

1 ***-1823/2.1*** SECTION 2170. 77.51 (1j) of the statutes is created to read:

2 77.51 (1j) "Catalog" means a printed and bound, stitched, sewed, or stapled
3 book containing a list and description of property or services for sale, regardless of
4 whether a price is specified.

5 ***-0728/6.26*** SECTION 2171. 77.51 (1n) of the statutes is created to read:

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

9 ***-0728/6.27*** SECTION 2172. 77.51 (1p) of the statutes is created to read:

10 77.51 (1p) "Computer software" means a set of coded instructions designed to
11 cause a computer or automatic data processing equipment to perform a task.
12 "Computer software" does not include specified digital goods.

13 ***-0728/6.28*** SECTION 2173. 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 ***-0728/6.29*** SECTION 2174. 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 ***-0728/6.30*** SECTION 2175. 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 *-0728/6.31* SECTION 2176. 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 *-0728/6.32* SECTION 2177. 77.51 (3n) of the statutes is created to read:

6 77.51 (3n) "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 *-0728/6.33* SECTION 2178. 77.51 (3p) of the statutes is created to read:

24 77.51 (3p) "Digital audio works" means works that result from the fixation of
25 a series of musical, spoken, or other sounds that are transferred electronically,

1 including prerecorded or live music, prerecorded or live readings of books or other
2 written materials, prerecorded or live speeches, or ringtones, but not including audio
3 greeting cards sent by electronic mail.

4 ***-0728/6.34* SECTION 2179.** 77.51 (3pa) of the statutes is created to read:

5 77.51 (3pa) "Digital audiovisual works" means a series of related images that,
6 when shown in succession, impart an impression of motion, along with
7 accompanying sounds, if any, that are transferred electronically. "Digital
8 audiovisual works" includes motion pictures, musical videos, news programs, and
9 live events, but does not include video greeting cards sent by electronic mail or video
10 or electronic games.

11 ***-0728/6.35* SECTION 2180.** 77.51 (3pb) of the statutes is created to read:

12 77.51 (3pb) "Digital books" means works that are generally recognized as
13 books and are transferred electronically. "Digital books" includes novels, nonfiction
14 works, and short stories, but does not include newspapers, periodicals, chat room
15 discussions, or blogs.

16 ***-0728/6.36* SECTION 2181.** 77.51 (3pc) of the statutes is created to read:

17 77.51 (3pc) "Digital code" means a code that provides the person who holds the
18 code a right to obtain an additional digital good, a digital audiovisual work, digital
19 audio work, or digital book and that may be obtained by any means, including
20 tangible forms and electronic mail, regardless of whether the code is designated as
21 song code, video code, or book code. "Digital code" includes codes used to access or
22 obtain any specified digital goods, or any additional digital goods that have been
23 previously purchased, and promotion cards or codes that are purchased by a retailer
24 or other business entity for use by the retailer's or entity's customers. "Digital code"
25 does not include the following:

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

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

6 ***-0728/6.37* SECTION 2182.** 77.51 (3pd) of the statutes is created to read:

7 77.51 (3pd) "Direct mail" means printed material that is delivered by the U.S.
8 postal service or other delivery service to a mass audience or to addressees on a
9 mailing list provided by or at the direction of the purchaser of the printed material,
10 if the cost of the printed material or any tangible personal property included with the
11 printed material is not billed directly to the recipients of the printed material.

12 "Direct mail" includes any tangible personal property provided directly or indirectly
13 by the purchaser of the printed material to the seller of the printed material for
14 inclusion in any package containing the printed material, including billing invoices,
15 return envelopes, and additional marketing materials. "Direct mail" does not
16 include multiple items of printed material delivered to a single address.

17 ***-0728/6.38* SECTION 2183.** 77.51 (3pe) of the statutes is created to read:

18 77.51 (3pe) "Directory assistance" means an ancillary service that provides
19 telephone numbers or addresses.

20 ***-0728/6.39* SECTION 2184.** 77.51 (3pf) of the statutes is created to read:

21 77.51 (3pf) "Distinct and identifiable product" does not include any of the
22 following:

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

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

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

6 *-0728/6.40* SECTION 2185. 77.51 (3pj) of the statutes is created to read:

7 77.51 (3pj) "Drug" means a compound, substance, or preparation, or any
8 component of them, other than food and food ingredients, dietary supplements, or
9 alcoholic beverages, to which any of the following applies:

10 (a) It is listed in the United States Pharmacopoeia, Homeopathic
11 Pharmacopoeia of the United States, or National Formulary, or any supplement to
12 any of them.

