



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0377/P4

JK:kjfrs

1P5
AMR

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

in 1-16-09

Don't Gen

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6 **SECTION 2.** 46.513 of the statutes is repealed.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

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 of sales and use tax certified by the department
4 of commerce that resulted from the claimant ~~claimed as an exemption~~ claiming a
5 deduction under s. ~~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 of sales and use tax certified by the department of
21 commerce that resulted from the claimant ~~claimed as an exemption~~ claiming a
22 deduction under s. ~~77.54 (48)~~ 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).

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 of sales and use tax certified by the department of
13 commerce that resulted from the claimant ~~claimed as an exemption~~ claiming a
14 deduction under s. ~~77.54 (48)~~ 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). *digital audiovisual works*

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 agreement, as defined in s. 77.65 (2) (a), are taxable or
23 nontaxable.

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

1 approved by the governing board of the agreement, as defined in s. 77.65 (2) (a), that
2 indicates tax rates, taxing jurisdiction boundaries, and zip code or address
3 assignments related to the administration of taxes imposed under subchs. III and V
4 of ch. 77. The database shall be provided at no cost and be available to sellers and
5 certified service providers, as defined in s. 77.51 (1g), no later than the first day of
6 the month prior to the first day of the calendar quarter.

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

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

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

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

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

24 77.51 (1fd) "Business" includes any activity engaged in by any person or caused
25 to be engaged in by any person with the object of gain, benefit or advantage, either

1 direct or indirect, and includes also the furnishing and distributing of tangible
2 personal property, items or property under s. 77.52 (1) (b) or (c), digital audiovisual
3 works, or taxable services for a consideration by social clubs and fraternal
4 organizations to their members or others.

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

6 77.51 (1b) "Alcoholic beverage" means a beverage that is suitable for human
7 consumption and that contains 0.5 percent or more of alcohol by volume.

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

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

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

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

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

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

23 2. The retail sale of a service and items or property under s. 77.52 (1) (b) or (c),
24 if such property, or items, are essential to the use of the service, and provided

or works

and digital audiovisual works

1 exclusively in connection with the service, and if the true object of the transaction
2 is the service.

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

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

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

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

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 (1pd) of the statutes is created to read:

13 77.51 (1pd) “Computer software maintenance contract” means a contract that
14 obligates a vendor of computer software to provide a customer with future updates
15 or upgrades to computer software, computer software support services, or both.

16 **SECTION 27.** 77.51 (1r) of the statutes is created to read:

17 77.51 (1r) “Conference bridging service” means an ancillary service that links
18 2 or more participants of an audio or video conference call and may include providing
19 a telephone number, but does not include the telecommunications services used to
20 reach the conference bridge.

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

22 77.51 (2k) “Delivered electronically” means delivered to a purchaser by means
23 other than by tangible storage media.

24 **SECTION 29.** 77.51 (2m) of the statutes is created to read:

1 77.51 (2m) "Delivery charges" means charges by a seller to prepare and deliver
2 tangible personal property, items or property under s. 77.52 (1) (b) or (c), digital
3 audiovisual works, or services to a location designated by the purchaser of the
4 tangible personal property, items or property under s. 77.52 (1) (b) or (c), digital
5 audiovisual works, or services, including charges for transportation, shipping,
6 postage, handling, crating, and packing.

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

8 77.51 (3c) "Detailed telecommunications billing service" means an ancillary
9 service that separately indicates information pertaining to individual calls on a
10 customer's billing statement.

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

12 77.51 (3n) "Dietary supplement" means a product, other than tobacco, that is
13 intended to supplement a person's diet, if all of the following apply:

14 (a) The product contains any of the following ingredients or any combination
15 of any of the following ingredients:

16 1. A vitamin.

17 2. A mineral.

18 3. An herb or other botanical.

19 4. An amino acid.

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

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

23 (b) The product is intended for ingestion in tablet, capsule, powder, soft-gel,
24 gel-cap, or liquid form, or, if not intended for ingestion in such forms, is not

1 represented as conventional food and is not represented for use as the sole item of
2 a meal or diet.

