



State of Wisconsin
2007 - 2008 LEGISLATURE

0377/P1
LRB-4312/2

JK:all:nwn

~~2007 BILL~~

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the bill

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

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1 (b), 77.51 (13r), 77.51 (14) (intro.), 77.51 (14) (a), 77.51 (14) (b), 77.51 (14) (c),
2 77.51 (14) (h), 77.51 (14) (j), 77.51 (14g) (a), 77.51 (14g) (b), 77.51 (14g) (bm),
3 77.51 (14g) (c), 77.51 (14g) (cm), 77.51 (14g) (d), 77.51 (14g) (e), 77.51 (14g) (em),
4 77.51 (14g) (f), 77.51 (14g) (g), 77.51 (14g) (h), 77.51 (17) (intro.), 77.51 (18),
5 77.51 (20), 77.51 (21), 77.51 (21m), 77.51 (21m), 77.51 (22) (a), 77.51 (22) (b),
6 77.52 (2) (intro.), 77.52 (2) (a) 5. a., 77.52 (2) (a) 5. a., 77.52 (2) (a) 5m., 77.52 (2)
7 (a) 10., 77.52 (2) (a) 11., 77.52 (2m) (a), 77.52 (2m) (b), 77.52 (4), 77.52 (7), 77.52
8 (12), 77.52 (13), 77.52 (15), 77.52 (16), 77.52 (17m) (b) 6., 77.52 (19), 77.525,
9 77.53 (1), 77.53 (2), 77.53 (3), 77.53 (9), 77.53 (10), 77.53 (12), 77.53 (14), 77.53
10 (15), 77.53 (16), 77.53 (17), 77.53 (17m), 77.53 (17r) (a), 77.53 (18), 77.54 (1),
11 77.54 (2), 77.54 (2m), 77.54 (3) (a), 77.54 (3m) (intro.), 77.54 (4), 77.54 (5)
12 (intro.), 77.54 (6) (intro.), 77.54 (7m), 77.54 (8), 77.54 (9), 77.54 (9a) (intro.),
13 77.54 (10), 77.54 (11), 77.54 (12), 77.54 (13), 77.54 (14) (intro.), 77.54 (14) (a),
14 77.54 (14) (b), 77.54 (14) (f) (intro.), 77.54 (15), 77.54 (16), 77.54 (17), 77.54 (18),
15 77.54 (21), 77.54 (23m), 77.54 (25), 77.54 (25m), 77.54 (26), 77.54 (26m), 77.54
16 (27), 77.54 (28), 77.54 (29), 77.54 (30) (a) (intro.), 77.54 (30) (c), 77.54 (31), 77.54
17 (32), 77.54 (33), 77.54 (35), 77.54 (36), 77.54 (37), 77.54 (38), 77.54 (39), 77.54
18 (41), 77.54 (42), 77.54 (43), 77.54 (44), 77.54 (45), 77.54 (46), 77.54 (46m), 77.54
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20 77.55 (1) (intro.), 77.55 (2), 77.55 (2m), 77.55 (3), 77.56 (1), 77.57, 77.58 (3) (a),
21 77.58 (3) (b), 77.58 (6), 77.59 (5m), 77.59 (9), 77.61 (1) (b), 77.61 (1) (c), 77.61 (4)
22 (a), 77.61 (4) (c), 77.61 (11), 77.65 (2) (a), 77.65 (2) (e), 77.65 (2) (f), 77.66, 77.70,
23 77.705, 77.706, 77.707 (1), 77.707 (2), 77.71 (1), 77.71 (2), 77.71 (3), 77.71 (4),
24 77.73 (2), 77.75, 77.785 (1), 77.785 (2), 77.98, 77.981, 77.99, 77.994 (1) (intro.),
25 77.9941 (4), 77.995 (2), 77.996 (6), 77.9971, 86.195 (3) (b) 3., 218.0171 (2) (cq),

