



1           **SECTION 2213.** 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 2214.** 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 2215.** 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 2216.** 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 2217.** 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 2218.** 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 physically give or hand the utensils to the purchaser, not including plates,  
24           glasses, or cups that are necessary for the purchaser to receive the food and food  
25           ingredients and that the retailer makes available to the purchaser.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 **SECTION 2219.** 77.51 (10n) of the statutes is created to read:

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

20 **SECTION 2220.** 77.51 (10r) of the statutes is created to read:

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

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

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

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

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

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

11 **SECTION 2221.** 77.51 (10s) of the statutes is created to read:

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

18 **SECTION 2222.** 77.51 (11d) of the statutes is created to read:

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

21 **SECTION 2223.** 77.51 (11m) of the statutes is created to read:

22 77.51 (11m) "Prosthetic device" means a device, including the repair parts and  
23 replacement parts for the device, that is placed in or worn on the body to artificially  
24 replace a missing portion of the body; to prevent or correct a physical deformity or  
25 malfunction; or to support a weak or deformed portion of the body.

1       **SECTION 2224ac.** 77.51 (12) (a) of the statutes is amended to read:

2       77.51 (12) (a) Any transfer of title, possession, ownership, enjoyment, or use  
3       by: cash or credit transaction, exchange, barter, lease or rental, conditional or  
4       otherwise, in any manner or by any means whatever of tangible personal property  
5       for a consideration, including any transaction for which a person's books and records  
6       show the transaction created, with regard to the transferee, an obligation to pay a  
7       certain amount of money or an increase in accounts payable or, with regard to the  
8       transferor, a right to receive a certain amount of money or an increase in accounts  
9       receivable;

10       **SECTION 2224ae.** 77.51 (12) (a) of the statutes, as affected by 2007 Wisconsin  
11       Act ... (this act), is repealed and recreated 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       or items or property under s. 77.52 (1) (b) or (c) for a consideration, including any  
16       transaction for which a person's books and records show the transaction created,  
17       with regard to the transferee, an obligation to pay a certain amount of money or an  
18       increase in accounts payable or, with regard to the transferor, a right to receive a  
19       certain amount of money or an increase in accounts receivable;

20       **SECTION 2225.** 77.51 (12) (b) of the statutes is amended to read:

21       77.51 (12) (b) A transaction whereby the possession of property or items or  
22       property under s. 77.52 (1) (b) or (c) is transferred but the seller retains the title as  
23       security for the payment of the price.

24       **SECTION 2226.** 77.51 (12m) of the statutes is created to read:

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

6           1. The seller's cost of the property or items or property under s. 77.52 (1) (b) or  
7 (c).

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

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

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

14           b. If a shipment includes property or items or property under s. 77.52 (2) (b) or  
15 (c) that are subject to tax under this subchapter and property or items that are not  
16 subject to tax under this subchapter, the amount of the delivery charge that the seller  
17 allocates to the property or items that are subject to tax under this subchapter is  
18 based on the total purchase price of the property or items that are subject to tax under  
19 this subchapter as compared to the total purchase price of all the property or items  
20 or on the total weight of the property or items that are subject to tax under this  
21 subchapter as compared to the total weight of all the property or items, except that  
22 if the seller does not make the allocation under this subd. 4. b., the purchaser shall  
23 allocate the delivery charge amount, consistent with this subd. 4. b.

24           5. Installation charges.

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



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, items or property under s. 77.52 (1) (b) or (c), or  
6           services, if the amount of the interest, financing, or carrying charges is separately  
7           stated on the invoice, bill of sale, or similar document that the seller gives to the  
8           purchaser.

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

12          4. Delivery charges for direct mail.

13          5. In all transactions in which an article of tangible personal property or items  
14          under s. 77.52 (2) (b) or (c) are traded toward the purchase of an article of greater  
15          value, the amount of the purchase price that represents the amount allowed for the  
16          article traded, except that this subdivision does not apply to any transaction to which  
17          subd. 7. or 8. applies.

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

1           7. Thirty-five percent of the purchase price, excluding trade-ins, of a new  
2 mobile home, as defined in s. 340.01 (29), that is a primary housing unit or of a new  
3 mobile home, as defined in s. 340.01 (29), that is transported in 2 unattached sections  
4 if the total size of the combined sections, not including additions and attachments,  
5 is at 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 purchase price of a manufactured building, as  
10 defined in s. 101.71 (6), or an amount equal to the purchase price of the manufactured  
11 building minus the cost of materials that become an ingredient or component part  
12 of the building.

13           (c) "Purchase price" includes consideration received by the seller from a 3rd  
14 party, 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 **SECTION 2227.** 77.51 (12p) of the statutes is created to read:

9 77.51 (12p) "Purchaser" means a person to whom a sale of tangible personal  
10 property or items or property under s. 77.52 (1) (b) or (c) are made or to whom a  
11 service is furnished.