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

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

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

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

13 77.51 (3pd) "Direct mail" means printed material that is delivered by the U.S.
14 postal service or other delivery service to a mass audience or to addressees on a
15 mailing list provided by or at the direction of the purchaser of the printed material,
16 if the cost of the printed material or any tangible personal property or items, property
17 under s. 77.52 (1) (b) or (c), or digital audiovisual works included with the printed
18 material is not billed directly to the recipients of the printed material. "Direct mail"
19 includes any tangible personal property, items or property under s. 77.52 (1) (b) or
20 (c), or digital audiovisual works provided directly or indirectly by the purchaser of
21 the printed material to the seller of the printed material for inclusion in any package
22 containing the printed material, including billing invoices, return envelopes, and
23 additional marketing materials. "Direct mail" does not include multiple items of
24 printed material delivered to a single address.

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

1 77.51 (3pe) "Directory assistance" means an ancillary service that provides
2 telephone numbers or addresses.

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

4 77.51 (3pf) "Distinct and identifiable product" does not include any of the
5 following:

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

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

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

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

15 77.51 (3pj) "Drug" means a compound, substance, or preparation, or any
16 component of them, other than food and food ingredients, dietary supplements, or
17 alcoholic beverages, to which any of the following applies:

18 (a) It is listed in the United States Pharmacopoeia, Homeopathic
19 Pharmacopoeia of the United States, or National Formulary, or any supplement to
20 any of them.

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

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

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

1 77.51 (3pm) “Durable medical equipment” means equipment, including the
2 repair parts and replacement parts for the equipment that is primarily and
3 customarily used for a medical purpose related to a person; that can withstand
4 repeated use; that is not generally useful to a person who is not ill or injured; and that
5 is not placed in or worn on the body. “Durable medical equipment” does not include
6 mobility-enhancing equipment.

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

8 77.51 (3pn) “Eight hundred service” means a telecommunications service that
9 allows a caller to dial a toll-free number without incurring a charge for the call and
10 is marketed under “800,” “855,” “866,” “877,” or “888” toll-free calling, or any other
11 number designated as toll-free by the federal communications commission.

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

13 77.51 (3po) “Electronic” means relating to technology having electrical, digital,
14 magnetic, wireless, optical, electromagnetic, or similar capabilities.

15 **SECTION 40.** 77.51 (3rm) of the statutes is created to read:

16 77.51 (3rm) “Fixed wireless service” means a telecommunications service that
17 provides radio communication between fixed points.

18 **SECTION 41.** 77.51 (3t) of the statutes is created to read:

19 77.51 (3t) “Food and food ingredient” means a substance in liquid,
20 concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or
21 for chewing, by humans and that is ingested or chewed for its taste or nutritional
22 value. “Food and food ingredient” does not include alcoholic beverages or tobacco.

23 **SECTION 42.** 77.51 (4) of the statutes is repealed.

24 **SECTION 43.** 77.51 (5) of the statutes is amended to read:

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

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

11 77.51 (5d) “International telecommunications services” means
12 telecommunications services that originate or terminate in the United States,
13 including the District of Columbia and any U.S. territory or possession and originate
14 or terminate outside of the United States, including the District of Columbia and any
15 U.S. territory or possession.

16 **SECTION 45.** 77.51 (5n) of the statutes is created to read:

17 77.51 (5n) “Interstate telecommunications services” means
18 telecommunications services that originate in one state or U.S. territory or
19 possession and terminate in a different state or U.S. territory or possession.

20 **SECTION 46.** 77.51 (5r) of the statutes is created to read:

21 77.51 (5r) “Intrastate telecommunications services” means
22 telecommunications services that originate in one state or U.S. territory or
23 possession and terminate in the same state or U.S. territory or possession.

24 **SECTION 47.** 77.51 (6m) of the statutes is renumbered 77.51 (5m) and amended
25 to read:

1 77.51 (5m) For purposes of s. ~~77.54 (48)~~ 77.585 (9), "Internet equipment used
 2 in the broadband market" means equipment that is capable of transmitting data
 3 packets or Internet signals at speeds of at least 200 kilobits per second in either
 4 direction.