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1 229.68 (15) and 229.824 (15); **to repeal and recreate** 77.51 (7), 77.51 (12) (a),
 2 77.51 (17m), 77.52 (1b), 77.52 (2n), 77.53 (1b), 77.63, 77.982 (2), 77.991 (2),
 3 77.9951 (2) and 77.9972 (2); and **to create** 20.566 (1) (ho), 73.03 (28e), 73.03
 4 (50b), 73.03 (61), 77.51 (1b), 77.51 (1ba), 77.51 (1f), 77.51 (1fm), 77.51 (1n), 77.51
 5 (1p), 77.51 (1r), 77.51 (2k), 77.51 (2m), 77.51 (3c), 77.51 (3n), 77.51 (3pd), 77.51
 6 (3pe), 77.51 (3pf), 77.51 (3pj), 77.51 (3pm), 77.51 (3pn), 77.51 (3po), 77.51 (3rm),
 7 77.51 (3t), 77.51 (5d), 77.51 (5n), 77.51 (5r), 77.51 (7g), 77.51 (7k), 77.51 (7m),
 8 77.51 (8m), 77.51 (9p), 77.51 (9s), 77.51 (10d), 77.51 (10f), 77.51 (10m), 77.51
 9 (10n), 77.51 (10r), 77.51 (10s), 77.51 (11d), 77.51 (11m), 77.51 (12m), 77.51
 10 (12p), 77.51 (13g) (c), 77.51 (13rm), 77.51 (13rn), 77.51 (15a), 77.51 (15b), 77.51
 11 (17w), 77.51 (21n), 77.51 (21p), 77.51 (21q), 77.51 (22) (bm), 77.51 (24), 77.51
 12 (25), 77.51 (26), 77.52 (1) (b), 77.52 (1) (c), 77.52 (2) (a) 5. am., 77.52 (2) (a) 5. c.,
 13 77.52 (2) (a) 13m., 77.52 (7b), 77.52 (14) (am), 77.52 (20), 77.52 (21), 77.52 (22),
 14 77.52 (23), 77.522, 77.524 (1) (ag), 77.53 (9m) (b), 77.53 (9m) (c), 77.53 (11) (b),
 15 77.54 (20n), 77.54 (20r), 77.54 (22b), 77.54 (51), 77.54 (52), 77.58 (6m), 77.58
 16 (9a), 77.585, 77.59 (2m), 77.59 (9n), 77.59 (9p) (b), 77.59 (9r), 77.60 (13), 77.61
 17 (2) (b), 77.61 (3m), 77.61 (5m), 77.61 (16), 77.61 (17), 77.65 (4) (fm), 77.67, 77.73
 18 (3) and 77.77 (1) (b) of the statutes; **relating to:** adopting the substantive
 19 provisions of the Main Street Equity Act.

Analysis by the Legislative Reference Bureau

This bill adopts the substantive provisions of the Main Street Equity Act for purposes of administering and collecting state, county, and stadium district sales and use taxes. The act is intended to modernize sales and use tax administration for the states that adopt the act and to encourage out-of-state retailers to collect the state, county, and stadium district sales and use taxes voluntarily. Under current federal law, generally, an out-of-state retailer who sells tangible personal property or services to customers in this state is not required to collect the sales tax or use tax

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imposed on such sales, if the retailer has no physical presence in this state. See *Quill v. North Dakota*, 504 U.S. 298; 112 S. Ct. 1904 (1992).

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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

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

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

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

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

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

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

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

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

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

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

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

14 71.07 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
15 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
16 by all claimants under this subsection and ss. 71.28 (5e), 71.47 (5e), and ~~77.54 (48)~~
17 77.585 (9) is \$7,500,000, as determined by the department of commerce.

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

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

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SECTION 8

1 ~~from the claimant claimed as an exemption claiming a deduction~~ under s. 77.54 (48) ✓
2 77.585 (9). ✓

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

4 71.28 (5e) (c) 1. No credit may be allowed under this subsection unless the
5 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9). ✓

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

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

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

12 71.47 (5e) (b) *Filing claims*. Subject to the limitations provided in this
13 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
14 taxable year following the taxable year in which the claimant claims an exemption
15 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
16 the taxes imposed under s. 71.43, up to the amount of those taxes, in each taxable
17 year for 2 years, the amount certified by the department of commerce that resulted
18 from the claimant ~~claimed as an exemption claiming a deduction~~ under s. 77.54 (48) ✓
19 77.585 (9). ✓

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

21 71.47 (5e) (c) 1. No credit may be allowed under this subsection unless the
22 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9). ✓

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

24 71.47 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
25 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed ✓

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1 by all claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and 77.54 (48)
2 77.585 (9) is \$7,500,000, as determined by the department of commerce.

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

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

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

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

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

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

BILL**SECTION 17**

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

2 73.03 (61) To do all of the following related to the Uniform Sales and Use Tax
3 Administration Act:

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

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

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

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

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

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

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

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

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

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

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

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

BILL**SECTION 19**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BILL**SECTION 23**

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

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

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

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

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

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

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

17 **SECTION 27.** 77.51 (2k) of the statutes is created to read:

18 77.51 (2k) "Delivered electronically" means delivered to a purchaser by means
19 other than by tangible storage media.