12 **SECTION 2228.** 77.51 (13) (a) of the statutes is amended to read:

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

16 **SECTION 2229.** 77.51 (13) (b) of the statutes is amended to read:

17 77.51 (13) (b) Every person engaged in the business of making sales of tangible  
18 personal property or items or property under s. 77.52 (1) (b) or (c), for storage, use  
19 or consumption or in the business of making sales at auction of tangible personal  
20 property or items or property under s. 77.52 (1) (b) or (c) owned by the person or others  
21 for storage, use or other consumption.

22 **SECTION 2230.** 77.51 (13) (c) of the statutes is amended to read:

23 77.51 (13) (c) When the department determines that it is necessary for the  
24 efficient administration of this subchapter to regard any salespersons,  
25 representatives, peddlers or canvassers as the agents of the dealers, distributors,

1 supervisors or employers under whom they operate or from whom they obtain the  
2 tangible personal property or items or property under s. 77.52 (1) (b) or (c) sold by  
3 them, irrespective of whether they are making the sales on their own behalf or on  
4 behalf of such dealers, distributors, supervisors or employers, the department may  
5 so regard them and may regard the dealers, distributors, supervisors or employers  
6 as retailers for purposes of this subchapter.

7 **SECTION 2231.** 77.51 (13) (d) of the statutes is amended to read:

8 77.51 (13) (d) Every wholesaler to the extent that the wholesaler sells tangible  
9 personal property or items or property under s. 77.52 (1) (b) or (c) to a person other  
10 than a seller as defined in sub. (17) provided such wholesaler is not expressly exempt  
11 from the sales tax on such sale or from collecting the use tax on such sale.

12 **SECTION 2232.** 77.51 (13) (e) of the statutes is amended to read:

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

19 **SECTION 2233.** 77.51 (13) (f) of the statutes is amended to read:

20 77.51 (13) (f) A service provider who transfers tangible personal property or  
21 items or property under s. 77.52 (1) (b) or (c) in conjunction with but not incidental  
22 to the selling, performing or furnishing of any service and a service provider selling,  
23 performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20. This  
24 subsection does not apply to sub. (2).

25 **SECTION 2234.** 77.51 (13) (k) of the statutes is amended to read:

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

4 **SECTION 2235.** 77.51 (13) (m) of the statutes is amended to read:

5 77.51 (13) (m) A person selling tangible personal property or items or property  
6 under s. 77.52 (1) (b) or (c) to a veterinarian to be used or furnished by the  
7 veterinarian in the performance of services in some manner related to domestic  
8 animals, including pets or poultry.

9 **SECTION 2236.** 77.51 (13) (n) of the statutes is amended to read:

10 77.51 (13) (n) A person selling household furniture, furnishings, equipment,  
11 appliances or other items of tangible personal property or items or property under  
12 s. 77.52 (1) (b) or (c) to a landlord for use by tenants in leased or rented living  
13 quarters.

14 **SECTION 2237.** 77.51 (13) (o) of the statutes is amended to read:

15 77.51 (13) (o) A person selling medicine drugs for animals to a veterinarian.  
16 As used in this paragraph, "animal" includes livestock, pets and poultry.

17 **SECTION 2237d.** 77.51 (13) (p) of the statutes is created to read:

18 77.51 (13) (p) All persons described in this subsection regardless of all of the  
19 following:

- 20 1. Whether the transaction is mercantile in nature.
- 21 2. Whether the seller sells smaller quantities from inventory.
- 22 3. Whether the seller makes or intends to make a profit on the sale.
- 23 4. Whether the seller or the buyer receives a benefit the seller or buyer  
24 bargained for.
- 25 5. The percentage of the seller's total sales that the sale represents.

1           6. Any activities other than those described in pars. (a) to (o) in which the seller  
2 is engaged.

3           **SECTION 2238.** 77.51 (13g) (intro.) of the statutes is amended to read:

4           77.51 (13g) (intro.) Except as provided in sub. (13h), “retailer engaged in  
5 business in this state”, ~~unless otherwise limited by federal statute~~, for purposes of  
6 the use tax, means any of the following:

7           **SECTION 2238b.** 77.51 (13g) (a) of the statutes is amended to read:

8           77.51 (13g) (a) Any retailer owning any real property in this state or leasing  
9 or renting out any tangible personal property or items or property under s. 77.52 (1)  
10 (b) or (c) located in this state or maintaining, occupying or using, permanently or  
11 temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever  
12 name called, an office, place of distribution, sales or sample room or place, warehouse  
13 or storage place or other place of business in this state.

14           **SECTION 2238d.** 77.51 (13g) (b) of the statutes is amended to read:

15           77.51 (13g) (b) Any retailer having any representative, agent, salesperson,  
16 canvasser or solicitor operating in this state under the authority of the retailer or its  
17 subsidiary for the purpose of selling, delivering or the taking of orders for any  
18 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable  
19 services.