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

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

16 *-0728/6.41* SECTION 2186. 77.51 (3pm) of the statutes is created to read:

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

23 *-0728/6.42* SECTION 2187. 77.51 (3pn) of the statutes is created to read:

24 77.51 (3pn) "Eight hundred service" means a telecommunications service that
25 allows a caller to dial a toll-free number without incurring a charge for the call and

1 is marketed under "800," "855," "866," "877," or "888" toll-free calling, or any other
2 number designated as toll-free by the federal communications commission.

3 ***-0728/6.43* SECTION 2188.** 77.51 (3po) of the statutes is created to read:

4 77.51 (3po) "Electronic" means relating to technology having electrical, digital,
5 magnetic, wireless, optical, electromagnetic, or similar capabilities.

6 ***-0728/6.44* SECTION 2189.** 77.51 (3pq) of the statutes is created to read:

7 77.51 (3pq) "Finished artwork" means the final art used for actual
8 reproduction by photomechanical or other processes or for display purposes.

9 "Finished artwork" also includes all of the following items regardless of whether such
10 items are reproduced:

11 (a) Drawings.

12 (b) Paintings.

13 (c) Designs.

14 (d) Photographs.

15 (e) Lettering.

16 (f) Paste-ups.

17 (g) Mechanicals.

18 (h) Assemblies.

19 (i) Charts.

20 (j) Graphs.

21 (k) Illustrative materials.

22 ***-0728/6.45* SECTION 2190.** 77.51 (3rm) of the statutes is created to read:

23 77.51 (3rm) "Fixed wireless service" means a telecommunications service that
24 provides radio communication between fixed points.

25 ***-0728/6.46* SECTION 2191.** 77.51 (3t) of the statutes is created to read:

1 77.51 (3t) "Food and food ingredient" means a substance in liquid,
2 concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or
3 for chewing, by humans and that is ingested or chewed for its taste or nutritional
4 value. "Food and food ingredient" does not include alcoholic beverages or tobacco.

5 *-0728/6.47* SECTION 2192. 77.51 (4) of the statutes is repealed.

6 *-0728/6.48* SECTION 2193. 77.51 (5) of the statutes is amended to read:

7 77.51 (5) For purposes of subs. (13) (e) and (f) and ~~(14) (L)~~ (15a) and s. 77.52
8 (2m), "incidental" means depending upon or appertaining to something else as
9 primary; something necessary, appertaining to, or depending upon another which is
10 termed the principal; something incidental to the main purpose of the service.
11 Tangible personal property, specified digital goods, or additional digital goods
12 transferred by a service provider is incidental to the service if the purchaser's main
13 purpose or objective is to obtain the service rather than the property or goods, even
14 though the property or goods may be necessary or essential to providing the service.

15 *-0728/6.49* SECTION 2194. 77.51 (5d) of the statutes is created to read:

16 77.51 (5d) "International telecommunications services" means
17 telecommunications services that originate or terminate in the United States,
18 including the District of Columbia and any U.S. territory or possession and originate
19 or terminate outside of the United States, including the District of Columbia and any
20 U.S. territory or possession.

21 *-0728/6.50* SECTION 2195. 77.51 (5n) of the statutes is created to read:

22 77.51 (5n) "Interstate telecommunications services" means
23 telecommunications services that originate in one state or U.S. territory or
24 possession and terminate in a different state or U.S. territory or possession.

25 *-0728/6.51* SECTION 2196. 77.51 (5r) of the statutes is created to read:

1 77.51 (5r) "Intrastate telecommunications services" means
2 telecommunications services that originate in one state or U.S. territory or
3 possession and terminate in the same state or U.S. territory or possession.

4 ***-0728/6.52*** SECTION 2197. 77.51 (6m) of the statutes is renumbered 77.51
5 (5m).

6 ***-0728/6.53*** SECTION 2198. 77.51 (7) of the statutes is repealed and recreated
7 to read:

8 77.51 (7) (a) "Lease or rental" means any transfer of possession or control of
9 tangible personal property for a fixed or indeterminate term and for consideration
10 and includes:

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

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

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

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

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

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

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

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

13 ***-0728/6.54* SECTION 2199.** 77.51 (7g) of the statutes is created to read:

14 77.51 (7g) "Load-and-leave" means delivery to a purchaser by using a tangible
15 storage media that is not physically transferred to the purchaser.

16 ***-0728/6.55* SECTION 2200.** 77.51 (7k) of the statutes is created to read:

17 77.51 (7k) "Mobile wireless service" means a telecommunications service for
18 which the origination or termination points of the service's transmission,
19 conveyance, or routing are not fixed, regardless of the technology used to transmit,
20 convey, or route the service. "Mobile wireless service" includes a telecommunications
21 service provided by a commercial mobile radio service provider.

