



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0377/P5

JK:kjg

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

in 1-23-09

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6           **SECTION 2.** 46.513 of the statutes is repealed.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

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).

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

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 ~~items or property~~ <sup>or works</sup> under s. 77.52 (1) (b) or (c), and  
 24 digital audiovisual works, if such property, items, or works are essential to the use

or (d)



1 of the service, and provided exclusively in connection with the service, and if the true  
2 object of the transaction 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 <sup>or works</sup> or property  
13 under s. 77.52 (1) (b) <sup>or</sup> (c), or digital audiovisual works and tangible personal  
14 property, items <sup>or</sup> property <sup>(d)</sup> under s. 77.52 (1) (b) <sup>or</sup> (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 <sup>or</sup> property <sup>or works</sup> under s. 77.52 (1) (b) <sup>or</sup> (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 <sup>or</sup> property <sup>or works</sup> under s. 77.52 (1) (b) <sup>or</sup> (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, *or works*  
17 under s. 77.52 (1) (b) *or* (c), or digital audiovisual works <sup>(d)</sup> 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, *for or* items *or* property <sup>*or works*</sup> 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)~~ <sup>or</sup> (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           <sup>(d)</sup> Tangible personal property, ~~items or property~~ <sup>or items or works</sup> under s. 77.52 (1) (b), ~~or (c)~~, <sup>or</sup> 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, property, or works under s. 77.52 (1) (b), (c), or  
8 (d) for a fixed or indeterminate term and for consideration and includes:

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,  
16 property, or works under s. 77.52 (1) (b), (c), or (d) under a security agreement or  
17 deferred payment plan, if such agreement or plan requires transferring title to the  
18 tangible personal property or items, property, or works under s. 77.52 (1) (b), (c), or  
19 (d) after making all required payments.

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



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

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

11          2. Transfers described under par. (b) are not 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          **SECTION 49.** 77.51 (7g) of the statutes is created to read:

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

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

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

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

1           77.51 (7m) "Mobility-enhancing equipment" means equipment, including the  
2 repair parts and replacement parts for the equipment, that is primarily and  
3 customarily used to provide or increase the ability of a person to move from one place  
4 to another; that may be used in a home or motor vehicle; and that is generally not  
5 used by a person who has normal mobility. "Mobility-enhancing equipment" does  
6 not include a motor vehicle or any equipment on a motor vehicle that is generally  
7 provided by a motor vehicle manufacturer. "Mobility-enhancing equipment" does  
8 not include durable medical equipment.

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

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

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

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

1 property, ~~items or property~~ <sup>or works</sup> under s. 77.52 (1) (b) ~~or (c), digital audiovisual works,~~ <sup>or (d)</sup> or  
2 taxable service may be deemed an occasional sale if at the time of such sale the seller  
3 holds or is required to hold a seller's permit, except that this provision does not apply  
4 to an organization required to hold a seller's permit solely for the purpose of  
5 conducting bingo games and except as provided in par. (am).

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

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

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

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

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

20 77.51 (9s) "Paging service" means a telecommunications service that transmits  
21 coded radio signals to activate specific pagers and may include messages or sounds.

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

23 77.51 (10) "Person" includes any natural person, firm, partnership, limited  
24 liability company, joint venture, joint stock company, association, public or private  
25 corporation, the United States, the state, including any unit or division of the state,

1 any county, city, village, town, municipal utility, municipal power district or other  
2 governmental unit, cooperative, unincorporated cooperative association, estate,  
3 trust, receiver, personal representative, any other fiduciary, any other legal entity,  
4 and any representative appointed by order of any court or otherwise acting on behalf  
5 of others. "Person" also includes the owner of a single-owner entity that is  
6 disregarded as a separate entity under ch. 71.

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

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

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

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

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

21 77.51 (10m) (a) "Prepared food" means:

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

24 (b).

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

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

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

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

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

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

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

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

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

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

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

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

15           b. A denominator that includes all food and food ingredients, including  
16 prepared food, candy, dietary supplements, and soft drinks, but not including  
17 alcoholic beverages.

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

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

1           3. For a retailer whose percentage determined under subd. 1. is greater than  
2           75 percent, an item sold by the retailer that contains 4 or more servings packaged  
3           as one item and sold for a single price does not become prepared food simply because  
4           the retailer makes utensils available to the purchaser of the item, but does become  
5           prepared food if the retailer physically gives or hands utensils to the purchaser of the  
6           item, except that plates, bowls, glasses, or cups necessary for the purchaser to receive  
7           the food need only be made available to the purchaser. For purposes of this  
8           subdivision 3., serving sizes are based on the information contained on the label of  
9           each item sold, except that, if the item has no label, the serving size is based on the  
10          retailer's reasonable determination.

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

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

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

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

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

8 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by  
9 any oral, written, electronic, or other means of transmission and by a person who is  
10 authorized by the laws of this state to issue such an order, formula, or recipe.