20           **SECTION 2239.** 77.51 (13g) (c) of the statutes is created to read:

21           77.51 (13g) (c) Any retailer selling tangible personal property, items or  
22 property under s. 77.52 (1) (b) or (c), or taxable services for storage, use, or other  
23 consumption in this state, unless otherwise limited by federal law.

24           **SECTION 2240.** 77.51 (13r) of the statutes is amended to read:

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

4           **SECTION 2241.** 77.51 (13rm) of the statutes is created to read:

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

7           **SECTION 2243.** 77.51 (14) (intro.) of the statutes is amended to read:

8           77.51 (14) (intro.) "Sale", "~~sale, lease or rental~~", "~~retail sale~~", "~~sale at retail~~", or  
9 ~~equivalent terms include~~ includes any ~~one or all~~ of the following: the transfer of the  
10 ownership of, title to, possession of, or enjoyment of tangible personal property, items  
11 or property under s. 77.52 (1) (b) or (c), or services for use or consumption but not for  
12 resale as tangible personal property, items or property under s. 77.52 (1) (b) or (c),  
13 or services and includes:

14           **SECTION 2244.** 77.51 (14) (a) of the statutes is amended to read:

15           77.51 (14) (a) Any sale at an auction ~~in~~ with respect to tangible personal  
16 property or items or property under s. 77.52 (1) (b) or (c) which is are sold to a  
17 successful bidder. ~~The proceeds from, except the sale of property or items sold at~~  
18 auction which is are bid in by the seller and on which title does not pass to a new  
19 purchaser ~~shall be deducted from the gross proceeds of the sale and the tax paid only~~  
20 ~~on the net proceeds.~~

21           **SECTION 2245.** 77.51 (14) (b) of the statutes is amended to read:

22           77.51 (14) (b) The furnishing or distributing of tangible personal property,  
23 items or property under s. 77.52 (1) (b) or (c), or taxable services for a consideration  
24 by social clubs and fraternal organizations to their members or others.

25           **SECTION 2246.** 77.51 (14) (c) of the statutes is amended to read:

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

4           **SECTION 2247.** 77.51 (14) (d) of the statutes is repealed.

5           **SECTION 2248.** 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4.

6           **SECTION 2249.** 77.51 (14) (h) of the statutes is amended to read:

7           77.51 (14) (h) A transfer for a consideration of the title or possession of tangible  
8 personal property or items or property under s. 77.52 (1) (b) or (c) which has have  
9 been produced, fabricated, or printed to the special order of the customer or of any  
10 publication.

11          **SECTION 2250.** 77.51 (14) (i) of the statutes is repealed.

12          **SECTION 2251.** 77.51 (14) (j) of the statutes is amended to read:

13          77.51 (14) (j) The granting of possession of tangible personal property or items  
14 or property under s. 77.52 (1) (b) or (c) by a lessor to a lessee, or to another person at  
15 the direction of the lessee. Such a transaction is deemed a continuing sale in this  
16 state ~~by the lessor for the duration of the lease as respects any period of time the~~  
17 ~~leased property is situated in this state, irrespective of the time or place of delivery~~  
18 ~~of the property to the lessee or such other person.~~

19          **SECTION 2252.** 77.51 (14) (k) of the statutes is repealed.

20          **SECTION 2253.** 77.51 (14) (L) of the statutes is repealed.

21          **SECTION 2253d.** 77.51 (14) (m) of the statutes is created to read:

22          77.51 (14) (m) A transaction for which a person's books and records show the  
23 transaction created, with regard to the transferee, an obligation to pay a certain  
24 amount of money or an increase in accounts payable or, with regard to the transferor,  
25 a right to receive a certain amount of money or an increase in accounts receivable.



1           **SECTION 2253e.** 77.51 (14) (n) of the statutes is created to read:

2           77.51 (14) (n) All activities described in this subsection regardless of all of the  
3 following:

4           1. Whether the transaction is mercantile in nature.

5           2. Whether the seller sells smaller quantities from inventory.

6           3. Whether the seller makes or intends to make a profit on the sale.

7           4. Whether the seller or the buyer receives a benefit the seller or buyer  
8 bargained for.

9           5. The percentage of the seller's total sales that the sale represents.

10          6. Any activities other than those described in sub. (13) (a) to (o) in which the  
11 seller is engaged.