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

21 77.51 (2m) "Delivery charges" means charges by a seller to prepare and deliver
22 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or services
23 to a location designated by the purchaser of the tangible personal property, items or
24 property under s. 77.52 (1) (b) or (c), or services, including charges for transportation,
25 shipping, postage, handling, crating, and packing.

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

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

5 **SECTION 30.** 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 **SECTION 31.** 77.51 (3pd) of the statutes is created to read:

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

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

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

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

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

14 77.51 (3pf) "Distinct and identifiable product" does not include any of the
15 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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SECTION 38

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

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

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

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

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

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

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

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

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

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

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

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

8 **SECTION 45.** 77.51 (6m) of the statutes is renumbered 77.51 (5m) and amended
9 to read:

10 77.51 (5m) For purposes of s. ~~77.54 (48)~~ 77.585 (9), “Internet equipment used
11 in the broadband market” means equipment that is capable of transmitting data
12 packets or Internet signals at speeds of at least 200 kilobits per second in either
13 direction.

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

15 77.51 (7) (a) “Lease or rental” means any transfer of possession or control of
16 tangible personal property or items or property under s. 77.52 (1) (b) or (c) for a fixed
17 or indeterminate term and for consideration and includes:

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

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

- 24 1. A transfer of possession or control of tangible personal property or items or
25 property under s. 77.52 (1) (b) or (c) under a security agreement or deferred payment

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1 plan, if such agreement or plan requires transferring title to the tangible personal
2 property or items or property under s. 77.52 (1) (b) or (c) after making all required
3 payments.

4 2. A transfer of possession or control of tangible personal property or items or
5 property under s. 77.52 (1) (b) or (c) under any agreement that requires transferring
6 title to the tangible personal property or items or property under s. 77.52 (1) (b) or
7 (c) after making all required payments and after paying an option price that does not
8 exceed the greater of \$100 or 1 percent of the total amount of the required payments.

9 3. Providing tangible personal property or items or property under s. 77.52 (1)
10 (b) or (c) along with an operator, if the operator is necessary for the tangible personal
11 property or items or property under s. 77.52 (1) (b) or (c) to perform in the manner
12 for which it is designed and if the operator does more than maintain, inspect, or set
13 up the tangible personal property or items or property under s. 77.52 (1) (b) or (c).

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

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

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

23 77.51 (7g) "Load-and-leave" means delivery to a purchaser by using a tangible
24 storage media that is not physically transferred to the purchaser.

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

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1 77.51 (7k) "Mobile wireless service" means a telecommunications service for
2 which the origination or termination points of the service's transmission,
3 conveyance, or routing are not fixed, regardless of the technology used to transmit,
4 convey, or route the service. "Mobile wireless service" includes a telecommunications
5 service provided by a commercial mobile radio service provider.

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

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

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

16 77.51 (8m) "Nine hundred service" means an inbound toll telecommunications
17 service purchased by a subscriber that allows the subscriber's customers to call the
18 subscriber's prerecorded announcement or live service. "Nine hundred service" does
19 not include any charge for collection services provided by the seller of the
20 telecommunications services to the subscriber or for any product or service the
21 subscriber sells to the subscriber's customers. A "nine hundred service" is
22 designated with the "900" number or any other number designated by the federal
23 communications commission.

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

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1 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, items or
2 property under s. 77.52 (1) (b) or (c), or taxable services where the infrequency, in
3 relation to the other circumstances, including the sales price and the gross profit,
4 support the inference that the seller is not pursuing a vocation, occupation or
5 business or a partial vocation or occupation or part-time business as a vendor of
6 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services.
7 No sale of any tangible personal property, items or property under s. 77.52 (1) (b) or
8 (c), or taxable service may be deemed an occasional sale if at the time of such sale the
9 seller holds or is required to hold a seller's permit, except that this provision does not
10 apply to an organization required to hold a seller's permit solely for the purpose of
11 conducting bingo games and except as provided in par. (am).

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

13 77.51 (9) (am) The sale of personal property, other than inventory held for sale,
14 previously used by a seller to conduct its trade or business at a location after that
15 person has ceased actively operating in the regular course of business as a seller of
16 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
17 services at that location, even though the seller holds a seller's permit for one or more
18 other locations.

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

20 77.51 (9p) "One nonitemized price" does not include a price that is separately
21 identified by product on a binding sales document, or other sales-related document,
22 that is made available to the customer in paper or electronic form, including an
23 invoice, a bill of sale, a receipt, a contract, a service agreement, a lease agreement,
24 a periodic notice of rates and services, a rate card, or a price list.

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

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1 77.51 (9s) "Paging service" means a telecommunications service that transmits
2 coded radio signals to activate specific pagers and may include messages or sounds.