5 **SECTION 48.** 77.51 (7) of the statutes is repealed and recreated to read:

6 77.51 (7) (a) "Lease or rental" means any transfer of possession or control of
 7 tangible personal property or items ^{or property} under s. 77.52 (1) (b) ^{or (c)} for a fixed
 8 or indeterminate term and for consideration and includes: ^{or (d)}

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

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

15 1. A transfer of possession or control of tangible personal property or items ^{or}
 16 property ^{or work} under s. 77.52 (1) (b) ^{or (c)} under a security agreement or deferred payment
 17 plan, if such agreement or plan requires transferring title to the tangible personal
 18 property or items ^{or} property ^{or work} under s. 77.52 (1) (b) ^{or (c)} after making all required
 19 payments. ^{or (d)}

20 2. A transfer of possession or control of tangible personal property or items ^{or}
 21 property ^{or work} under s. 77.52 (1) (b) ^{or (c)} under any agreement that requires transferring
 22 title to the tangible personal property or items ^{or work} under s. 77.52 (1) (b) ^{or}
 23 (c) ^{or (d)} after making all required payments and after paying an option price that does not
 24 exceed the greater of \$100 or 1 percent of the total amount of the required payments.

1 3. Providing tangible personal property or items ^{or property} under s. 77.52 (1)
 2 (b) ^{a(d)} or (c) along with an operator, if the operator is necessary for the tangible personal
 3 property or items ^{or property} under s. 77.52 (1) (b) ^{or (c)} to perform in the manner
 4 for which it is designed and if the operator does more than maintain, inspect, or set
 5 up the tangible personal property or items ^{or property} under s. 77.52 (1) (b) ^{or (c)} ^{a(d)}

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

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

14 SECTION 49. 77.51 (7g) of the statutes is created to read:

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

17 SECTION 50. 77.51 (7k) of the statutes is created to read:

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

23 SECTION 51. 77.51 (7m) of the statutes is created to read:

24 77.51 (7m) "Mobility-enhancing equipment" means equipment, including the
 25 repair parts and replacement parts for the equipment, that is primarily and

1 customarily used to provide or increase the ability of a person to move from one place
2 to another; that may be used in a home or motor vehicle; and that is generally not
3 used by a person who has normal mobility. "Mobility-enhancing equipment" does
4 not include a motor vehicle or any equipment on a motor vehicle that is generally
5 provided by a motor vehicle manufacturer. "Mobility-enhancing equipment" does
6 not include durable medical equipment.

7 **SECTION 52.** 77.51 (8m) of the statutes is created to read:

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

16 **SECTION 53.** 77.51 (9) (a) of the statutes is amended to read:

17 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, items or
18 property under s. 77.52 (1) (b) or (c), digital audiovisual works, or taxable services
19 where the infrequency, in relation to the other circumstances, including the sales
20 price and the gross profit, support the inference that the seller is not pursuing a
21 vocation, occupation or business or a partial vocation or occupation or part-time
22 business as a vendor of personal property, items or property under s. 77.52 (1) (b) or
23 (c), digital audiovisual works, or taxable services. No sale of any tangible personal
24 property, items or property under s. 77.52 (1) (b) or (c), digital audiovisual works, or
25 taxable service may be deemed an occasional sale if at the time of such sale the seller

1 holds or is required to hold a seller's permit, except that this provision does not apply
2 to an organization required to hold a seller's permit solely for the purpose of
3 conducting bingo games and except as provided in par. (am).

4 **SECTION 54.** 77.51 (9) (am) of the statutes is amended to read:

5 77.51 (9) (am) The sale of personal property, other than inventory held for sale,
6 previously used by a seller to conduct its trade or business at a location after that
7 person has ceased actively operating in the regular course of business as a seller of
8 tangible personal property, items or property under s. 77.52 (1) (b) or (c), digital
9 audiovisual works, or taxable services at that location, even though the seller holds
10 a seller's permit for one or more other locations.

11 **SECTION 55.** 77.51 (9p) of the statutes is created to read:

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

17 **SECTION 56.** 77.51 (9s) of the statutes is created to read:

18 77.51 (9s) "Paging service" means a telecommunications service that transmits
19 coded radio signals to activate specific pagers and may include messages or sounds.

20 **SECTION 57.** 77.51 (10) of the statutes is amended to read:

21 77.51 (10) "Person" includes any natural person, firm, partnership, limited
22 liability company, joint venture, joint stock company, association, public or private
23 corporation, the United States, the state, including any unit or division of the state,
24 any county, city, village, town, municipal utility, municipal power district or other
25 governmental unit, cooperative, unincorporated cooperative association, estate,

1 trust, receiver, personal representative, any other fiduciary, any other legal entity,
2 and any representative appointed by order of any court or otherwise acting on behalf
3 of others. "Person" also includes the owner of a single-owner entity that is
4 disregarded as a separate entity under ch. 71.

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

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

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

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

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

19 77.51 (10m) (a) "Prepared food" means:

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

22 (b).