12          **SECTION 2254.** 77.51 (14g) (a) of the statutes is amended to read:

13          77.51 (14g) (a) The transfer of property or items or property under s. 77.52 (1)  
14 (b) or (c) to a corporation upon its organization solely in consideration for the issuance  
15 of its stock;

16          **SECTION 2255.** 77.51 (14g) (b) of the statutes is amended to read:

17          77.51 (14g) (b) The contribution of property or items or property under s. 77.52  
18 (1) (b) or (c) to a newly formed partnership solely in consideration for a partnership  
19 interest therein;

20          **SECTION 2256.** 77.51 (14g) (bm) of the statutes is amended to read:

21          77.51 (14g) (bm) The contribution of property or items or property under s.  
22 77.52 (1) (b) or (c) to a limited liability company upon its organization solely in  
23 consideration for a membership interest;

24          **SECTION 2257.** 77.51 (14g) (c) of the statutes is amended to read:

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

4           **SECTION 2258.** 77.51 (14g) (cm) of the statutes is amended to read:

5           77.51 (14g) (cm) The transfer of property or items or property under s. 77.52  
6 (1) (b) or (c) to a limited liability company, solely in consideration for a membership  
7 interest, pursuant to a merger;

8           **SECTION 2259.** 77.51 (14g) (d) of the statutes is amended to read:

9           77.51 (14g) (d) The distribution of property or items or property under s. 77.52  
10 (1) (b) or (c) by a corporation to its stockholders as a dividend or in whole or partial  
11 liquidation;

12           **SECTION 2260.** 77.51 (14g) (e) of the statutes is amended to read:

13           77.51 (14g) (e) The distribution of property or items or property under s. 77.52  
14 (1) (b) or (c) by a partnership to its partners in whole or partial liquidation;

15           **SECTION 2261.** 77.51 (14g) (em) of the statutes is amended to read:

16           77.51 (14g) (em) The distribution of property or items or property under s.  
17 77.52 (1) (b) or (c) by a limited liability company to its members in whole or partial  
18 liquidation;

19           **SECTION 2262.** 77.51 (14g) (f) of the statutes is amended to read:

20           77.51 (14g) (f) Repossession of property or items or property under s. 77.52 (1)  
21 (b) or (c) by the seller from the purchaser when the only consideration is cancellation  
22 of the purchaser's obligation to pay the remaining balance of the purchase price;

23           **SECTION 2263.** 77.51 (14g) (g) of the statutes is amended to read:

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

4 SECTION 2264. 77.51 (14g) (h) of the statutes is amended to read:

5 77.51 (14g) (h) Any transfer of all or substantially all the property or items or  
6 property under s. 77.52 (1) (b) or (c) held or used by a person in the course of an  
7 activity requiring the holding of a seller's permit, if after the transfer the real or  
8 ultimate ownership of the property or items is substantially similar to that which  
9 existed before the transfer. For the purposes of this section, stockholders,  
10 bondholders, partners, members or other persons holding an interest in a  
11 corporation or other entity are regarded as having the real or ultimate ownership of  
12 the property or items of the corporation or other entity. In this paragraph,  
13 "substantially similar" means 80% or more of ownership.

14 SECTION 2265. 77.51 (14r) of the statutes is repealed.

15 SECTION 2266. 77.51 (15) of the statutes is repealed.

16 SECTION 2267. 77.51 (15a) of the statutes is created to read:

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

as affected  
by 2007  
Wisconsin  
Act 11

**SECTION 2267**

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

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

7 2. Any sale of tangible personal property or items or property under s. 77.52  
8 (1) (b) or (c) to a purchaser even though such property or items may be used or  
9 consumed by some other person to whom such purchaser transfers the property or  
10 items without valuable consideration, such as gifts, and advertising specialties  
11 distributed at no charge and apart from the sale of other tangible personal property,  
12 items or property under s. 77.52 (1) (b) or (c), or service.

13 3. Transfers of tangible personal property or items or property under s. 77.52  
14 (1) (b) or (c) to a service provider that the service provider transfers in conjunction  
15 with the selling, performing, or furnishing of any service, if the tangible personal  
16 property or items or property under s. 77.52 (1) (b) or (c) are incidental to the service,  
17 unless the service provider is selling, performing, or furnishing services under s.  
18 77.52 (2) (a) 7., 10., 11., or 20.

19 **SECTION 2268.** 77.51 (15b) of the statutes is created to read:

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

1           1. The seller's cost of the property or items or property under s. 77.52 (1) (b) or  
2           (c) 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 or items under s. 77.52 (2) (b) or (c) that are  
10          subject to tax under this subchapter and property or items that are not subject to tax  
11          under this subchapter, the amount of the delivery charge that the seller allocates to  
12          the property or items that are subject to tax under this subchapter is based on the  
13          total sales price of the property or items that are subject to tax under this subchapter  
14          as compared to the total sales price of all the property or items or on the total weight  
15          of the property or items that are subject to tax under this subchapter as compared  
16          to the total weight of all the property or items, except that if the seller does not make  
17          the allocation under this subd. 4. b., the purchaser shall allocate the delivery charge  
18          amount, consistent with this subd. 4. b.

19          5. Installation charges.