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

4 77.51 (10) "Person" includes any natural person, firm, partnership, limited
5 liability company, joint venture, joint stock company, association, public or private
6 corporation, the United States, the state, including any unit or division of the state,
7 any county, city, village, town, municipal utility, municipal power district or other
8 governmental unit, cooperative, unincorporated cooperative association, estate,
9 trust, receiver, personal representative, any other fiduciary, any other legal entity,
10 and any representative appointed by order of any court or otherwise acting on behalf
11 of others. "Person" also includes the owner of a single-owner entity that is
12 disregarded as a separate entity under ch. 71.

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

14 77.51 (10d) "Prepaid calling service" means the right to exclusively access
15 telecommunications services, if that right is paid for in advance of providing such
16 services, requires using an access number or authorization code to originate calls,
17 and is sold in predetermined units or dollars that decrease with use in a known
18 amount.

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

20 77.51 (10f) "Prepaid wireless calling service" means a telecommunications
21 service that provides the right to utilize mobile wireless service as well as other
22 nontelecommunications services, including the download of digital products
23 delivered electronically, content, and ancillary services, and that is paid for prior to
24 use and sold in predetermined dollar units whereby the number of units declines
25 with use in a known amount.

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SECTION 58

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

2 77.51 (10m) (a) "Prepared food" means:

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

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

5 (b).

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

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

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

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

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

22 1. For purposes of par. (a) 2. and 4., 2 or more food ingredients mixed or
23 combined by a retailer for sale as a single item, if the retailer's primary classification
24 in the 2002 North American Industry Classification System, (published by the federal
2002 edition,

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1 office of management and budget, is manufacturing under subsector 311, not
2 including bakeries and tortilla manufacturing under industry group number 3118.

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

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

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

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

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

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

20 b. A denominator that includes all food and food ingredients, including
21 prepared food, candy, dietary supplements, and soft drinks, but not including
22 alcoholic beverages.

23 2. a. If the percentage determined under subd. 1. is 75 percent or less, utensils
24 are considered to be provided by the retailer if the retailer's customary practice is to
25 physically give or hand the utensils to the purchaser or, in the case of plates, bowls,

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1 glasses, or cups that are necessary to receive the food, to make such items available
2 to the purchaser.

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

6 3. For a retailer whose percentage determined under subd. 1. is greater than
7 75 percent, an item sold by the retailer that contains 4 or more servings packaged
8 as 1 item and sold for a single price does not become prepared food simply because
9 the retailer makes utensils available to the purchaser of the item, but does become
10 prepared food if the retailer physically gives or hands utensils to the purchaser of the
11 item. For purposes of this subdivision 3. (a), serving sizes are based on the
12 information contained on the label of each item sold, except that, if the item has no
13 label, the serving size is based on the retailer's reasonable determination.

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

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

22 5. For purposes of par. (a) 3., a retailer shall determine the percentage for the
23 retailer's tax year or business fiscal year, based on the retailer's data from the
24 retailer's prior tax year or business fiscal year, as soon as practical after the retailer's
25 accounting records are available, but not later than 90 days after the day on which

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1 the retailer's tax year or business fiscal year begins. For retailers with more than
2 one establishment in this state, a single determination under subd. 1. that combines
3 the information for all of the retailer's establishments in this state shall be made
4 annually, as provided in this subdivision, and apply to each of the retailer's
5 establishments in this state. A retailer that has no prior tax year or business fiscal
6 year shall make a good faith estimate of its percentage for purposes of par. (a) 3. for
7 the retailer's first tax year or business fiscal year and shall adjust the estimate
8 prospectively after the first 3 months of the retailer's operations if the actual
9 percentage is materially different from the estimated percentage.

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

11 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by
12 any oral, written, electronic, or other means of transmission and by a person who is
13 authorized by the laws of this state to issue such an order, formula, or recipe.

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

15 77.51 (10r) "Prewritten computer software" means any of the following:

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

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

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

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

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

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

7 77.51 (10s) "Private communication service" means a telecommunications
8 service that entitles the customer to exclusive or priority use of a communications
9 channel or group of communications channels, regardless of the manner in which the
10 communications channel or group of communications channels is connected, and
11 includes switching capacity, extension lines, stations, and other associated services
12 that are provided in connection with the use of such channel or channels.

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

14 77.51 (11d) "Product" includes tangible personal property, items or property
15 under s. 77.52 (1) (b) and (c), and services.

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

17 77.51 (11m) "Prosthetic device" means a device, including the repair parts and
18 replacement parts for the device, that is placed in or worn on the body to artificially
19 replace a missing portion of the body; to prevent or correct a physical deformity or
20 malfunction; or to support a weak or deformed portion of the body.