22 ***-0728/6.56* SECTION 2201.** 77.51 (7m) of the statutes is created to read:

23 77.51 (7m) "Mobility-enhancing equipment" means equipment, including the
24 repair parts and replacement parts for the equipment, that is primarily and
25 customarily used to provide or increase the ability of a person to move from one place

1 to another; that may be used in a home or motor vehicle; and that is generally not
2 used by a person who has normal mobility. "Mobility-enhancing equipment" does
3 not include a motor vehicle or any equipment on a motor vehicle that is generally
4 provided by a motor vehicle manufacturer.

5 ***-0728/6.57* SECTION 2202.** 77.51 (8m) of the statutes is created to read:

6 77.51 (8m) "Nine hundred service" means an inbound toll telecommunications
7 service purchased by a subscriber that allows the subscriber's customers to call the
8 subscriber's prerecorded announcement or live service. "Nine hundred service" does
9 not include any charge for collection services provided by the seller of the
10 telecommunications services to the subscriber or for any product or service the
11 subscriber sells to the subscriber's customers. A "nine hundred service" is
12 designated with the "900" number or any other number designated by the federal
13 communications commission.

14 ***-0728/6.58* SECTION 2203.** 77.51 (9) (a) of the statutes is amended to read:

15 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, specified
16 digital goods, additional digital goods, or taxable services where the infrequency, in
17 relation to the other circumstances, including the sales price and the gross profit,
18 support the inference that the seller is not pursuing a vocation, occupation or
19 business or a partial vocation or occupation or part-time business as a vendor of
20 personal property, specified digital goods, additional digital goods, or taxable
21 services. No sale of any tangible personal property, specified digital goods, additional
22 digital goods, or taxable service may be deemed an occasional sale if at the time of
23 such sale the seller holds or is required to hold a seller's permit, except that this
24 provision does not apply to an organization required to hold a seller's permit solely
25 for the purpose of conducting bingo games and except as provided in par. (am).

1 ***-0728/6.59*** SECTION 2204. 77.51 (9) (am) of the statutes is amended to read:

2 77.51 (9) (am) The sale of personal property, other than inventory held for sale,
3 previously used by a seller to conduct its trade or business at a location after that
4 person has ceased actively operating in the regular course of business as a seller of
5 tangible personal property, specified digital goods, additional digital goods, or
6 taxable services at that location, even though the seller holds a seller's permit for one
7 or more other locations.

8 ***-0728/6.60*** SECTION 2205. 77.51 (9p) of the statutes is created to read:

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

14 ***-0728/6.61*** SECTION 2206. 77.51 (9s) of the statutes is created to read:

15 77.51 (9s) "Paging service" means a telecommunications service that transmits
16 coded radio signals to activate specific pagers and may include messages or sounds.

17 ***-0728/6.62*** SECTION 2207. 77.51 (10) of the statutes is amended to read:

18 77.51 (10) "Person" includes any natural person, firm, partnership, limited
19 liability company, joint venture, joint stock company, association, public or private
20 corporation, the United States, the state, including any unit or division of the state,
21 any county, city, village, town, municipal utility, municipal power district or other
22 governmental unit, cooperative, unincorporated cooperative association, estate,
23 trust, receiver, personal representative, any other fiduciary, any other legal entity,
24 and any representative appointed by order of any court or otherwise acting on behalf

1 of others. "Person" also includes the owner of a single-owner entity that is
2 disregarded as a separate entity under ch. 71.

3 ***-0728/6.63* SECTION 2208.** 77.51 (10d) of the statutes is created to read:

4 **77.51 (10d)** "Prepaid calling service" means the right to exclusively access
5 telecommunications services, if that right is paid for in advance of providing such
6 services, requires using an access number or authorization code to originate calls,
7 and is sold in predetermined units or dollars that decrease with use in a known
8 amount.

9 ***-0728/6.64* SECTION 2209.** 77.51 (10f) of the statutes is created to read:

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

16 ***-0728/6.65* SECTION 2210.** 77.51 (10m) of the statutes is created to read:

17 **77.51 (10m) (a)** "Prepared food" means:

- 18 1. Food and food ingredients sold in a heated state.
19 2. Food and food ingredients heated by the retailer, except as provided in par.

20 (b).

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

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

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

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

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

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

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

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

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

24 5. Eggs, fish, meat, and poultry, and foods containing any of them in raw form,
25 that require cooking by the consumer, as recommended by the food and drug

1 administration in chapter 3, part 401.11 of its food code to prevent food-borne
2 illnesses.