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

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

24               2. Interest, financing, and carrying charges from credit that is extended on a  
25               sale of tangible personal property, items or property under s. 77.52 (1) (b) or (c), or

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

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

7 4. Delivery charges for direct mail.

8 5. In all transactions in which an article of tangible personal property or items  
9 under s. 77.52 (2) (b) or (c) are traded toward the purchase of an article of greater  
10 value, the amount of the sales price that represents the amount allowed for the  
11 article traded, except that this subdivision does not apply to any transaction to which  
12 subd. 7. or 8. applies.

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

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

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

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

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

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

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

16           4. Any of the following also applies:

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

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

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

4 **SECTION 2269e.** 77.51 (17) (intro.) of the statutes, as affected by 2007 Wisconsin  
5 Act .... (this act), is amended to read:

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

11 **SECTION 2269d.** 77.51 (17) of the statutes is renumbered 77.51 (17) (intro.) and  
12 amended to read:

13 77.51 (17) (intro.) "Seller" includes every person selling, leasing, or renting  
14 tangible personal property or selling, performing, or furnishing services of a kind the  
15 gross receipts from the sale, lease, rental, performance, or furnishing of which are  
16 required to be included in the measure of the sales tax., regardless of all of the  
17 following:

18 **SECTION 2269f.** 77.51 (17) (a) to (f) of the statutes are created to read:

19 77.51 (17) (a) Whether the transaction is mercantile in nature.

20 (b) Whether the seller sells smaller quantities from inventory.

21 (c) Whether the seller makes or intends to make a profit on the sale.

22 (d) Whether the seller or the buyer receives a benefit the seller or buyer  
23 bargained for.

24 (e) The percentage of the seller's total sales that the sale represents.



1 (f) Any activities other than those described in sub. (13) (a) to (o) in which the  
2 seller is engaged.

3 **SECTION 2270.** 77.51 (17m) of the statutes is repealed and recreated to read:

4 **77.51 (17m)** "Service address" means any of the following:

5 (a) The location of the telecommunications equipment to which a customer's  
6 telecommunications service is charged and from which the telecommunications  
7 service originates or terminates, regardless of where the telecommunications service  
8 is billed or paid.

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

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

17 **SECTION 2271.** 77.51 (17w) of the statutes is created to read:

18 **77.51 (17w)** "Soft drink" means a beverage that contains less than 0.5 percent  
19 of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not  
20 include a beverage that contains milk or milk products; soy, rice, or similar milk  
21 substitutes; or more than 50 percent vegetable or fruit juice by volume.

22 **SECTION 2273.** 77.51 (18) of the statutes is amended to read:

23 **77.51 (18)** "Storage" includes any keeping or retention in this state of tangible  
24 personal property or items or property under s. 77.52 (1) (b) or (c) purchased from a  
25 retailer for any purpose except sale in the regular course of business.

1           **SECTION 2274.** 77.51 (20) of the statutes is amended to read:

2           77.51 (20) "Tangible personal property" means all tangible personal property  
3           of every kind and description that can be seen, weighed, measured, felt, or touched,  
4           or that is in any other manner perceptible to the senses, and includes electricity,  
5           natural gas, steam and, water, and also leased property affixed to realty if the lessor  
6           has the right to remove the property upon breach or termination of the lease  
7           agreement, unless the lessor of the property is also the lessor of the realty to which  
8           the property is affixed. "Tangible personal property" also includes coins and stamps  
9           of the United States sold or traded as collectors' items above their face value and  
10          computer programs except custom computer programs prewritten computer  
11          software, but does not include items or property under s. 77.52 (1) (b) or (c).

12          **SECTION 2275.** 77.51 (21) of the statutes is amended to read:

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

16          **SECTION 2276.** 77.51 (21m) of the statutes is amended to read:

17          77.51 (21m) "Telecommunications and Internet access services" means  
18          sending messages and information transmitted through the use of local, toll and  
19          wide-area telephone service; channel services; telegraph services; teletypewriter;  
20          computer exchange services; cellular mobile telecommunications service; specialized  
21          mobile radio; stationary two-way radio; paging service; or any other form of mobile  
22          and portable one-way or two-way communications; or any other transmission of  
23          messages or information by electronic or similar means between or among points by  
24          wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.

1 "Telecommunications services" does not include sending collect telecommunications  
2 that are received outside of the state.

3 **SECTION 2276m.** 77.51 (21m) of the statutes, as affected by 2007 Wisconsin Act  
4 ... (this act), is renumbered 77.51 (5g) and amended to read:

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

17 **SECTION 2277.** 77.51 (21n) of the statutes is created to read:

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

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

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

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

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

8 (c) Tangible personal property.

9 (d) Advertising, including directory advertising.

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

11 (f) Internet access service.

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

17 (h) Ancillary services.

18 **SECTION 2278.** 77.51 (21p) of the statutes is created to read:

19 77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,  
20 and any other item that contains tobacco.

