatment of the patient.

19 **SECTION 139.** 77.54 (14) (f) (intro.) of the statutes is amended to read:

20 77.54 (14) (f) (intro.) Furnished without charge to any of the following if the
21 ~~medieine~~ drug may not be dispensed without a prescription:

22 **SECTION 140.** 77.54 (14b) of the statutes is created to read:

23 77.54 (14b) The sales price from the sales of and the storage, use, or other
24 consumption of bandages, dressings, syringes, and similar items that are sold as a

1 bundled transaction that includes drugs that are exempt under sub. (14) and sold by
2 the seller as a single product or piece of merchandise.

3 **SECTION 141.** 77.54 (14g) of the statutes is repealed.

4 **SECTION 142.** 77.54 (14s) of the statutes is repealed.

5 **SECTION 143.** 77.54 (15) of the statutes is amended to read:

6 77.54 (15) The ~~gross receipts~~ sales price from the sale of and the storage, use
7 or other consumption of all newspapers, of periodicals sold by subscription and
8 regularly issued at average intervals not exceeding 3 months, or issued at average
9 intervals not exceeding 6 months by an educational association or corporation sales
10 to which are exempt under sub. (9a) (f), of controlled circulation publications sold to
11 commercial publishers for distribution without charge or mainly without charge or
12 regularly distributed by or on behalf of publishers without charge or mainly without
13 charge to the recipient and of shoppers guides which distribute no less than 48 issues
14 in a 12-month period. In this subsection, "shoppers guide" means a community
15 publication delivered, or attempted to be delivered, to most of the households in its
16 coverage area without a required subscription fee, which advertises a broad range
17 of products and services offered by several types of businesses and individuals. In
18 this subsection, "controlled circulation publication" means a publication that has at
19 least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes
20 not more than 75% of its pages to advertising and that is not conducted as an
21 auxiliary to, and essentially for the advancement of, the main business or calling of
22 the person that owns and controls it.

23 **SECTION 144.** 77.54 (16) of the statutes is amended to read:

24 77.54 (16) The ~~gross receipts~~ sales price from the sale of and the storage, use
25 or other consumption of fire trucks and fire fighting equipment, including

1 accessories, attachments, parts and supplies therefor, sold to volunteer fire
2 departments.

3 **SECTION 145.** 77.54 (17) of the statutes is amended to read:

4 77.54 (17) The ~~gross receipts~~ sales price from the sales of and the storage, use
5 or other consumption of water, that is not food and food ingredient, when delivered
6 through mains.

7 **SECTION 146.** 77.54 (18) of the statutes is amended to read:

8 77.54 (18) When the sale, lease or rental of a service or property that was
9 previously exempt or not taxable under this subchapter becomes taxable, and the
10 service or property is furnished under a written contract by which the seller is
11 unconditionally obligated to provide the service or property for the amount fixed
12 under the contract, the seller is exempt from sales or use tax on the ~~gross receipts~~
13 sales price for services or property provided until the contract is terminated,
14 extended, renewed or modified. However, from the time the service or property
15 becomes taxable until the contract is terminated, extended, renewed or modified the
16 user is subject to use tax, measured by the ~~sales~~ purchase price, on the service or
17 property purchased under the contract.

18 **SECTION 147.** 77.54 (20) of the statutes is repealed.

19 **SECTION 148.** 77.54 (20m) of the statutes is repealed.

20 **SECTION 149.** 77.54 (20n) of the statutes is created to read:

21 77.54 (20n) (a) The sales price from the sale of and the storage, use, or other
22 consumption of food and food ingredients, except candy, soft drinks, dietary
23 supplements, and prepared food.

24 (b) The sales price from the sale of and the storage, use, or other consumption
25 of food and food ingredients, except soft drinks, sold by hospitals, sanatoriums,

1 nursing homes, retirement homes, community-based residential facilities, as
2 defined in s. 50.01 (1g), or day care centers registered under ch. 48, including
3 prepared food that is sold to the elderly or handicapped by persons providing mobile
4 meals on wheels. In this paragraph, "retirement home" means a nonprofit
5 residential facility where 3 or more unrelated adults or their spouses have their
6 principal residence and where support services, including meals from a common
7 kitchen, are available to residents.

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

12 1. An undergraduate student, a graduate student, or a student enrolled in a
13 professional school if the student is enrolled for credit at the public or private
14 institution of higher education and if the food and food ingredients are consumed by
15 the student.