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

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

8 b. A denominator that includes all food and food ingredients, including
9 prepared food, candy, dietary supplements, and soft drinks, but not including
10 alcoholic beverages.

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

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

19 3. For a retailer whose percentage determined under subd. 1. is greater than
20 75 percent, an item sold by the retailer that contains 4 or more servings packaged
21 as 1 item and sold for a single price does not become prepared food simply because
22 the retailer makes utensils available to the purchaser of the item, but does become
23 prepared food if the retailer physically gives or hands utensils to the purchaser of the
24 item. For purposes of this subdivision 3. a., serving sizes are based on the

1 information contained on the label of each item sold, except that, if the item has no
2 label, the serving size is based on the retailer's reasonable determination.

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

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

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

24 *-0728/6.66* SECTION 2211. 77.51 (10n) of the statutes is created to read:

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1 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by
2 any oral, written, electronic, or other means of transmission and by a person who is
3 authorized by the laws of this state to issue such an order, formula, or recipe.

4 *-0728/6.67* SECTION 2212. 77.51 (10r) of the statutes is created to read:

5 77.51 (10r) "Prewritten computer software" means any of the following:

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

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

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

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

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

20 *-0728/6.68* SECTION 2213. 77.51 (10s) of the statutes is created to read:

21 77.51 (10s) "Private communication service" means a telecommunications
22 service that entitles the customer to exclusive or priority use of a communications
23 channel or group of communications channels, regardless of the manner in which the
24 communications channel or group of communications channels is connected, and

1 includes switching capacity, extension lines, stations, and other associated services
2 that are provided in connection with the use of such channel or channels.

3 ***-0728/6.69* SECTION 2214.** 77.51 (11d) of the statutes is created to read:

4 **77.51 (11d)** "Product" includes tangible personal property, specified digital
5 goods, additional digital goods, and services.

6 ***-0728/6.70* SECTION 2215.** 77.51 (11m) of the statutes is created to read:

7 **77.51 (11m)** "Prosthetic device" means a device, including the repair parts and
8 replacement parts for the device, that is placed in or worn on the body to artificially
9 replace a missing portion of the body; to prevent or correct a physical deformity or
10 malfunction; or to support a weak or deformed portion of the body.

11 ***-0728/6.71* SECTION 2216.** 77.51 (12) (a) of the statutes is amended to read:

12 **77.51 (12) (a)** Any transfer of title, possession, ownership, enjoyment, or use
13 by: cash or credit transaction, exchange, barter, lease or rental, conditional or
14 otherwise, in any manner or by any means whatever of tangible personal property,
15 specified digital goods, or additional digital goods for a consideration;

16 ***-0728/6.72* SECTION 2217.** 77.51 (12) (b) of the statutes is amended to read:

17 **77.51 (12) (b)** A transaction whereby the possession of property, specified
18 digital goods, or additional digital goods is transferred but the seller retains the title
19 as security for the payment of the price.

20 ***-0728/6.73* SECTION 2218.** 77.51 (12m) of the statutes is created to read:

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

1 1. The seller's cost of the property, specified digital goods, or additional digital
2 goods sold.

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

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

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

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

16 5. Installation charges.

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

18 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
19 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
20 taken by a purchaser on a sale.

21 2. Interest, financing, and carrying charges from credit that is extended on a
22 sale of personal property, specified digital goods, additional digital goods, or services,
23 if the amount of the interest, financing, or carrying charges is separately stated on
24 the invoice, bill of sale, or similar document that the seller gives to the purchaser.

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

4 4. Delivery charges for direct mail.

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

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

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

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

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

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

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

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

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

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

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

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

22 *-0728/6.74* SECTION 2219. 77.51 (12p) of the statutes is created to read:

23 77.51 (12p) "Purchaser" means a person to whom a sale of tangible personal
24 property is made or to whom a service is furnished.

25 *-0728/6.75* SECTION 2220. 77.51 (13) (a) of the statutes is amended to read:

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

4 *-0728/6.76* SECTION 2221. 77.51 (13) (b) of the statutes is amended to read:

5 77.51 (13) (b) Every person engaged in the business of making sales of tangible
6 personal property, specified digital goods, or additional digital goods for storage, use
7 or consumption or in the business of making sales at auction of tangible personal
8 property, specified digital goods, or additional digital goods owned by the person or
9 others for storage, use or other consumption.

10 *-0728/6.77* SECTION 2222. 77.51 (13) (c) of the statutes is amended to read:

11 77.51 (13) (c) When the department determines that it is necessary for the
12 efficient administration of this subchapter to regard any salespersons,
13 representatives, peddlers or canvassers as the agents of the dealers, distributors,
14 supervisors or employers under whom they operate or from whom they obtain the
15 tangible personal property, specified digital goods, or additional digital goods sold by
16 them, irrespective of whether they are making the sales on their own behalf or on
17 behalf of such dealers, distributors, supervisors or employers, the department may
18 so regard them and may regard the dealers, distributors, supervisors or employers
19 as retailers for purposes of this subchapter.