21 **SECTION 2280.** 77.51 (22) (a) of the statutes is amended to read:

22 77.51 (22) (a) "Use" includes the exercise of any right or power over tangible  
23 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services  
24 incident to the ownership, possession or enjoyment of the property, items, or services,  
25 or the results produced by the services, including installation or affixation to real

1 property and including the possession of, or the exercise of any right or power over  
2 tangible personal property or items or property under s. 77.52 (1) (b) or (c) by a lessee  
3 under a lease, except that "use" does not include the activities under sub. (18).

4 **SECTION 2281.** 77.51 (22) (b) of the statutes is amended to read:

5 77.51 (22) (b) In this subsection "enjoyment" includes a purchaser's right to  
6 direct the disposition of property or items or property under s. 77.52 (1) (b) or (c),  
7 whether or not the purchaser has possession of the property or items. "Enjoyment"  
8 also includes, but is not limited to, having shipped into this state by an out-of-state  
9 supplier printed material which is designed to promote the sale of property, items or  
10 property under s. 77.52 (1) (b) or (c), or services, or which is otherwise related to the  
11 business activities, of the purchaser of the printed material or printing service.

12 **SECTION 2282.** 77.51 (22) (bm) of the statutes is created to read:

13 77.51 (22) (bm) In this subsection, "exercise of any right or power over tangible  
14 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services"  
15 includes distributing, selecting recipients, determining mailing schedules, or  
16 otherwise directing the distribution, dissemination, or disposal of tangible personal  
17 property, items or property under s. 77.52 (1) (b) or (c), or taxable services, regardless  
18 of whether the purchaser of such property, items, or services owns or physically  
19 possesses, in this state, the property, items, or services.

20 **SECTION 2283.** 77.51 (24) of the statutes is created to read:

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

25 **SECTION 2284.** 77.51 (25) of the statutes is created to read:

**SECTION 2284**

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 2285.** 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 2286.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a) and  
10 amended 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 2287.** 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 2288.** 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

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 2289d.** 77.52 (1b) of the statutes is created to read:

4 77.52 (1b) All sales, leases, or rentals of tangible personal property at retail  
5 in this state are subject to the tax imposed under sub. (1) unless an exemption in this  
6 subchapter applies.

7 **SECTION 2289e.** 77.52 (1b) of the statutes, as created by 2007 Wisconsin Act ....  
8 (this act), is repealed and recreated to read:

9 77.52 (1b) All sales, leases, or rentals of tangible personal property or items  
10 or property under sub. (1) (b) or (c) at retail in this state are subject to the tax imposed  
11 under sub. (1) unless an exemption in this subchapter applies.

12 **SECTION 2290.** 77.52 (2) (intro.) of the statutes is amended to read:

13 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing  
14 the services described under par. (a) at retail in this state, as determined under s.  
15 77.522, to consumers or users, a tax is imposed upon all persons selling, licensing,  
16 performing or furnishing the services at the rate of 5% of the gross receipts sales price  
17 from the sale, license, performance or furnishing of the services.

18 **SECTION 2291b.** 77.52 (2) (a) 5. a. of the statutes is amended to read:

19 77.52 (2) (a) 5. a. The sale of telecommunications and Internet access services,  
20 except services subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either  
21 originate or terminate in this state; except services that are obtained by means of a  
22 toll-free number, that originate outside this state and that terminate in this state;  
23 and are charged to a service address in this state, regardless of the location where  
24 that charge is billed or paid; and the sale of the rights to purchase  
25 telecommunications services, including purchasing reauthorization numbers, by

**SECTION 2291b**

1 paying in advance and by using an access number and authorization code, except  
2 sales that are subject to subd. 5. b.

3 **SECTION 2291c.** 77.52 (2) (a) 5. a. of the statutes, as affected by 2007 Wisconsin  
4 Act ... (this act), is amended to read:

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

14 **SECTION 2291p.** 77.52 (2) (a) 5. am. of the statutes is created to read:

15 77.52 (2) (a) 5. am. The sale of intrastate, interstate, and international  
16 telecommunications services, except interstate 800 services.

17 **SECTION 2292.** 77.52 (2) (a) 5. b. of the statutes is repealed.

18 **SECTION 2294.** 77.52 (2) (a) 5. c. of the statutes is created to read:

19 77.52 (2) (a) 5. c. The sale of ancillary services, except detailed  
20 telecommunications billing services.

21 **SECTION 2295.** 77.52 (2) (a) 5m. of the statutes is amended to read:

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



1 77.51 (5), ~~element of~~ to another service that is not taxable under this subchapter and  
2 sold to that the purchaser of the incidental service and is not taxable under this  
3 subchapter.

4 **SECTION 2296.** 77.52 (2) (a) 10. of the statutes is amended to read:

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

1 replacement of an item listed in par. (ag), if that the installation or replacement is  
2 a real property construction activity under s. 77.51 (2).

