



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0377/P2

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DOA:.....Lillethun, BB0104 - Implementing the Main Street Equity Act
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

in 12-2-08

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

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

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 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.

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6 **SECTION 2.** 46.513 of the statutes is repealed.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

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

21 71.07 (5e) (b) *Filing claims.* Subject to the limitations provided in this
22 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
23 taxable year following the taxable year in which the claimant claims an exemption

of sales and use tax

1 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
2 the taxes imposed under ss. 71.02 and 71.08, up to the amount of those taxes, in each
3 taxable year for 2 years, the amount certified by the department of commerce that
4 resulted from the claimant claimed as an exemption claiming a deduction under s.
5 ~~77.54 (48)~~ 77.585 (9).

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

7 71.07 (5e) (c) 1. No credit may be allowed under this subsection unless the
8 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

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

10 71.07 (5e) (c) 3. The total amount of the credits and ~~exemptions~~ the sales and
11 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
12 by all claimants under this subsection and ss. 71.28 (5e), 71.47 (5e), and ~~77.54 (48)~~
13 77.585 (9) is \$7,500,000, as determined by the department of commerce.

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

15 71.28 (5e) (b) *Filing claims.* Subject to the limitations provided in this
16 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
17 taxable year following the taxable year in which the claimant claims ~~an exemption~~
18 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
19 the taxes imposed under s. 71.23, up to the amount of those taxes, in each taxable
20 year for 2 years, the amount certified by the department of commerce that resulted
21 from the claimant claimed as an exemption claiming a deduction under s. ~~77.54 (48)~~
22 77.585 (9).

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

24 71.28 (5e) (c) 1. No credit may be allowed under this subsection unless the
25 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

of sales and use tax

of sales and use tax

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

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

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

7 71.47 (5e) (b) *Filing claims.* Subject to the limitations provided in this
8 subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first
9 taxable year following the taxable year in which the claimant claims ~~an exemption~~
10 a deduction under s. ~~77.54 (48)~~ 77.585 (9), a claimant may claim as a credit against
11 the taxes imposed under s. 71.43, up to the amount of those taxes, in each taxable
12 year for 2 years, the amount certified by the department of commerce that resulted
13 from the claimant claimed as an exemption claiming a deduction under s. ~~77.54 (48)~~
14 77.585 (9).

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

16 71.47 (5e) (c) 1. No credit may be allowed under this subsection unless the
17 claimant satisfies the requirements under s. ~~77.54 (48)~~ 77.585 (9).

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

19 71.47 (5e) (c) 3. The total amount of the credits and exemptions the sales and
20 use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed
21 by all claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and ~~77.54 (48)~~
22 77.585 (9) is \$7,500,000, as determined by the department of commerce.

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

24 73.03 (28e) To participate as a member state of the streamlined sales tax
25 governing board which administers the agreement, as defined in s. 77.65 (2) (a), and

1 includes having the governing board enter into contracts that are necessary to
2 implement the agreement on behalf of the member states, and to allocate a portion
3 of the amount collected under ch. 77 through the agreement to the appropriation
4 under s. 20.566 (1) (ho) to pay the dues necessary to participate in the governing
5 board. The department shall allocate the remainder of such collections to the general
6 fund.

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

8 73.03 **(50)** (d) In the case of a sole proprietor, signs the form or, in the case of
9 other persons, has an individual who is authorized to act on behalf of the person sign
10 the form, or, in the case of a single-owner entity that is disregarded as a separate
11 entity under section 7701 of the Internal Revenue Code, the person is the owner. Any
12 person who may register under this subsection may designate an agent, as defined
13 in s. 77.524 (1) (ag), to register with the department under this subsection in the
14 manner prescribed by the department. In this paragraph, "sign" has the meaning
15 given in s. 77.51 (17r).

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

17 73.03 **(50b)** To waive the fee established under sub. (50) for applying for and
18 renewing the business tax registration certificate, if the person who is applying for
19 or renewing the certificate is not required for purposes of ch. 77 to hold such a
20 certificate.