20 *-0728/6.78* SECTION 2223. 77.51 (13) (d) of the statutes is amended to read:

21 77.51 (13) (d) Every wholesaler to the extent that the wholesaler sells tangible
22 personal property, specified digital goods, or additional digital goods to a person
23 other than a seller as defined in sub. (17) provided such wholesaler is not expressly
24 exempt from the sales tax on such sale or from collecting the use tax on such sale.

25 *-0728/6.79* SECTION 2224. 77.51 (13) (e) of the statutes is amended to read:

1 77.51 (13) (e) A person selling tangible personal property, specified digital
2 goods, or additional digital goods to a service provider who transfers the property in
3 conjunction with the selling, performing or furnishing of any service and the
4 property is or goods are incidental to the service, unless the service provider is
5 selling, performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20.
6 This subsection does not apply to sub. (2).

7 *-0728/6.80* SECTION 2225. 77.51 (13) (f) of the statutes is amended to read:

8 77.51 (13) (f) A service provider who transfers tangible personal property,
9 specified digital goods, or additional digital goods in conjunction with but not
10 incidental to the selling, performing or furnishing of any service and a service
11 provider selling, performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11.
12 and 20. This subsection does not apply to sub. (2).

13 *-0728/6.81* SECTION 2226. 77.51 (13) (k) of the statutes is amended to read:

14 77.51 (13) (k) ~~As respects~~ With regards to a lease, any person deriving rentals
15 from a lease of tangible personal property, specified digital goods, or additional
16 digital goods situated in this state.

17 *-0728/6.82* SECTION 2227. 77.51 (13) (m) of the statutes is amended to read:

18 77.51 (13) (m) A person selling tangible personal property, specified digital
19 goods, or additional digital goods to a veterinarian to be used or furnished by the
20 veterinarian in the performance of services in some manner related to domestic
21 animals, including pets or poultry.

22 *-0728/6.83* SECTION 2228. 77.51 (13) (n) of the statutes is amended to read:

23 77.51 (13) (n) A person selling household furniture, furnishings, equipment,
24 appliances or other items of tangible personal property, specified digital goods, or

1 additional digital goods to a landlord for use by tenants in leased or rented living
2 quarters.

3 ***-0728/6.84* SECTION 2229.** 77.51 (13) (o) of the statutes is amended to read:

4 77.51 (13) (o) A person selling ~~medicine~~ drugs for animals to a veterinarian.

5 As used in this paragraph, "animal" includes livestock, pets and poultry.

6 ***-0728/6.85* SECTION 2230.** 77.51 (13g) (intro.) of the statutes is amended to
7 read:

8 77.51 (13g) (intro.) Except as provided in sub. (13h), "retailer engaged in
9 business in this state", ~~unless otherwise limited by federal statute~~, for purposes of
10 the use tax, means any of the following:

11 ***-0728/6.86* SECTION 2231.** 77.51 (13g) (c) of the statutes is created to read:

12 77.51 (13g) (c) Any retailer selling tangible personal property or taxable
13 services for storage, use, or other consumption in this state, unless otherwise limited
14 by federal law.

15 ***-0728/6.87* SECTION 2232.** 77.51 (13r) of the statutes is amended to read:

16 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall
17 be deemed the consumer of the tangible personal property, specified digital goods,
18 additional digital goods, or services purchased.

19 ***-0728/6.88* SECTION 2233.** 77.51 (13rm) of the statutes is created to read:

20 77.51 (13rm) "Retail sale" or "sale at retail" means any sale, lease, or rental
21 for any purpose other than resale, sublease, or subrent.

22 ***-0728/6.89* SECTION 2234.** 77.51 (13rn) of the statutes is created to read:

23 77.51 (13rn) "Ringtones" means digitized sound files that are downloaded onto
24 a device and that may be used to alert the customer with regard to a communication.

1 "Ringtones" includes MP3 or musical tones, polyphonic tones, and synthetic music
2 mobile application format tones, but does not include ring-back tones.

3 ***-0728/6.90* SECTION 2235.** 77.51 (14) (intro.) of the statutes is amended to
4 read:

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

11 ***-0728/6.91* SECTION 2236.** 77.51 (14) (a) of the statutes is amended to read:

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

18 ***-0728/6.92* SECTION 2237.** 77.51 (14) (b) of the statutes is amended to read:

19 77.51 (14) (b) The furnishing or distributing of tangible personal property,
20 specified digital goods, additional digital goods, or taxable services for a
21 consideration by social clubs and fraternal organizations to their members or others.