23 3. Food and food ingredients sold with eating utensils that are provided by the
24 retailer of the food and food ingredients, including plates, knives, forks, spoons,
25 glasses, cups, napkins, or straws. In this subdivision, "plate" does not include a

1 container or packaging used to transport food and food ingredients. For purposes of
2 this subdivision, a retailer provides utensils if any of the following applies:

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

7 b. For retailers not described under subd. 3. a., the retailer's customary practice
8 is to physically give or hand the utensils to the purchaser, except that plates, glasses,
9 or cups that are necessary for the purchaser to receive the food and food ingredients
10 need only be made available to the purchaser.

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

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

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

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

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

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

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

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

9 a. A numerator that includes sales of prepared food, as defined in par. (a) 1.,
10 2., and 4., and food for which plates, bowls, glasses, or cups are necessary to receive
11 the food, but not including alcoholic beverages.

12 b. A denominator that includes all food and food ingredients, including
13 prepared food, candy, dietary supplements, and soft drinks, but not including
14 alcoholic beverages.

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

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

23 3. For a retailer whose percentage determined under subd. 1. is greater than
24 75 percent, an item sold by the retailer that contains 4 or more servings packaged
25 as one item and sold for a single price does not become prepared food simply because

1 the retailer makes utensils available to the purchaser of the item, but does become
2 prepared food if the retailer physically gives or hands utensils to the purchaser of the
3 item, except that plates, bowls, glasses, or cups necessary for the purchaser to receive
4 the food need only be made available to the purchaser. For purposes of this
5 subdivision 3., serving sizes are based on the information contained on the label of
6 each item sold, except that, if the item has no label, the serving size is based on the
7 retailer's reasonable determination.

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

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

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

1 the retailer's first tax year or business fiscal year and shall adjust the estimate
2 prospectively after the first 3 months of the retailer's operations if the actual
3 percentage is materially different from the estimated percentage.

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

5 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by
6 any oral, written, electronic, or other means of transmission and by a person who is
7 authorized by the laws of this state to issue such an order, formula, or recipe.

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

9 77.51 (10r) "Prewritten computer software" means any of the following:

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

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

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

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

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

24 **SECTION 63.** 77.51 (10s) of the statutes is created to read:

INSERT 24-23

1 77.51 (10s) "Private communication service" means a telecommunications
2 service that entitles the customer to exclusive or priority use of a communications
3 channel or group of communications channels, regardless of the manner in which the
4 communications channel or group of communications channels is connected, and
5 includes switching capacity, extension lines, stations, and other associated services
6 that are provided in connection with the use of such channel or channels.

7 **SECTION 64.** 77.51 (11d) of the statutes is created to read:

8 77.51 (11d) For purposes of subs. (1f), (3pf), and (9p) and ss. 77.52 (20) and (21),
9 77.522, and 77.54 (51) and (52), "product" includes tangible personal property, items,
10 or property ^{for work} under s. 77.52 (1) (b) ~~and~~ (c), and (d), and services.

11 **SECTION 65.** 77.51 (11m) of the statutes is created to read:

12 77.51 (11m) "Prosthetic device" means a device, including the repair parts and
13 replacement parts for the device, that is placed in or worn on the body to artificially
14 replace a missing portion of the body; to prevent or correct a physical deformity or
15 malfunction; or to support a weak or deformed portion of the body.

16 **SECTION 66.** 77.51 (12) (a) of the statutes is repealed and recreated to read:

17 77.51 (12) (a) Any transfer of title, possession, ownership, enjoyment, or use
18 by: cash or credit transaction, exchange, barter, lease or rental, conditional or
19 otherwise, in any manner or by any means whatever of tangible personal property,
20 items or property under s. 77.52 (1) (b) or (c), or digital audiovisual works for a
21 consideration, including any transaction for which a person's books and records show
22 the transaction created, with regard to the transferee, an obligation to pay a certain
23 amount of money or an increase in accounts payable or, with regard to the transferor,
24 a right to receive a certain amount of money or an increase in accounts receivable.

25 **SECTION 67.** 77.51 (12) (b) of the statutes is amended to read:

1 77.51 (12) (b) A transaction whereby the possession of property, items or
2 property under s. 77.52 (1) (b) or (c), or digital audiovisual works is transferred but
3 the seller retains the title as security for the payment of the price.