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

23 77.51 (12) (a) Any transfer of title, possession, ownership, enjoyment, or use
24 by: cash or credit transaction, exchange, barter, lease or rental, conditional or
25 otherwise, in any manner or by any means whatever of tangible personal property

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1 or items or property under s. 77.52 (1) (b) or (c) for a consideration, including any
2 transaction for which a person's books and records show the transaction created,
3 with regard to the transferee, an obligation to pay a certain amount of money or an
4 increase in accounts payable or, with regard to the transferor, a right to receive a
5 certain amount of money or an increase in accounts receivable;

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

7 77.51 (12) (b) A transaction whereby the possession of property or items or
8 property under s. 77.52 (1) (b) or (c) is transferred but the seller retains the title as
9 security for the payment of the price.

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

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

16 1. The seller's cost of the property or items or property under s. 77.52 (1) (b) or
17 (c) sold.

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

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

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

24 b. If a shipment includes property or items that are subject to tax under this
25 subchapter and property or items that are not subject to tax under this subchapter,

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1 the amount of the delivery charge that the seller allocates to the property and items
2 that are subject to tax under this subchapter is based either on the total purchase
3 price of the property and items that are subject to tax under this subchapter as
4 compared to the total purchase price of all the property and items or on the total
5 weight of the property and items that are subject to tax under this subchapter as
6 compared to the total weight of all the property and items, except that if the seller
7 does not make the allocation under this subd. 4. b., the purchaser shall allocate the
8 delivery charge amount, consistent with this subd. 4. b.

9 5. Installation charges.

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

11 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
12 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
13 taken by a purchaser on a sale.

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

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

22 4. Delivery charges for direct mail.

23 5. In all transactions in which an article of tangible personal property, an item
24 under s. 77.52 (1) (b), or property under s. 77.52 (1) (c) is traded toward the purchase
25 of an article, item, or property of greater value, the amount of the purchase price that

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1 represents the amount allowed for the article, item, or property traded, except that
2 this subdivision does not apply to any transaction to which subd. 7. or 8. applies.

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

10 7. Thirty-five percent of the purchase price, excluding trade-ins, of a new
11 manufactured home, as defined in s. 101.91 (11). This subdivision does not apply to
12 a lease or rental.

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

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

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

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

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

4 4. One of the following also applies:

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

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

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

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

16 77.51 (12p) "Purchaser" means a person to whom a sale of tangible personal
17 property is made or to whom a service is furnished.

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

19 77.51 (13) (a) Every seller who makes any sale, regardless of whether the sale
20 is mercantile in nature, of tangible personal property, items or property under s.
21 77.52 (1) (b) or (c), or a service specified under s. 77.52 (2) (a).

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

23 77.51 (13) (b) Every person engaged in the business of making sales of tangible
24 personal property or items or property under s. 77.52 (1) (b) or (c) for storage, use or
25 consumption or in the business of making sales at auction of tangible personal

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1 property or items or property under s. 77.52(1) (b) or (c) owned by the person or others
2 for storage, use or other consumption.

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

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

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

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

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

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

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

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

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

7 77.51 (13) (k) ~~As respects~~ With respect to a lease, any person deriving rentals
8 from a lease of tangible personal property or items or property under s. 77.52 (1) (b)
9 or (c) situated in this state.

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

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

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

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

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

21 77.51 (13) (o) A person selling medicine drugs for animals to a veterinarian.
22 As used in this paragraph, "animal" includes livestock, pets and poultry.

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

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1 77.51 (13g) (intro.) Except as provided in sub. (13h), “retailer engaged in
2 business in this state”, ~~unless otherwise limited by federal statute~~, for purposes of
3 the use tax, means any of the following:

4 **SECTION 79.** 77.51 (13g) (a) of the statutes is amended to read:

5 77.51 (13g) (a) Any retailer owning any real property in this state or leasing
6 or renting out any tangible personal property, or items or property under s. 77.52 (1)
7 (b) or (c), located in this state or maintaining, occupying or using, permanently or
8 temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever
9 name called, an office, place of distribution, sales or sample room or place, warehouse
10 or storage place or other place of business in this state.

11 **SECTION 80.** 77.51 (13g) (b) of the statutes is amended to read:

12 77.51 (13g) (b) Any retailer having any representative, agent, salesperson,
13 canvasser or solicitor operating in this state under the authority of the retailer or its
14 subsidiary for the purpose of selling, delivering or the taking of orders for any
15 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
16 services.

17 **SECTION 81.** 77.51 (13g) (c) of the statutes is created to read:

18 77.51 (13g) (c) Any retailer selling tangible personal property, items or
19 property under s. 77.52 (1) (b) or (c), or taxable services for storage, use, or other
20 consumption in this state, unless otherwise limited by federal law.