16 2. A national football league team.

17 **SECTION 150.** 77.54 (20p) of the statutes is created to read:

18 **77.54 (20p)** The sales price from the sale of and the storage, use, or other
19 consumption of taxable and exempt food and food ingredients that are packaged
20 together if 50 percent or more of the sales price of the items packaged together is
21 attributable to food and food ingredients that are exempt from the taxes imposed
22 under this subchapter. If more than 50 percent of the sales price is attributable to
23 items that are subject to the taxes imposed under this subchapter, the entire sales
24 price is subject to the taxes imposed under this subchapter, regardless of any
25 exemption under this section that otherwise applies to the remaining items.

1 **SECTION 151.** 77.54 (20r) of the statutes is created to read:

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

7 **SECTION 152.** 77.54 (21) of the statutes is amended to read:

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

10 **SECTION 153.** 77.54 (22) of the statutes is repealed.

11 **SECTION 154.** 77.54 (22b) of the statutes is created to read:

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

16 **SECTION 155.** 77.54 (22c) of the statutes is created to read:

17 77.54 **(22c)** The sales price from the sale of and the storage, use, or other
18 consumption of tangible personal property that is subject to the taxes imposed under
19 this subchapter and items described under sub. (22b), if such property and items are
20 packaged together and if 50 percent or more of the sales price of the property and
21 items packaged together is attributable to the items described under sub. (22b). If
22 more than 50 percent of the sales price is attributable to tangible personal property
23 that is subject to the taxes imposed under this subchapter, the entire sales price is
24 subject to the taxes imposed under this subchapter, regardless of the exemption
25 under sub. (22b).

1 **SECTION 156.** 77.54 (23m) of the statutes is amended to read:

2 77.54 (23m) The ~~gross receipts~~ sales price from the sale, lease or rental of or
3 the storage, use or other consumption of motion picture film or tape, and advertising
4 materials related thereto, sold, leased or rented to a motion picture theater or radio
5 or television station.

6 **SECTION 157.** 77.54 (25) of the statutes is amended to read:

7 77.54 (25) The ~~gross receipts~~ sales price from the sale of and the storage of
8 printed material which is designed to advertise and promote the sale of merchandise,
9 or to advertise the services of individual business firms, which printed material is
10 purchased and stored for the purpose of subsequently transporting it outside the
11 state by the purchaser for use thereafter solely outside the state.

12 **SECTION 158.** 77.54 (26) of the statutes is amended to read:

13 77.54 (26) The ~~gross receipts~~ sales price from the sales of and the storage, use,
14 or other consumption of tangible personal property which becomes a component part
15 of an industrial waste treatment facility that is exempt under s. 70.11 (21) (a) or that
16 would be exempt under s. 70.11 (21) (a) if the property were taxable under ch. 70, or
17 tangible personal property which becomes a component part of a waste treatment
18 facility of this state or any agency thereof, or any political subdivision of the state or
19 agency thereof as provided in s. 40.02 (28). The exemption includes replacement
20 parts therefor, and also applies to chemicals and supplies used or consumed in
21 operating a waste treatment facility and to purchases of tangible personal property
22 made by construction contractors who transfer such property to their customers in
23 fulfillment of a real property construction activity. This exemption does not apply
24 to tangible personal property installed in fulfillment of a written construction
25 contract entered into, or a formal written bid made, prior to July 31, 1975.

1 **SECTION 159.** 77.54 (26m) of the statutes is amended to read:

2 77.54 (26m) The ~~gross receipts~~ sales price from the sale of and the storage, use
3 or other consumption of waste reduction or recycling machinery and equipment,
4 including parts therefor, exclusively and directly used for waste reduction or
5 recycling activities which reduce the amount of solid waste generated, reuse solid
6 waste, recycle solid waste, compost solid waste or recover energy from solid waste.
7 The exemption applies even though an economically useful end product results from
8 the use of the machinery and equipment. For the purposes of this subsection, “solid
9 waste” means garbage, refuse, sludge or other materials or articles, whether these
10 materials or articles are discarded or purchased, including solid, semisolid, liquid or
11 contained gaseous materials or articles resulting from industrial, commercial,
12 mining or agricultural operations or from domestic use or from public service
13 activities.