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

22 73.03 **(61)** To do all of the following related to the Uniform Sales and Use Tax
23 Administration Act:

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

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

4 (c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish
5 performance standards and eligibility criteria for a seller that sells tangible personal
6 property, items or property under s. 77.52 (1) (b) or (c), or taxable services in at least
7 5 states that are signatories to the agreement, as defined in s. 77.65 (2) (a); that has
8 total annual sales revenue of at least \$500,000,000; that has a proprietary system
9 that calculates the amount of tax owed to each taxing jurisdiction in which the seller
10 sells tangible personal property or taxable services; and that has entered into a
11 performance agreement with the states that are signatories to the agreement, as
12 defined in s. 77.65 (2) (a). For purposes of this paragraph, "seller" includes an
13 affiliated group of sellers using the same proprietary system to calculate the amount
14 of tax owed in each taxing jurisdiction in which the sellers sell tangible personal
15 property or taxable services.

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

20 (e) Maintain a database that is accessible to sellers and certified service
21 providers, as defined in s. 77.51 (1g), that indicates whether items defined in
22 accordance with the Uniform Sales and Use Tax Administration Act are taxable or
23 nontaxable. agreement, as defined in s. 77.65 (2) (a),

24 (f) Maintain a database that is accessible to sellers and certified service
25 providers, as defined in s. 77.51 (1g), and available in a downloadable format, that

approved by the governing board
of the agreement, as defined in s. 77.65 (2) (a)

The database shall be available to sellers and certified service providers, as defined in s. 77.51(1g), no later than the first day of the month prior to the first day of the calendar quarter.

1 indicates tax rates, taxing jurisdiction boundaries, and zip code or address
 2 assignments related to the administration of taxes imposed under subchs. III and V
 3 of ch. 77.

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

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

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

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

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

21 77.51 (1fd) "Business" includes any activity engaged in by any person or caused
 22 to be engaged in by any person with the object of gain, benefit or advantage, either
 23 direct or indirect, and includes also the furnishing and distributing of tangible
 24 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services

1 for a consideration by social clubs and fraternal organizations to their members or
2 others.

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

4 77.51 (1b) "Alcoholic beverage" means a beverage that is suitable for human
5 consumption and that contains 0.5 percent or more of alcohol by volume.

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

7 77.51 (1ba) "Ancillary services" means services that are associated with or
8 incidental to providing telecommunications services, including detailed
9 telecommunications billing, directory assistance, vertical service, and voice mail
10 services.

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

12 77.51 (1f) "Bundled transaction" means the retail sale of 2 or more products,
13 not including real property and services to real property, if the products are distinct
14 and identifiable products and sold for one nonitemized price. "Bundled transaction"
15 does not include any of the following:

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

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

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

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

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

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

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

22 77.51 (1fm) "Candy" means a preparation of sugar, honey, or other natural or
23 artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or
24 flavorings in the form of bars, drops, or pieces. "Candy" does not include a
25 preparation that contains flour or that requires refrigeration.

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

2 77.51 (1n) "Computer" means an electronic device that accepts information in
3 digital or similar form and that manipulates such information to achieve a result
4 based on a sequence of instructions.

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

6 77.51 (1p) "Computer software" means a set of coded instructions designed to
7 cause a computer or automatic data processing equipment to perform a task.

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

9 77.51 (1r) "Conference bridging service" means an ancillary service that links
10 2 or more participants of an audio or video conference call and may include providing
11 a telephone number, but does not include the telecommunications services used to
12 reach the conference bridge.

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

14 77.51 (2k) "Delivered electronically" means delivered to a purchaser by means
15 other than by tangible storage media.

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

17 77.51 (2m) "Delivery charges" means charges by a seller to prepare and deliver
18 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or services
19 to a location designated by the purchaser of the tangible personal property, items or
20 property under s. 77.52 (1) (b) or (c), or services, including charges for transportation,
21 shipping, postage, handling, crating, and packing.