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

22 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall
23 be deemed the consumer of the tangible personal property, items or property under
24 s. 77.52 (1) (b) or (c), or services purchased.

25 **SECTION 83.** 77.51 (13rm) of the statutes is created to read:

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1 77.51 (13rm) "Retail sale" or "sale at retail" means any sale, lease, or rental
2 for any purpose other than resale, sublease, or subrent.

3 **SECTION 84.** 77.51 (13rn) of the statutes is created to read:

4 77.51 (13rn) "Ringtones" means digitized sound files that are downloaded onto
5 a device and that may be used to alert the customer with regard to a communication.
6 "Ringtones" includes MP3 or musical tones, polyphonic tones, and synthetic music
7 mobile application format tones, but does not include ring-back tones.

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

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

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

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

22 **SECTION 87.** 77.51 (14) (b) of the statutes is amended to read:

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

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1 **SECTION 88.** 77.51 (14) (c) of the statutes is amended to read:

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

5 **SECTION 89.** 77.51 (14) (d) of the statutes is repealed.

6 **SECTION 90.** 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4. and
7 amended to read:

8 77.51 (15a) (b) 4. A sale of tangible personal property or items or property
9 under s. 77.52 (1) (b) or (c) to a contractor or subcontractor for use in the performance
10 of contracts with the United States or its instrumentalities for the construction of
11 improvements on or to real property.

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

13 77.51 (14) (h) A transfer for a consideration of the title or possession of tangible
14 personal property or items or property under s. 77.52 (1) (b) ~~or~~ (c) which has have
15 been produced, fabricated, or printed to the special order of the customer or of any
16 publication.

17 **SECTION 92.** 77.51 (14) (i) of the statutes is repealed.

18 **SECTION 93.** 77.51 (14) (j) of the statutes is amended to read:

19 77.51 (14) (j) The granting of possession of tangible personal property or items
20 or property under s. 77.52 (1) (b) ~~or~~ (c) by a lessor to a lessee, or to another person at
21 the direction of the lessee. Such a transaction is deemed a continuing sale in this
22 state by the lessor for the duration of the lease as respects any period of time the
23 leased property is situated in this state, irrespective of the time or place of delivery
24 of the property to the lessee or such other person.

25 **SECTION 94.** 77.51 (14) (k) of the statutes is repealed.

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1 **SECTION 95.** 77.51 (14) (L) of the statutes is repealed.

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

3 77.51 (14g) (a) The transfer of property or items or property under s. 77.52 (1)
4 (b) or (c) to a corporation upon its organization solely in consideration for the issuance
5 of its stock;

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

7 77.51 (14g) (b) The contribution of property or items or property under s. 77.52
8 (1) (b) or (c) to a newly formed partnership solely in consideration for a partnership
9 interest therein;

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

11 77.51 (14g) (bm) The contribution of property or items or property under s.
12 77.52 (1) (b) or (c) to a limited liability company upon its organization solely in
13 consideration for a membership interest;

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

15 77.51 (14g) (c) The transfer of property or items or property under s. 77.52 (1)
16 (b) or (c) to a corporation, solely in consideration for the issuance of its stock,
17 pursuant to a merger or consolidation;

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

19 77.51 (14g) (cm) The transfer of property or items or property under s. 77.52
20 (1) (b) or (c) to a limited liability company, solely in consideration for a membership
21 interest, pursuant to a merger;

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

23 77.51 (14g) (d) The distribution of property or items or property under s. 77.52
24 (1) (b) or (c) by a corporation to its stockholders as a dividend or in whole or partial
25 liquidation;

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

2 77.51 (14g) (e) The distribution of property or items or property under s. 77.52
3 (1) (b) or (c) by a partnership to its partners in whole or partial liquidation;

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

5 77.51 (14g) (em) The distribution of property or items or property under s.
6 77.52 (1) (b) or (c) by a limited liability company to its members in whole or partial
7 liquidation;

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

9 77.51 (14g) (f) Repossession of property or items or property under s. 77.52 (1)
10 (b) or (c) by the seller from the purchaser when the only consideration is cancellation
11 of the purchaser's obligation to pay the remaining balance of the purchase price;

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

13 77.51 (14g) (g) The transfer of property or items or property under s. 77.52 (1)
14 (b) or (c) in a reorganization as defined in section 368 of the internal revenue code
15 in which no gain or loss is recognized for franchise or income tax purposes; or

16 **SECTION 106.** 77.51 (14g) (h) of the statutes is amended to read:

17 77.51 (14g) (h) Any transfer of all or substantially all the property or items or
18 property under s. 77.52 (1) (b) or (c) held or used by a person in the course of an
19 activity requiring the holding of a seller's permit, if after the transfer the real or
20 ultimate ownership of the property or items is substantially similar to that which
21 existed before the transfer. For the purposes of this section, stockholders,
22 bondholders, partners, members or other persons holding an interest in a
23 corporation or other entity are regarded as having the real or ultimate ownership of
24 the property or items of the corporation or other entity. In this paragraph,
25 "substantially similar" means 80% or more of ownership.