22 ***-0728/6.93* SECTION 2238.** 77.51 (14) (c) of the statutes is amended to read:

23 77.51 (14) (c) A transaction whereby the possession of tangible personal
24 property is, specified digital goods, or additional digital goods are transferred but the
25 seller retains the title as security for the payment of the price.

1 ***-0728/6.94*** SECTION 2239. 77.51 (14) (d) of the statutes is repealed.

2 ***-0728/6.95*** SECTION 2240. 77.51 (14) (g) of the statutes is renumbered 77.51
3 (15a) (b) 4.

4 ***-0728/6.96*** SECTION 2241. 77.51 (14) (h) of the statutes is amended to read:

5 77.51 (14) (h) A transfer for a consideration of the title or possession of tangible
6 personal property, specified digital goods, or additional digital goods which has have
7 been produced, fabricated, or printed to the special order of the customer or of any
8 publication.

9 ***-0728/6.97*** SECTION 2242. 77.51 (14) (i) of the statutes is repealed.

10 ***-0728/6.98*** SECTION 2243. 77.51 (14) (j) of the statutes is amended to read:

11 77.51 (14) (j) The granting of possession of tangible personal property, specified
12 digital goods, or additional digital goods by a lessor to a lessee, or to another person
13 at the direction of the lessee. Such a transaction is deemed a continuing sale in this
14 state by the lessor for the duration of the lease as respects any period of time the
15 leased property is situated in this state, irrespective of the time or place of delivery
16 of the property to the lessee or such other person.

17 ***-0728/6.99*** SECTION 2244. 77.51 (14) (k) of the statutes is repealed.

18 ***-0728/6.100*** SECTION 2245. 77.51 (14) (L) of the statutes is repealed.

19 ***-0728/6.101*** SECTION 2246. 77.51 (14g) (a) of the statutes is amended to read:

20 77.51 (14g) (a) The transfer of property, specified digital goods, or additional
21 digital goods to a corporation upon its organization solely in consideration for the
22 issuance of its stock;

23 ***-0728/6.102*** SECTION 2247. 77.51 (14g) (b) of the statutes is amended to read:

1 77.51 (14g) (b) The contribution of property, specified digital goods, or
2 additional digital goods to a newly formed partnership solely in consideration for a
3 partnership interest therein;

4 ***-0728/6.103*** SECTION 2248. 77.51 (14g) (bm) of the statutes is amended to
5 read:

6 77.51 (14g) (bm) The contribution of property, specified digital goods, or
7 additional digital goods to a limited liability company upon its organization solely in
8 consideration for a membership interest;

9 ***-0728/6.104*** SECTION 2249. 77.51 (14g) (c) of the statutes is amended to read:

10 77.51 (14g) (c) The transfer of property, specified digital goods, or additional
11 digital goods to a corporation, solely in consideration for the issuance of its stock,
12 pursuant to a merger or consolidation;

13 ***-0728/6.105*** SECTION 2250. 77.51 (14g) (cm) of the statutes is amended to
14 read:

15 77.51 (14g) (cm) The transfer of property, specified digital goods, or additional
16 digital goods to a limited liability company, solely in consideration for a membership
17 interest, pursuant to a merger;

18 ***-0728/6.106*** SECTION 2251. 77.51 (14g) (d) of the statutes is amended to read:

19 77.51 (14g) (d) The distribution of property, specified digital goods, or
20 additional digital goods by a corporation to its stockholders as a dividend or in whole
21 or partial liquidation;

22 ***-0728/6.107*** SECTION 2252. 77.51 (14g) (e) of the statutes is amended to read:

23 77.51 (14g) (e) The distribution of property, specified digital goods, or
24 additional digital goods by a partnership to its partners in whole or partial
25 liquidation;

1 ***-0728/6.108* SECTION 2253.** 77.51 (14g) (em) of the statutes is amended to
2 read:

3 77.51 (14g) (em) The distribution of property, specified digital goods, or
4 additional digital goods by a limited liability company to its members in whole or
5 partial liquidation;

6 ***-0728/6.109* SECTION 2254.** 77.51 (14g) (f) of the statutes is amended to read:

7 77.51 (14g) (f) Repossession of property, specified digital goods, or additional
8 digital goods by the seller from the purchaser when the only consideration is
9 cancellation of the purchaser's obligation to pay the remaining balance of the
10 purchase price;

11 ***-0728/6.110* SECTION 2255.** 77.51 (14g) (g) of the statutes is amended to read:

12 77.51 (14g) (g) The transfer of property, specified digital goods, or additional
13 digital goods in a reorganization as defined in section 368 of the internal revenue
14 code in which no gain or loss is recognized for franchise or income tax purposes; or

15 ***-0728/6.111* SECTION 2256.** 77.51 (14g) (h) of the statutes is amended to read:

16 77.51 (14g) (h) Any transfer of all or substantially all the property, specified
17 digital goods, or additional digital goods held or used by a person in the course of an
18 activity requiring the holding of a seller's permit, if after the transfer the real or
19 ultimate ownership of the property or goods is substantially similar to that which
20 existed before the transfer. For the purposes of this section, stockholders,
21 bondholders, partners, members or other persons holding an interest in a
22 corporation or other entity are regarded as having the real or ultimate ownership of
23 the property or goods of the corporation or other entity. In this paragraph,
24 "substantially similar" means 80% or more of ownership.

25 ***-0728/6.112* SECTION 2257.** 77.51 (14r) of the statutes is repealed.

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1 ***-0728/6.113*** SECTION 2258. 77.51 (15) of the statutes is repealed.

2 ***-0728/6.114*** SECTION 2259. 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, specified digital goods, or additional digital
5 goods to a service provider that the service provider transfers in conjunction with but
6 not incidental to the selling, performing, or furnishing of any service, and transfers
7 of tangible personal property, specified digital goods, or additional digital goods to
8 a service provider that the service provider physically transfers in conjunction with
9 the selling, performing, or furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20.

10 This paragraph does not apply to sub. (2).

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

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

17 2. Any sale of tangible personal property, specified digital goods, or additional
18 digital goods to a purchaser even though such property or goods may be used or
19 consumed by some other person to whom such purchaser transfers the tangible
20 personal property or goods without valuable consideration, such as gifts, and
21 advertising specialties distributed at no charge and apart from the sale of other
22 tangible personal property, specified digital goods, additional digital goods, or
23 service.

24 3. Transfers of tangible personal property, specified digital goods, or additional
25 digital goods to a service provider that the service provider transfers in conjunction

1 with the selling, performing, or furnishing of any service, if the tangible personal
2 property, specified digital goods, or additional digital goods are incidental to the
3 service, unless the service provider is selling, performing, or furnishing services
4 under s. 77.52 (2) (a) 7., 10., 11., or 20.

5 ***-0728/6.115* SECTION 2260.** 77.51 (15b) of the statutes is created to read:

6 **77.51 (15b)** (a) "Sales price" means the total amount of consideration, including
7 cash, credit, property, and services, for which tangible personal property, specified
8 digital goods, additional digital goods, or services are sold, leased, or rented, valued
9 in money, whether received in money or otherwise, without any deduction for the
10 following:

11 1. The seller's cost of the property, specified digital goods, or additional digital
12 goods sold.

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

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

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

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

1 5. Installation charges.

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

3 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
4 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
5 taken by a purchaser on a sale.

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

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

14 4. Delivery charges for direct mail.

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

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

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

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

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

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

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

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

22 4. Any of the following also applies:

23 a. The purchaser presents a coupon, certificate, or other documentation to the
24 seller to claim the price reduction or discount, if the coupon, certificate, or other
25 documentation is authorized, distributed, or granted by the 3rd party with the

1 understanding that the 3rd party will reimburse the seller for the amount of the price
2 reduction or discount.

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

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

8 ***-0728/6.116* SECTION 2261.** 77.51 (17) of the statutes is amended to read:

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

14 ***-0728/6.117* SECTION 2262.** 77.51 (17m) of the statutes is repealed and
15 recreated to read:

16 77.51 (17m) "Service address" means any of the following:

17 (a) The location of the telecommunications equipment to which a customer's
18 telecommunications service is charged and from which the telecommunications
19 service originates or terminates, regardless of where the telecommunications service
20 is billed or paid.

21 (b) If the location described under par. (a) is not known by the seller who sells
22 the telecommunications service, the location where the signal of the
23 telecommunications service originates, as identified by the seller's
24 telecommunications system or, if the signal is not transmitted by the seller's

1 telecommunications system, by information that the seller received from the seller's
2 service provider.

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

5 ***-0728/6.118* SECTION 2263.** 77.51 (17w) of the statutes is created to read:

6 77.51 (17w) "Soft drink" means a beverage that contains less than 0.5 percent
7 of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not
8 include a beverage that contains milk or milk products; soy, rice, or similar milk
9 substitutes; or more than 50 percent vegetable or fruit juice by volume.