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

23 77.51 (3c) "Detailed telecommunications billing service" means an ancillary
24 service that separately indicates information pertaining to individual calls on a
25 customer's billing statement.

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

2 77.51 (3n) "Dietary supplement" means a product, other than tobacco, that is
3 intended to supplement a person's diet, if all of the following apply:

4 (a) The product contains any of the following ingredients or any combination
5 of any of the following ingredients:

6 1. A vitamin.

7 2. A mineral.

8 3. An herb or other botanical.

9 4. An amino acid.

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

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

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

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

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

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

1 personal property or items or property under s. 77.52 (1) (b) or (c) provided directly
2 or indirectly by the purchaser of the printed material to the seller of the printed
3 material for inclusion in any package containing the printed material, including
4 billing invoices, return envelopes, and additional marketing materials. "Direct mail"
5 does not include multiple items of printed material delivered to a single address.

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

7 77.51 (3pe) "Directory assistance" means an ancillary service that provides
8 telephone numbers or addresses.

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

10 77.51 (3pf) "Distinct and identifiable product" does not include any of the
11 following:

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

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

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

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

21 77.51 (3pj) "Drug" means a compound, substance, or preparation, or any
22 component of them, other than food and food ingredients, dietary supplements, or
23 alcoholic beverages, to which any of the following applies:

1 (a) It is listed in the United States Pharmacopoeia, Homeopathic
2 Pharmacopoeia of the United States, or National Formulary, or any supplement to
3 any of them.

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

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

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

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

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

15 77.51 (3pn) "Eight hundred service" means a telecommunications service that
16 allows a caller to dial a toll-free number without incurring a charge for the call and
17 is marketed under "800," "855," "866," "877," or "888" toll-free calling, or any other
18 number designated as toll-free by the federal communications commission.

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

20 77.51 (3po) "Electronic" means relating to technology having electrical, digital,
21 magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

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

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

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

5 **SECTION 40.** 77.51 (4) of the statutes is repealed.

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

7 77.51 (5) For purposes of subs. (13) (e) and (f) and ~~(14) (L)~~ (15a) and s. 77.52
8 (2m), "incidental" means depending upon or appertaining to something else as
9 primary; something necessary, appertaining to, or depending upon another which is
10 termed the principal; or something incidental to the main purpose of the service.
11 Tangible personal property or items or property under s. 77.52 (1) (b) or (c)
12 transferred by a service provider is incidental to the service if the purchaser's main
13 purpose or objective is to obtain the service rather than the property or items, even
14 though the property or items may be necessary or essential to providing the service.

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

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

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

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

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

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

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

6 77.51 (5m) For purposes of s. ~~77.54 (48)~~ 77.585 (9), “Internet equipment used
7 in the broadband market” means equipment that is capable of transmitting data
8 packets or Internet signals at speeds of at least 200 kilobits per second in either
9 direction.

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

11 77.51 (7) (a) “Lease or rental” means any transfer of possession or control of
12 tangible personal property or items or property under s. 77.52 (1) (b) or (c) for a fixed
13 or indeterminate term and for consideration and includes:

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

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

- 20 1. A transfer of possession or control of tangible personal property or items or
21 property under s. 77.52 (1) (b) or (c) under a security agreement or deferred payment
22 plan, if such agreement or plan requires transferring title to the tangible personal
23 property or items or property under s. 77.52 (1) (b) or (c) after making all required
24 payments.

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

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

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

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

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

20 77.51 (7g) "Load-and-leave" means delivery to a purchaser by using a tangible
21 storage media that is not physically transferred to the purchaser.

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

23 77.51 (7k) "Mobile wireless service" means a telecommunications service for
24 which the origination or termination points of the service's transmission,
25 conveyance, or routing are not fixed, regardless of the technology used to transmit,

1 convey, or route the service. "Mobile wireless service" includes a telecommunications
2 service provided by a commercial mobile radio service provider.