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SECTION 107

1 SECTION 107. 77.51 (14r) of the statutes is repealed.

2 SECTION 108. 77.51 (15) of the statutes, as affected by 2007 Wisconsin Act 11,
3 is repealed.

4 SECTION 109. 77.51 (15a) of the statutes is created to read:

5 77.51 (15a) (a) "Sales, lease, or rental for resale, sublease, or subrent" includes
6 transfers of tangible personal property or items or property under s. 77.52 (1) (b) or
7 (c) to a service provider that the service provider transfers in conjunction with but
8 not incidental to the selling, performing, or furnishing of any service, and transfers
9 of tangible personal property or items or property under s. 77.52 (1) (b) or (c) to a
10 service provider that the service provider physically transfers in conjunction with
11 the selling, performing, or furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20.
12 This paragraph does not apply to sub. (2).

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

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

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

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

7 **SECTION 110.** 77.51 (15b) of the statutes is created to read:

8 77.51 (15b) (a) "Sales price" means the total amount of consideration, including
9 cash, credit, property, and services, for which tangible personal property, items or
10 property under s. 77.52 (1) (b) or (c), or services are sold, leased, or rented, valued in
11 money, whether received in money or otherwise, without any deduction for the
12 following:

13 1. The seller's cost of the property or items or property under s. 77.52 (1) (b) or
14 (c) sold.

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

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

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

21 b. If a shipment includes property or items that are subject to tax under this
22 subchapter and property or items that are not subject to tax under this subchapter,
23 the amount of the delivery charge that the seller allocates to the property and items
24 that are subject to tax under this subchapter is based either on the total sales price
25 of the property and items that are subject to tax under this subchapter as compared

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1 to the total sales price of all the property and items or on the total weight of the
2 property and items that are subject to tax under this subchapter as compared to the
3 total weight of all the property and items.

4 5. Installation charges.

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

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

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

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

17 4. Delivery charges for direct mail.

18 5. In all transactions in which an article of tangible personal property, an item
19 under s. 77.52 (1) (b), or property under s. 77.52 (1) (c) is traded toward the purchase
20 of an article, item, or property of greater value, the amount of the sales price that
21 represents the amount allowed for the article, item, or property traded, except that
22 this subdivision does not apply to any transaction to which subd. 7. or 8. applies.

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

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

5 7. Thirty-five percent of the sales price, excluding trade-ins, of a new
6 manufactured home, as defined in s. 101.91 (11) . This subdivision does not apply
7 to a lease or rental.

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

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. One 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

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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 111.** 77.51 (17) (intro.) of the statutes, as affected by 2007 Wisconsin

9 Act 20, is amended to read:

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

15 **SECTION 112.** 77.51 (17m) of the statutes is repealed and 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

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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 **SECTION 113.** 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 **SECTION 114.** 77.51 (18) of the statutes is amended to read:

11 77.51 (18) "Storage" includes any keeping or retention in this state of tangible
12 personal property or items or property under s. 77.52 (1) (b) or (c) purchased from a
13 retailer for any purpose except sale in the regular course of business.

14 **SECTION 115.** 77.51 (20) of the statutes is amended to read:

15 77.51 (20) "Tangible personal property" means ~~all tangible personal property~~
16 ~~of every kind and description that can be seen, weighed, measured, felt, or touched,~~
17 ~~or that is in any other manner perceptible to the senses,~~ and includes electricity,
18 natural gas, steam and, water, and also leased property affixed to realty if the lessor
19 has the right to remove the property upon breach or termination of the lease
20 agreement, unless the lessor of the property is also the lessor of the realty to which
21 the property is affixed. "Tangible personal property" also includes coins and stamps
22 of the United States sold or traded as collectors' items above their face value and
23 computer programs except custom computer programs prewritten computer
24 software, but does not include items or property under s. 77.52 (1) (b) or (c).