14 **SECTION 160.** 77.54 (27) of the statutes is amended to read:

15 77.54 (27) The ~~gross receipts~~ sales price from the sale of semen used for
16 artificial insemination of livestock.

17 **SECTION 161.** 77.54 (28) of the statutes is amended to read:

18 77.54 (28) The ~~gross receipts~~ sales price from the sale of and the storage, use
19 or other consumption to or by the ultimate consumer of ~~apparatus or equipment for~~
20 ~~the injection of insulin or the treatment of diabetes and supplies used to determine~~
21 blood sugar level.

22 **SECTION 162.** 77.54 (29) of the statutes is amended to read:

23 77.54 (29) The ~~gross receipts~~ sales price from the sales of and the storage, use
24 or other consumption of equipment used in the production of maple syrup.

25 **SECTION 163.** 77.54 (30) (a) (intro.) of the statutes is amended to read:

1 77.54 (30) (a) (intro.) The ~~gross receipts~~ sales price from the sale of:

2 **SECTION 164.** 77.54 (30) (c) of the statutes is amended to read:

3 77.54 (30) (c) If fuel or electricity is sold partly for a use exempt under this
4 subsection and partly for a use which is not exempt under this subsection, no tax
5 shall be collected on that percentage of the ~~gross receipts~~ sales price equal to the
6 percentage of the fuel or electricity which is used for an exempt use, as specified in
7 an exemption certificate provided by the purchaser to the seller.

8 **SECTION 165.** 77.54 (31) of the statutes is amended to read:

9 77.54 (31) The ~~gross receipts~~ sales price from the sale of and the storage, use
10 or other consumption in this state, but not the lease or rental, of used mobile homes
11 that are primary housing units under s. 340.01 (29).

12 **SECTION 166.** 77.54 (32) of the statutes is amended to read:

13 77.54 (32) The ~~gross receipts~~ sales price from charges, including charges for a
14 search, imposed by an authority, as defined in s. 19.32 (1), for copies of a public record
15 that a person may examine and use under s. 16.61 (12) or for copies of a record under
16 s. 19.35 (1).

17 **SECTION 167.** 77.54 (33) of the statutes is amended to read:

18 77.54 (33) The ~~gross receipts~~ sales price from sales of and the storage, use or
19 other consumption of medicines drugs used on farm livestock, not including
20 workstock.

21 **SECTION 168.** 77.54 (35) of the statutes is amended to read:

22 77.54 (35) The ~~gross receipts~~ sales price from the sales of tangible personal
23 property, tickets or admissions by any baseball team affiliated with the Wisconsin
24 Department of American Legion baseball.

25 **SECTION 169.** 77.54 (36) of the statutes is amended to read:

1 77.54 (36) The gross receipts sales price from the rental for a continuous period
2 of one month or more of a mobile home, as defined in s. 66.0435 (1) (d), that is used
3 as a residence. In this subsection, “one month” means a calendar month or 30 days,
4 whichever is less, counting the first day of the rental and not counting the last day
5 of the rental.

6 **SECTION 170.** 77.54 (37) of the statutes is amended to read:

7 77.54 (37) The gross receipts sales price from revenues collected under s.
8 146.70 (3) and the surcharge established by rule by the public service commission
9 under s. 146.70 (3m) (f) for customers of wireless providers, as defined in s. 146.70
10 (3m) (a) 6.

11 **SECTION 171.** 77.54 (38) of the statutes is amended to read:

12 77.54 (38) The gross receipts sales price from the sale of and the storage, use
13 or other consumption of snowmobile trail groomers and attachments for them that
14 are purchased, stored, used or consumed by a snowmobile club that meets at least
15 3 times a year, that has at least 10 members, that promotes snowmobiling and that
16 participates in the department of natural resources’ snowmobile program under s.
17 350.12 (4) (b).

18 **SECTION 172.** 77.54 (39) of the statutes is amended to read:

19 77.54 (39) The gross receipts sales price from the sale of and the storage, use
20 or other consumption of off-highway, heavy mechanical equipment such as feller
21 bunchers, slashers, delimiters, chippers, hydraulic loaders, loaders,
22 skidder-forwarders, skidders, timber wagons and tractors used exclusively and
23 directly in the harvesting or processing of raw timber products in the field by a person
24 in the logging business. In this subsection, “heavy mechanical equipment” does not
25 include hand tools such as axes, chains, chain saws and wedges.