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

4 77.51 (7m) "Mobility-enhancing equipment" means equipment, including the
5 repair parts and replacement parts for the equipment, that is primarily and
6 customarily used to provide or increase the ability of a person to move from one place
7 to another; that may be used in a home or motor vehicle; and that is generally not
8 used by a person who has normal mobility. "Mobility-enhancing equipment" does
9 not include a motor vehicle or any equipment on a motor vehicle that is generally
10 provided by a motor vehicle manufacturer. "Mobility-enhancing equipment" does
11 not include durable medical equipment.

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

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

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

22 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, items or
23 property under s. 77.52 (1) (b) or (c), or taxable services where the infrequency, in
24 relation to the other circumstances, including the sales price and the gross profit,
25 support the inference that the seller is not pursuing a vocation, occupation or

1 business or a partial vocation or occupation or part-time business as a vendor of
2 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services.
3 No sale of any tangible personal property, items or property under s. 77.52 (1) (b) or
4 (c), or taxable service may be deemed an occasional sale if at the time of such sale the
5 seller holds or is required to hold a seller's permit, except that this provision does not
6 apply to an organization required to hold a seller's permit solely for the purpose of
7 conducting bingo games and except as provided in par. (am).

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

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

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

16 77.51 (9p) "One nonitemized price" does not include a price that is separately
17 identified by product on a binding sales document, or other sales-related document,
18 that is made available to the customer in paper or electronic form, including an
19 invoice, a bill of sale, a receipt, a contract, a service agreement, a lease agreement,
20 a periodic notice of rates and services, a rate card, or a price list.

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

22 77.51 (9s) "Paging service" means a telecommunications service that transmits
23 coded radio signals to activate specific pagers and may include messages or sounds.

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

1 77.51 (10) "Person" includes any natural person, firm, partnership, limited
2 liability company, joint venture, joint stock company, association, public or private
3 corporation, the United States, the state, including any unit or division of the state,
4 any county, city, village, town, municipal utility, municipal power district or other
5 governmental unit, cooperative, unincorporated cooperative association, estate,
6 trust, receiver, personal representative, any other fiduciary, any other legal entity,
7 and any representative appointed by order of any court or otherwise acting on behalf
8 of others. "Person" also includes the owner of a single-owner entity that is
9 disregarded as a separate entity under ch. 71.

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

11 77.51 (10d) "Prepaid calling service" means the right to exclusively access
12 telecommunications services, if that right is paid for in advance of providing such
13 services, requires using an access number or authorization code to originate calls,
14 and is sold in predetermined units or dollars that decrease with use in a known
15 amount.

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

17 77.51 (10f) "Prepaid wireless calling service" means a telecommunications
18 service that provides the right to utilize mobile wireless service as well as other
19 nontelecommunications services, including the download of digital products
20 delivered electronically, content, and ancillary services, and that is paid for prior to
21 use and sold in predetermined dollar units whereby the number of units declines
22 with use in a known amount.

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

24 77.51 (10m) (a) "Prepared food" means:

- 25 1. Food and food ingredients sold in a heated state.

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

2 (b).

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

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

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

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

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

19 1. For purposes of par. (a) 2. and 4., 2 or more food ingredients mixed or
20 combined by a retailer for sale as a single item, if the retailer's primary classification
21 in the North American Industry Classification System, 2002 edition, published by
22 the federal office of management and budget, is manufacturing under subsector 311,
23 not including bakeries and tortilla manufacturing under industry group number
24 3118.

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

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

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

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

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

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

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

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

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

4 3. For a retailer whose percentage determined under subd. 1. is greater than
5 75 percent, an item sold by the retailer that contains 4 or more servings packaged
6 as 1 item and sold for a single price does not become prepared food simply because
7 the retailer makes utensils available to the purchaser of the item, but does become
8 prepared food if the retailer physically gives or hands utensils to the purchaser of the
9 item. For purposes of this subdivision 3., serving sizes are based on the information
10 contained on the label of each item sold, except that, if the item has no label, the
11 serving size is based on the retailer's reasonable determination.