10 ***-0728/6.119* SECTION 2264.** 77.51 (17x) of the statutes is created to read:

11 77.51 (17x) "Specified digital goods" means digital audio works, digital
12 audiovisual works, and digital books. For purposes of this subchapter, the sale of or
13 the storage, use, or other consumption of a digital code is treated the same as the sale
14 of or the storage, use, or other consumption of any specified digital goods for which
15 the digital code relates.

16 ***-0728/6.120* SECTION 2265.** 77.51 (18) of the statutes is amended to read:

17 77.51 (18) "Storage" includes any keeping or retention in this state of tangible
18 personal property, specified digital goods, or additional digital goods purchased from
19 a retailer for any purpose except sale in the regular course of business.

20 ***-0728/6.121* SECTION 2266.** 77.51 (20) of the statutes is amended to read:

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

1 agreement, unless the lessor of the property is also the lessor of the realty to which
2 the property is affixed. "Tangible personal property" also includes coins and stamps
3 of the United States sold or traded as collectors' items above their face value and
4 computer programs except custom computer programs prewritten computer
5 software, but does not include specified digital goods.

6 ***-0728/6.122*** SECTION 2267. 77.51 (21) of the statutes is amended to read:

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

10 ***-0728/6.123*** SECTION 2268. 77.51 (21m) of the statutes is amended to read:

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

21 ***-0728/6.124*** SECTION 2269. 77.51 (21n) of the statutes is created to read:

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

1 computer processing applications are used to act on the content's form, code, or
2 protocol for transmission, conveyance, or routing purposes, regardless of whether
3 the service is referred to as a voice over Internet protocol service or classified by the
4 federal communications commission as an enhanced or value-added service.

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

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

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

11 (c) Tangible personal property.

12 (d) Advertising, including directory advertising.

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

14 (f) Telecommunications Internet access service.

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

20 (h) Ancillary services.

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

23 ***-0728/6.125* SECTION 2270.** 77.51 (21p) of the statutes is created to read:

24 77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,

25 and any other item that contains tobacco.

1 ***-0728/6.126*** SECTION 2271. 77.51 (21q) of the statutes is created to read:

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

4 ***-0728/6.127*** SECTION 2272. 77.51 (22) (a) of the statutes is amended to read:

5 77.51 (22) (a) "Use" includes the exercise of any right or power over tangible
6 personal property, specified digital goods, additional digital goods, or taxable
7 services incident to the ownership, possession or enjoyment of the property, goods,
8 or services, or the results produced by the services, including installation or
9 affixation to real property and including the possession of, or the exercise of any right
10 or power over tangible personal property, specified digital goods, or additional digital
11 goods by a lessee under a lease, except that "use" does not include the activities under
12 sub. (18).

13 ***-0728/6.128*** SECTION 2273. 77.51 (22) (b) of the statutes is amended to read:

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

21 ***-0728/6.129*** SECTION 2274. 77.51 (22) (bm) of the statutes is created to read:

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

1 personal property, specified digital goods, additional digital goods, or taxable
2 services, regardless of whether the purchaser of such property, goods or services
3 owns or physically possesses, in this state, the property, goods, or services.

4 ***-0728/6.130* SECTION 2275.** 77.51 (24) of the statutes is created to read:

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

9 ***-0728/6.131* SECTION 2276.** 77.51 (25) of the statutes is created to read:

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

14 ***-0728/6.132* SECTION 2277.** 77.51 (26) of the statutes is created to read:

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

18 ***-0728/6.133* SECTION 2278.** 77.52 (1) of the statutes is renumbered 77.52 (1)

19 (a) and amended to read:

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

1 ***-0728/6.134* SECTION 2279.** 77.52 (1) (b) of the statutes is created to read:

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

6 ***-0728/6.135* SECTION 2280.** 77.52 (1) (c) of the statutes is created to read:

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

12 ***-0728/6.136* SECTION 2281.** 77.52 (1) (d) of the statutes is created to read:

13 77.52 (1) (d) For the privilege of selling, licensing, leasing, or renting specified
14 digital goods or additional digital goods at retail, regardless of whether the
15 purchaser has the right to permanently use such goods or whether the purchaser's
16 right to access or retain such goods is not permanent, a tax is imposed upon all
17 retailers at the rate of 5 percent of the sales price from the sale, license, lease or rental
18 of such goods.

19 ***-0728/6.137* SECTION 2282.** 77.52 (2) (intro.) of the statutes is amended to
20 read:

21 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing
22 the services described under par. (a) at retail in this state, as determined under s.
23 77.522, to consumers or users, a tax is imposed upon all persons selling, licensing,
24 performing or furnishing the services at the rate of 5% of the gross receipts sales price
25 from the sale, license, performance or furnishing of the services.