25 **SECTION 116.** 77.51 (21) of the statutes is amended to read:

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

4 **SECTION 117.** 77.51 (21m) of the statutes is amended to read:

5 77.51 (21m) "Telecommunications and Internet access services" means
6 sending messages and information transmitted through the use of local, toll and
7 wide-area telephone service; channel services; telegraph services; teletypewriter;
8 computer exchange services; cellular mobile telecommunications service; specialized
9 mobile radio; stationary two-way radio; paging service; or any other form of mobile
10 and 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 and Internet access services" does not include sending collect
14 telecommunications that are received outside of the state.

15 **SECTION 118.** 77.51 (21m) of the statutes, as affected by ~~2007~~ ²⁰⁰⁹ Wisconsin Act
16 (this act), 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.
25 "Telecommunications ~~and~~ Internet access services" does not include sending collect

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1 ~~telecommunications that are received outside of the state~~ telecommunications
2 services to the extent that such services are taxable under s. 77.52 (2) (a) 5. am.

3 **SECTION 119.** 77.51 (21n) of the statutes is created to read:

4 77.51 (21n) "Telecommunications services" means electronically transmitting,
5 conveying, or routing voice, data, audio, video, or other information or signals to a
6 point or between or among points. "Telecommunications services" includes the
7 transmission, conveyance, or routing of such information or signals in which
8 computer processing applications are used to act on the content's form, code, or
9 protocol for transmission, conveyance, or routing purposes, regardless of whether
10 the service is referred to as a voice over Internet protocol service or classified by the
11 federal communications commission as an enhanced or value-added service.

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

*nonvoice data
nonvoice data*

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

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

18 (c) Tangible personal property.

19 (d) Advertising, including directory advertising.

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

21 (f) Internet access services.

22 (g) Radio and television audio and video programming services, regardless of
23 the medium in which the services are provided, including cable service, as defined
24 in 47 USC 522 (6), audio and video programming services delivered by commercial

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1 mobile radio service providers, as defined in 47 CFR 20.3, and the transmitting,
2 conveying, or routing of such services by the programming service provider.

3 (h) Ancillary services.

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

6 **SECTION 120.** 77.51 (21p) of the statutes is created to read:

7 77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,
8 and any other item that contains tobacco.

9 **SECTION 121.** 77.51 (21q) of the statutes is created to read:

10 77.51 (21q) "Transferred electronically" means accessed or obtained by the
11 purchaser by means other than tangible storage media.

12 **SECTION 122.** 77.51 (22) (a) of the statutes is amended to read:

13 77.51 (22) (a) "Use" includes the 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 incident to the ownership, possession or enjoyment of the property, items, or services,
16 or the results produced by the services, including installation or affixation to real
17 property and including the possession of, or the exercise of any right or power over
18 tangible personal property or items or property under s. 77.52 (1) (b) or (c) by a lessee
19 under a lease, except that "use" does not include the activities under sub. (18).

20 **SECTION 123.** 77.51 (22) (b) of the statutes is amended to read:

21 77.51 (22) (b) In this subsection "enjoyment" includes a purchaser's right to
22 direct the disposition of property or items or property under s. 77.52 (1) (b) or (c),
23 whether or not the purchaser has possession of the property or items. "Enjoyment"
24 also includes, but is not limited to, having shipped into this state by an out-of-state
25 supplier printed material which is designed to promote the sale of property, items or

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1 property under s. 77.52 (1) (b) or (c), or services, or which is otherwise related to the
2 business activities, of the purchaser of the printed material or printing service.

3 **SECTION 124.** 77.51 (22) (bm) of the statutes is created to read:

4 77.51 (22) (bm) In this subsection, "exercise of any right or power over tangible
5 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services"
6 includes distributing, selecting recipients, determining mailing schedules, or
7 otherwise directing the distribution, dissemination, or disposal of tangible personal
8 property, items or property under s. 77.52 (1) (b) or (c), or taxable services, regardless
9 of whether the purchaser of such property, items, or services owns or physically
10 possesses, in this state, the property, items, or services.

11 **SECTION 125.** 77.51 (24) of the statutes is created to read:

12 77.51 (24) "Value-added non-voice data service" means a service in which
13 computer processing applications are used to act on the form, content, code, or
14 protocol of the data provided by the service and are used primarily for a purpose other
15 than for transmitting, conveying, or routing data.

16 **SECTION 126.** 77.51 (25) of the statutes is created to read:

17 77.51 (25) "Vertical service" means an ancillary service that is provided with
18 one or more telecommunications services and allows customers to identify callers
19 and to manage multiple calls and call connections, including conference bridging
20 services.

21 **SECTION 127.** 77.51 (26) of the statutes is created to read:

22 77.51 (26) "Voice mail service" means an ancillary service that allows a
23 customer to store, send, or receive recorded messages, not including any vertical
24 service that the customer must have to use the voice mail service.