4 **SECTION 68.** 77.51 (12m) of the statutes is created to read:

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

10 1. The seller's cost of the property, items or property under s. 77.52 (1) (b) or
11 (c), or digital audiovisual works 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 purchase
22 price of the property and items that are subject to tax under this subchapter as
23 compared to the total purchase price of all the property and items or on the total
24 weight of the property and items that are subject to tax under this subchapter as
25 compared to the total weight of all the property and items, except that if the seller

1 does not make the allocation under this subd. 4. b., the purchaser shall allocate the
2 delivery charge amount, consistent with this subd. 4. b.

3 5. Installation charges.

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

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

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

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

16 4. Delivery charges for direct mail, if the delivery charges for direct mail are
17 separately stated on the invoice, bill of sale, or similar document that the seller gives
18 to the purchaser. *, or a digital audiovisual work under s. 77.52(1)(d)*

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

24 6. If a person who purchases a motor vehicle presents a statement issued under
25 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the

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

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

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

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

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

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

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

23 4. One of the following also applies:

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

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

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

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

9 **SECTION 69.** 77.51 (12p) of the statutes is created to read:

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

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

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

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

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

24 **SECTION 72.** 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, items or property under s. 77.52 (1) (b) or (c), or digital
6 audiovisual works sold by them, irrespective of whether they are making the sales
7 on their own behalf or on behalf of such dealers, distributors, supervisors or
8 employers, the department may so regard them and may regard the dealers,
9 distributors, supervisors or employers as retailers for purposes of this subchapter.

10 **SECTION 73.** 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, items or property under s. 77.52 (1) (b) or (c), or digital audiovisual
13 works to a person other than a seller as defined in sub. (17) provided such wholesaler
14 is not expressly exempt from the sales tax on such sale or from collecting the use tax
15 on such sale.

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

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

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

24 77.51 (13) (f) A service provider who transfers tangible personal property,
25 items or property under s. 77.52 (1) (b) or (c), or digital audiovisual works in

1 conjunction with but not incidental to the selling, performing or furnishing of any
2 service and a service provider selling, performing or furnishing services under s.
3 77.52 (2) (a) 7., 10., 11. and 20. This subsection does not apply to sub. (2).

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

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

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

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

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

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

18 **SECTION 79.** 77.51 (13) (o) of the statutes is amended to read:

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

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

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

25 **SECTION 81.** 77.51 (13g) (a) of the statutes is amended to read:

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

7 SECTION 82. 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. or works or (d),

13 SECTION 83. 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 or works 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. or (d),

17 SECTION 84. 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), digital audiovisual works, or services purchased.

21 SECTION 85. 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 86. 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 87.** 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), digital audiovisual works, or services for use
10 or consumption but not for resale as tangible personal property, items or property
11 under s. 77.52 (1) (b) or (c), digital audiovisual works, or services and includes:

12 **SECTION 88.** 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, items or property under s. 77.52 (1) (b) or (c), digital audiovisual works
15 which is are sold to a successful bidder. ~~The proceeds from,~~ except the sale of property
16 or items sold at auction which is are bid in by the seller and on which title does not
17 pass to a new purchaser ~~shall be deducted from the gross proceeds of the sale and the~~
18 ~~tax paid only on the net proceeds.~~

19 **SECTION 89.** 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), digital audiovisual works, or taxable
22 services for a consideration by social clubs and fraternal organizations to their
23 members or others.

24 **SECTION 90.** 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, items or property under s. 77.52 (1) (b) or (c), or digital audiovisual works
3 are transferred but the seller retains the title as security for the payment of the price.

4 **SECTION 91.** 77.51 (14) (d) of the statutes is repealed.

5 **SECTION 92.** 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, items or property under
8 s. 77.52 (1) (b) or (c), or digital audiovisual works to a contractor or subcontractor for
9 use in the performance of contracts with the United States or its instrumentalities
10 for the construction of improvements on or to real property.

11 **SECTION 93.** 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, items or property under s. 77.52 (1) (b) or (c), or digital audiovisual
14 works which has have been produced, fabricated, or printed to the special order of
15 the customer or of any publication.

16 **SECTION 94.** 77.51 (14) (i) of the statutes is repealed.

17 **SECTION 95.** 77.51 (14) (j) of the statutes is amended to read:

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

24 **SECTION 96.** 77.51 (14) (k) of the statutes is repealed.

25 **SECTION 97.** 77.51 (14) (L) of the statutes is repealed.