3 **SECTION 2297m.** 77.52 (2) (a) 11. of the statutes is amended to read:

4 77.52 (2) (a) 11. The producing, fabricating, processing, printing or imprinting  
5 of tangible personal property or items and property under sub. (1) (b) and (c) for a  
6 consideration for consumers who furnish directly or indirectly the materials used in  
7 the producing, fabricating, processing, printing or imprinting. This subdivision does  
8 not apply to the printing or imprinting of tangible personal property or items and  
9 property under sub. (1) (b) and (c) which will be subsequently transported outside the  
10 state for use outside the state by the consumer for advertising purposes.

11 **SECTION 2297p.** 77.52 (2) (a) 11. of the statutes, as affected by 2007 Wisconsin  
12 Act .... (this act), is repealed and recreated to read:

13 77.52 (2) (a) 11. The producing, fabricating, processing, printing or imprinting  
14 of tangible personal property or items and property under sub. (1) (b) and (c) for a  
15 consideration for consumers who furnish directly or indirectly the materials used in  
16 the producing, fabricating, processing, printing or imprinting. This subdivision does  
17 not apply to the printing or imprinting of tangible personal property or items and  
18 property under sub. (1) (b) and (c) that results in printed material, catalogs, or  
19 envelopes that are exempt under s. 77.54 (25) or (25m).

20 **SECTION 2298.** 77.52 (2) (a) 13m. of the statutes is created to read:

21 77.52 (2) (a) 13m. The sale of contracts, including service contracts,  
22 maintenance agreements, and warranties, that provide, in whole or in part, for the  
23 future performance of or payment for the repair, service, alteration, fitting, cleaning,  
24 painting, coating, towing, inspection, or maintenance of tangible personal property,  
25 unless the sale, lease, or rental in this state of the property or items to which the

1 contract relates is or was exempt, to the purchaser of the contract, from taxation  
2 under this subchapter.

3 **SECTION 2299.** 77.52 (2m) (a) of the statutes is amended to read:

4 **77.52 (2m) (a)** With respect to the services subject to tax under sub. (2), no part  
5 of the charge for the service may be deemed a sale or rental of tangible personal  
6 property or items or property under sub. (1) (b) or (c), if the property or items  
7 transferred by the service provider is are incidental to the selling, performing or  
8 furnishing of the service, except as provided in par. (b).

9 **SECTION 2300.** 77.52 (2m) (b) of the statutes is amended to read:

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

15 **SECTION 2300d.** 77.52 (2n) of the statutes is created to read:

16 **77.52 (2n)** The selling, performing, or furnishing of the services described  
17 under sub. (2) (a) at retail in this state is subject to the tax imposed under sub. (2)  
18 unless an exemption in this subchapter applies.

19 **SECTION 2300e.** 77.52 (2n) of the statutes, as created by 2007 Wisconsin Act  
20 .... (this act), is repealed and recreated to read:

21 **77.52 (2n)** The selling, licensing, performing, or furnishing of the services  
22 described under sub. (2) (a) at retail in this state, as determined under s. 77.522, is  
23 subject to the tax imposed under sub. (2) unless an exemption in this subchapter  
24 applies.

25 **SECTION 2301.** 77.52 (3m) of the statutes is repealed.

1       **SECTION 2302.** 77.52 (3n) of the statutes is repealed.

2       **SECTION 2303.** 77.52 (4) of the statutes is amended to read:

3           77.52 (4) It is unlawful for any retailer to advertise or hold out or state to the  
4       public or to any customer, directly or indirectly, that the tax or any part thereof will  
5       be assumed or absorbed by the retailer or that it will not be added to the selling price  
6       of the property or items or property under sub. (1) (b) or (c) sold or that if added it,  
7       or any part thereof, will be refunded. Any person who violates this subsection is  
8       guilty of a misdemeanor.

9       **SECTION 2304.** 77.52 (6) of the statutes is repealed.

10       **SECTION 2305.** 77.52 (7) of the statutes is amended to read:

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

25       **SECTION 2306.** 77.52 (7b) of the statutes is created to read:

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

4           **SECTION 2307.** 77.52 (12) of the statutes is amended to read:

5           77.52 (12) A person who operates as a seller in this state without a permit or  
6           after a permit has been suspended or revoked or has expired, unless the person has  
7           a temporary permit under sub. (11), and each officer of any corporation, partnership  
8           member, limited liability company member, or other person authorized to act on  
9           behalf of a seller who so operates, is guilty of a misdemeanor. Permits shall be held  
10          only by persons actively operating as sellers of tangible personal property, items or  
11          property under sub. (1) (b) or (c), or taxable services. Any person not so operating  
12          shall forthwith surrender that person's permit to the department for cancellation.  
13          The department may revoke the permit of a person found not to be actively operating  
14          as a seller of tangible personal property, items or property under sub. (1) (b) or (c),  
15          or taxable services.