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

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

20 5. For purposes of par. (a) 3., a retailer shall determine the percentage for the
21 retailer's tax year or business fiscal year, based on the retailer's data from the
22 retailer's prior tax year or business fiscal year, as soon as practical after the retailer's
23 accounting records are available, but not later than 90 days after the day on which
24 the retailer's tax year or business fiscal year begins. For a retailer with more than
25 one establishment in this state, a single determination under subd. 1. that combines

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

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

9 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by
10 any oral, written, electronic, or other means of transmission and by a person who is
11 authorized by the laws of this state to issue such an order, formula, or recipe.

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

13 77.51 (10r) "Prewritten computer software" means any of the following:

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

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

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

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

23 (e) Computer software as described under pars. (a) to (d), and any portion of
24 such software, that is modified or enhanced by any degree to a specific purchaser's
25 specifications, except such modification or enhancement that is reasonably and

1 separately indicated on an invoice, or other statement of the price, provided to the
2 purchaser.

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

4 77.51 (10s) "Private communication service" means a telecommunications
5 service that entitles the customer to exclusive or priority use of a communications
6 channel or group of communications channels, regardless of the manner in which the
7 communications channel or group of communications channels is connected, and
8 includes switching capacity, extension lines, stations, and other associated services
9 that are provided in connection with the use of such channel or channels.

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

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

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

14 77.51 (11m) "Prosthetic device" means a device, including the repair parts and
15 replacement parts for the device, that is placed in or worn on the body to artificially
16 replace a missing portion of the body; to prevent or correct a physical deformity or
17 malfunction; or to support a weak or deformed portion of the body.

18 **SECTION 64.** 77.51 (12) (a) of the statutes is repealed and recreated to read:

19 77.51 (12) (a) Any transfer of title, possession, ownership, enjoyment, or use
20 by: cash or credit transaction, exchange, barter, lease or rental, conditional or
21 otherwise, in any manner or by any means whatever of tangible personal property
22 or items or property under s. 77.52 (1) (b) or (c) for a consideration, including any
23 transaction for which a person's books and records show the transaction created,
24 with regard to the transferee, an obligation to pay a certain amount of money or an

For purposes of subr. (1A), (3pf), and (9p) and ss. 77.52 (20) and (21),
77.522, and 77.54 (51) and (52), "product"

1 increase in accounts payable or, with regard to the transferor, a right to receive a
2 certain amount of money or an increase in accounts receivable.

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

4 77.51 (12) (b) A transaction whereby the possession of property or items or
5 property under s. 77.52 (1) (b) or (c) is transferred but the seller retains the title as
6 security for the payment of the price.

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

8 77.51 (12m) (a) "Purchase price" means the total amount of consideration,
9 including cash, credit, property, and services, for which tangible personal property,
10 items or property under s. 77.52 (1) (b) or (c), or services are sold, leased, or rented,
11 valued in money, whether paid 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 purchase
25 price of the property and items that are subject to tax under this subchapter as

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

6 5. Installation charges.

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

8 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
9 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
10 taken by a purchaser on a sale.

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

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

19 4. Delivery charges for direct mail.

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

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

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

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

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

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

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

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

25 4. One of the following also applies:

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

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

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

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

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

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

15 77.51 (13) (a) Every seller who makes any sale, regardless of whether the sale
16 is mercantile in nature, of tangible personal property, items or property under s.
17 77.52 (1) (b) or (c), or a service specified under s. 77.52 (2) (a).

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

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

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

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

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

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

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

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

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

23 77.51 (13) (f) A service provider who transfers tangible personal property or
24 items or property under s. 77.52 (1) (b) or (c) in conjunction with but not incidental
25 to the selling, performing or furnishing of any service and a service provider selling,

1 performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20. This
2 subsection does not apply to sub. (2).

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

4 77.51 (13) (k) ~~As respects~~ With respect to a lease, any person deriving rentals
5 from a lease of tangible personal property or items or property under s. 77.52 (1) (b)
6 or (c) situated in this state.

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

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

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

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

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

18 77.51 (13) (o) A person selling ~~medicine~~ drugs for animals to a veterinarian.
19 As used in this paragraph, “animal” includes livestock, pets and poultry.

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

21 77.51 (13g) (intro.) Except as provided in sub. (13h), “retailer engaged in
22 business in this state”, ~~unless otherwise limited by federal statute,~~ for purposes of
23 the use tax, means any of the following:

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

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

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

8 77.51 (13g) (b) Any retailer having any representative, agent, salesperson,
9 canvasser or solicitor operating in this state under the authority of the retailer or its
10 subsidiary for the purpose of selling, delivering or the taking of orders for any
11 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
12 services.

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

14 77.51 (13g) (c) Any retailer selling tangible personal property, items or
15 property under s. 77.52 (1) (b) or (c), or taxable services for storage, use, or other
16 consumption in this state, unless otherwise limited by federal law.

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

18 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall
19 be deemed the consumer of the tangible personal property, items or property under
20 s. 77.52 (1) (b) or (c), or services purchased.

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

22 77.51 (13rm) “Retail sale” or “sale at retail” means any sale, lease, or rental
23 for any purpose other than resale, sublease, or subrent.

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

1 77.51 (13rn) "Ringtones" means digitized sound files that are downloaded onto
2 a device and that may be used to alert the customer with regard to a communication.
3 "Ringtones" includes MP3 or musical tones, polyphonic tones, and synthetic music
4 mobile application format tones, but does not include ring-back tones.

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

6 77.51 (14) (intro.) "Sale", "sale, lease or rental", "retail sale", "sale at retail", or
7 equivalent terms include includes any ~~one or all~~ of the following: the transfer of the
8 ownership of, title to, possession of, or enjoyment of tangible personal property, items
9 or property under s. 77.52 (1) (b) or (c), or services for use or consumption but not for
10 resale as tangible personal property, items or property under s. 77.52 (1) (b) or (c),
11 or services and includes:

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

13 77.51 (14) (a) Any sale at an auction in with respect to tangible personal
14 property or items or property under s. 77.52 (1) (b) or (c) which is are sold to a
15 successful bidder. ~~The proceeds from, except the sale of property or items sold at~~
16 auction which is are bid in by the seller and on which title does not pass to a new
17 purchaser ~~shall be deducted from the gross proceeds of the sale and the tax paid only~~
18 ~~on the net proceeds.~~

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

20 77.51 (14) (b) The furnishing or distributing of tangible personal property,
21 items or property under s. 77.52 (1) (b) or (c), or taxable services for a consideration
22 by social clubs and fraternal organizations to their members or others.

23 **SECTION 88.** 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 89.** 77.51 (14) (d) of the statutes is repealed.

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

7 77.51 (15a) (b) 4. A sale of tangible personal property or items or property
8 under s. 77.52 (1) (b) or (c) to a contractor or subcontractor for use in the performance
9 of contracts with the United States or its instrumentalities for the construction of
10 improvements on or to real property.

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

12 77.51 (14) (h) A transfer for a consideration of the title or possession of tangible
13 personal property or items or property under s. 77.52 (1) (b) or (c) which has have
14 been produced, fabricated, or printed to the special order of the customer or of any
15 publication.

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

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

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

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

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

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

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

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

6 77.51 (14g) (b) The contribution of property or items or property under s. 77.52
7 (1) (b) or (c) to a newly formed partnership solely in consideration for a partnership
8 interest therein;

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

10 77.51 (14g) (bm) The contribution of property or items or property under s.
11 77.52 (1) (b) or (c) to a limited liability company upon its organization solely in
12 consideration for a membership interest;

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

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

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

18 77.51 (14g) (cm) The transfer of property or items or property under s. 77.52
19 (1) (b) or (c) to a limited liability company, solely in consideration for a membership
20 interest, pursuant to a merger;

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

22 77.51 (14g) (d) The distribution of property or items or property under s. 77.52
23 (1) (b) or (c) by a corporation to its stockholders as a dividend or in whole or partial
24 liquidation;