16          **SECTION 2308.** 77.52 (13) of the statutes is amended to read:

17          77.52 (13) For the purpose of the proper administration of this section and to  
18          prevent evasion of the sales tax it shall be presumed that all receipts are subject to  
19          the tax until the contrary is established. The burden of proving that a sale of tangible  
20          personal property, items or property under sub. (1) (b) or (c), or services is not a  
21          taxable sale at retail is upon the person who makes the sale unless that person takes  
22          from the purchaser ~~a~~ an electronic or a paper certificate, in a manner prescribed by  
23          the department, to the effect that the property, items or property under sub. (1) (b)  
24          or (c), or service is purchased for resale or is otherwise exempt, except that no  
25          certificate is required for sales of cattle, sheep, goats, and pigs that are sold at an

1 animal market, as defined in s. 95.68 (1) (ag), and no certificate is required for sales  
2 of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in  
3 or from which the commodity is deliverable on a contract for future delivery subject  
4 to the rules of a commodity market regulated by the U.S. commodity futures trading  
5 commission if upon the sale the commodity is not removed from the warehouse the  
6 sale of tangible personal property, items and property under sub. (1) (b) and (c), and  
7 services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n),  
8 (21), (22b), (30), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), and (52), except  
9 as provided in s. 77.54 (30) (e) and (f).

10 **SECTION 2309.** 77.52 (14) (a) (intro.) and 1. and (b) of the statutes are  
11 consolidated, renumbered 77.52 (14) (a) and amended to read:

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

1 this subchapter, if the subject of the transaction sought to be covered by the  
2 exemption certificate is received by the purchaser at a location operated by the seller  
3 in this state and the exemption certificate clearly and affirmatively indicates that  
4 the claimed exemption is not available in this state. The certificate referred to in sub.  
5 (13) shall be signed by and bear the name and address of provide information that  
6 identifies the purchaser, and shall indicate the general character of the tangible  
7 personal property or service sold by the purchaser and the basis for the claimed  
8 exemption and a paper certificate shall be signed by the purchaser. The certificate  
9 shall be in such form as the department prescribes by rule.

10 **SECTION 2310.** 77.52 (14) (a) 2. of the statutes is repealed.

11 **SECTION 2311.** 77.52 (14) (am) of the statutes is created to read:

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

18 **SECTION 2312.** 77.52 (15) of the statutes is amended to read:

19 77.52 (15) If a purchaser who gives a resale certificate purchases tangible  
20 personal property, items or property under sub. (1) (b) or (c), or taxable services  
21 without paying a sales tax or use tax on such purchase because such property, items,  
22 or services were for resale makes any use of the property, items, or services other than  
23 retention, demonstration or display while holding it the property, items, or services  
24 for sale, lease or rental in the regular course of the purchaser's operations, the use  
25 shall be taxable to the purchaser under s. 77.53 as of the time that the property is,

1 items, or services are first used by the purchaser, and the sales purchase price of the  
2 property, items, or services to the purchaser shall be the measure of the tax. Only  
3 ~~when there is an unsatisfied use tax liability on this basis because the seller has~~  
4 ~~provided incorrect information about that transaction to the department shall the~~  
5 ~~seller be liable for sales tax with respect to the sale of the property to the purchaser.~~

6 **SECTION 2313.** 77.52 (16) of the statutes is amended to read:

7 77.52 (16) Any person who gives a resale certificate for property, items or  
8 property under sub. (1) (b) or (c), or services which that person knows at the time of  
9 purchase is not to be resold by that person in the regular course of that person's  
10 operations as a seller for the purpose of evading payment to the seller of the amount  
11 of the tax applicable to the transaction is guilty of a misdemeanor. Any person  
12 certifying to the seller that the sale of property, items or property under sub. (1) (b)  
13 or (c), or taxable service is exempt, knowing at the time of purchase that it is not  
14 exempt, for the purpose of evading payment to the seller of the amount of the tax  
15 applicable to the transaction, is guilty of a misdemeanor.

16 **SECTION 2314.** 77.52 (19) of the statutes is amended to read:

17 77.52 (19) The department shall by rule provide for the efficient collection of  
18 the taxes imposed by this subchapter on sales of property, items or property under  
19 sub. (1) (b) or (c), or services by persons not regularly engaged in selling at retail in  
20 this state or not having a permanent place of business, but who are temporarily  
21 engaged in selling from trucks, portable roadside stands, concessions at fairs and  
22 carnivals, and the like. The department may authorize such persons to sell property  
23 or items or property under sub. (1) (b) or (c) or sell, perform, or furnish services on  
24 a permit or nonpermit basis as the department by rule prescribes and failure of any  
25 person to comply with such rules constitutes a misdemeanor.