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

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

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

4 77.51 (14g) (em) The distribution of property or items or property under s.
5 77.52 (1) (b) or (c) by a limited liability company to its members in whole or partial
6 liquidation;

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

8 77.51 (14g) (f) Repossession of property or items or property under s. 77.52 (1)
9 (b) or (c) by the seller from the purchaser when the only consideration is cancellation
10 of the purchaser's obligation to pay the remaining balance of the purchase price;

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

12 77.51 (14g) (g) The transfer of property or items or property under s. 77.52 (1)
13 (b) or (c) in a reorganization as defined in section 368 of the internal revenue code
14 in which no gain or loss is recognized for franchise or income tax purposes; or

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

16 77.51 (14g) (h) Any transfer of all or substantially all the property or items or
17 property under s. 77.52 (1) (b) or (c) held or used by a person in the course of an
18 activity requiring the holding of a seller's permit, if after the transfer the real or
19 ultimate ownership of the property or items is substantially similar to that which
20 existed before the transfer. For the purposes of this section, stockholders,
21 bondholders, partners, members or other persons holding an interest in a
22 corporation or other entity are regarded as having the real or ultimate ownership of
23 the property or items of the corporation or other entity. In this paragraph,
24 "substantially similar" means 80% or more of ownership.

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

1 **SECTION 108.** 77.51 (15) of the statutes is repealed.

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

3 **77.51 (15a)** (a) "Sales, lease, or rental for resale, sublease, or subrent" includes
4 transfers of tangible personal property or items or property under s. 77.52 (1) (b) or
5 (c) to a service provider that the service provider transfers in conjunction with but
6 not incidental to the selling, performing, or furnishing of any service, and transfers
7 of tangible personal property or items or property under s. 77.52 (1) (b) or (c) to a
8 service provider that the service provider physically transfers in conjunction with
9 the selling, performing, or furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20.
10 This paragraph does not apply to sub. (2).

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

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

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

23 3. Transfers of tangible personal property or items or property under s. 77.52
24 (1) (b) or (c) to a service provider that the service provider transfers in conjunction
25 with the selling, performing, or furnishing of any service, if the tangible personal

1 property or items or property under s. 77.52 (1) (b) or (c) are incidental to the service,
2 unless the service provider is selling, performing, or furnishing services under s.
3 77.52 (2) (a) 7., 10., 11., or 20.

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

5 77.51 (**15b**) (a) "Sales price" means the total amount of consideration, including
6 cash, credit, property, and services, for which tangible personal property, items or
7 property under s. 77.52 (1) (b) or (c), or services are sold, leased, or rented, valued in
8 money, whether received in money or otherwise, without any deduction for the
9 following:

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

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

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

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

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

1 5. Installation charges.

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

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

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

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

14 4. Delivery charges for direct mail.

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

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

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

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

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

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

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

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

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

20 4. One of the following also applies:

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

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

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

6 **SECTION 111.** 77.51 (17) (intro.) of the statutes is amended to read:

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

12 **SECTION 112.** 77.51 (17m) of the statutes is repealed and recreated to read:

13 77.51 (17m) "Service address" means any of the following:

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

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

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

1 **SECTION 113.** 77.51 (17w) of the statutes is created to read:

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

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

7 77.51 (18) "Storage" includes any keeping or retention in this state of tangible
8 personal property or items or property under s. 77.52 (1) (b) or (c) purchased from a
9 retailer for any purpose except sale in the regular course of business.

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

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

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

22 77.51 (21) "Taxpayer" means the person who is required to pay, collect, or
23 account for or who is otherwise directly interested in the taxes imposed by this
24 subchapter, including a certified service provider.

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

1 77.51 (21m) “Telecommunications and Internet access services” means
2 sending messages and information transmitted through the use of local, toll and
3 wide-area telephone service; channel services; telegraph services; teletypewriter;
4 computer exchange services; cellular mobile telecommunications service; specialized
5 mobile radio; stationary two-way radio; paging service; or any other form of mobile
6 and portable one-way or two-way communications; or any other transmission of
7 messages or information by electronic or similar means between or among points by
8 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.
9 “Telecommunications and Internet access services” does not include sending collect
10 telecommunications that are received outside of the state.

11 **SECTION 118.** 77.51 (21m) of the statutes, as affected by 2009 Wisconsin Act
12 (this act), is renumbered 77.51 (5f) and amended to read:

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

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

1 77.51 (21n) "Telecommunications services" means electronically transmitting,
2 conveying, or routing voice, data, audio, video, or other information or signals to a
3 point or between or among points. "Telecommunications services" includes the
4 transmission, conveyance, or routing of such information or signals in which
5 computer processing applications are used to act on the content's form, code, or
6 protocol for transmission, conveyance, or routing purposes, regardless of whether
7 the service is referred to as a voice over Internet protocol service or classified by the
8 federal communications commission as an enhanced or value-added nonvoice data
9 service. "Telecommunications services" does not include any of the following:

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

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

15 (c) Tangible personal property.

16 (d) Advertising, including directory advertising.

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

18 (f) Internet access services.

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

24 (h) Ancillary services.

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

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

4 77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,
5 and any other item that contains tobacco.

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

7 77.51 (21q) "Transferred electronically" means accessed or obtained by the
8 purchaser by means other than tangible storage media.

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

10 77.51 (22) (a) "Use" includes the exercise of any right or power over tangible
11 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services
12 incident to the ownership, possession or enjoyment of the property, items, or services,
13 or the results produced by the services, including installation or affixation to real
14 property and including the possession of, or the exercise of any right or power over
15 tangible personal property or items or property under s. 77.52 (1) (b) or (c) by a lessee
16 under a lease, except that "use" does not include the activities under sub. (18).

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

18 77.51 (22) (b) In this subsection "enjoyment" includes a purchaser's right to
19 direct the disposition of property or items or property under s. 77.52 (1) (b) or (c),
20 whether or not the purchaser has possession of the property or items. "Enjoyment"
21 also includes, but is not limited to, having shipped into this state by an out-of-state
22 supplier printed material which is designed to promote the sale of property, items or
23 property under s. 77.52 (1) (b) or (c), or services, or which is otherwise related to the
24 business activities, of the purchaser of the printed material or printing service.

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

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

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

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

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

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

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

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

22 **SECTION 128.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a) and amended
23 to read:

24 77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible
25 personal property, including accessories, components, attachments, parts, supplies

1 and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the
2 ~~gross receipts sales price~~ from the sale, license, lease or rental of tangible personal
3 property, including accessories, components, attachments, parts, supplies and
4 materials, sold, leased or rented at retail in this state, as determined under s. 77.522.

5 **SECTION 129.** 77.52 (1) (b) of the statutes is created to read:

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

10 **SECTION 130.** 77.52 (1) (c) of the statutes is created to read:

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

16 **SECTION 131.** 77.52 (1b) of the statutes is repealed and recreated to read:

17 77.52 (1b) All sales, leases, or rentals of tangible personal property or items
18 or property under sub. (1) (b) or (c) at retail in this state are subject to the tax imposed
19 under sub. (1) unless an exemption in this subchapter applies.

20 **SECTION 132.** 77.52 (2) (intro.) of the statutes is amended to read:

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

1 **SECTION 133.** 77.52 (2) (a) 5. a. of the statutes is amended to read:

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

11 **SECTION 134.** 77.52 (2) (a) 5. a. of the statutes, as affected by 2009 Wisconsin
12 Act ... (this act), is amended to read:

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

22 **SECTION 135.** 77.52 (2) (a) 5. am. of the statutes is created to read:

23 77.52 (2) (a) 5. am. The sale of intrastate, interstate, and international
24 telecommunications services, except interstate 800 services.

25 **SECTION 136.** 77.52 (2) (a) 5. b. of the statutes is repealed.