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

12 77.51 (10r) "Prewritten computer software" means computer software,  
13 including prewritten upgrades, that is not designed and developed by the author or  
14 other creator to the specifications of a specific purchaser. The combining of 2 or more  
15 "prewritten computer software" programs or prewritten portions of computer  
16 software does not cause the combination to be other than "prewritten computer  
17 software." "Prewritten computer software" includes software designed and developed  
18 by the author or other creator to the specifications of a specific purchaser if it is sold  
19 to a person other than the specific purchaser. For purposes of this subsection, if a  
20 person modifies or enhances computer software of which the person is not the author  
21 or creator, the person is the author or creator only of the person's modifications or  
22 enhancements. "Prewritten computer software" or a prewritten portion of computer  
23 software that is modified or enhanced to any degree, with regard to a modification  
24 or enhancement that is designed and developed to the specifications of a specific  
25 purchaser, remains "prewritten computer software," except that if there is a



1 reasonable, separately stated charge or an invoice or other statement of the price  
2 given to the purchaser for the modification or enhancement, the modification or  
3 enhancement is not <sup>n</sup>prewritten computer software. <sup>n</sup>

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

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

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

12 77.51 (11d) For purposes of subs. (1f), (3pf), and (9p) and ss. 77.52 (20) and (21),  
13 77.522, and 77.54 (51) and (52), "product" includes tangible personal property, items,  
14 property, or works under s. 77.52 (1) (b), (c), and (d), and services.

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

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

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

21 77.51 (12) (a) Any transfer of title, possession, ownership, enjoyment, or use  
22 by: cash or credit transaction, exchange, barter, lease or rental, conditional or  
23 otherwise, in any manner or by any means whatever of tangible personal property,  
24 <sup>or</sup> items <sup>or</sup> property <sup>for works</sup> under s. 77.52 (1) (b), <sup>or</sup> (c), or digital audiovisual works <sup>(d)</sup> for a  
25 consideration, including any transaction for which a person's books and records show

1 the transaction created, with regard to the transferee, an obligation to pay a certain  
2 amount of money or an increase in accounts payable or, with regard to the transferor,  
3 a right to receive a certain amount of money or an increase in accounts receivable.

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

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

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

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

14 1. The seller's cost of the property, *or* ~~items or property~~ *or works* under s. 77.52 (1) (b) *or*  
15 (c), or ~~digital audiovisual works~~ sold. *(d)*

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

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

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

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

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

7 5. Installation charges.

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

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

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

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

20 4. Delivery charges for direct mail, if the delivery charges for direct mail are  
21 separately stated on the invoice, bill of sale, or similar document that the seller gives  
22 to the purchaser.

23 5. In all transactions in which an article of tangible personal property, an item  
24 under s. 77.52 (1) (b), property under s. 77.52 (1) (c), or a digital audiovisual work  
25 under s. 77.52 (1) (d) is traded toward the purchase of an article, item, property, or

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

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

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

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

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

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

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

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

4           4. One of the following also applies:

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

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

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

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

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

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

19           77.51 (13) (a) Every seller who makes any sale, regardless of whether the sale  
20 is mercantile in nature, of tangible personal property, items or property <sup>or works</sup> under s.

21 77.52 (1) (b) or (c), digital audiovisual works, or a service specified under s. 77.52 (2)

22 (a). or (d)

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

24           77.51 (13) (b) Every person engaged in the business of making sales of tangible  
25 personal property, items or property under s. 77.52 (1) (b) or (c), or digital audiovisual <sup>or works</sup>

1 works for storage, use or consumption or in the business of making sales at auction  
 2 of tangible personal property, ~~items or property~~ <sup>or works</sup> under s. 77.52 (1) (b) or (c), or digital  
 3 audiovisual works owned by the person or others for storage, use or other <sup>(d)</sup>  
 4 consumption.

SECTION 72. 77.51 (13) (c) of the statutes is amended to read:

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

SECTION 73. 77.51 (13) (d) of the statutes is amended to read:

16 77.51 (13) (d) Every wholesaler to the extent that the wholesaler sells tangible  
 17 personal property, ~~items or property~~ <sup>or works</sup> under s. 77.52 (1) (b) or (c), or digital audiovisual  
 18 works to a person other than a seller as defined in sub. (17) provided such wholesaler <sup>(d)</sup>  
 19 is not expressly exempt from the sales tax on such sale or from collecting the use tax  
 20 on such sale.

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

22 77.51 (13) (e) A person selling tangible personal property, ~~items or property~~ <sup>or works</sup>  
 23 under s. 77.52 (1) (b) or (c), or digital audiovisual works to a service provider who <sup>(d)</sup>  
 24 transfers the property in conjunction with the selling, performing or furnishing of  
 25 any service and the property is, items, or works are incidental to the service, unless

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

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

4 77.51 (13) (f) A service provider who transfers tangible personal property,  
5 ~~items, or property~~ <sup>or works</sup> under s. 77.52 (1) (b), ~~or~~ <sup>or</sup> (c), or digital audiovisual works <sup>(d)</sup> in  
6 conjunction with but not incidental to the selling, performing or furnishing of any  
7 service and a service provider selling, performing or furnishing services under s.  
8 77.52 (2) (a) 7., 10., 11. and 20. This subsection does not apply to sub. (2).

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

10 77.51 (13) (k) ~~As respects~~ With respect to a lease, any person deriving rentals  
11 from a lease of tangible personal property, ~~items or property~~ <sup>or works</sup> under s. 77.52 (1) (b), ~~or~~ <sup>or</sup>  
12 (c), or digital audiovisual works <sup>(d)</sup> situated in this state.

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

14 77.51 (13) (m) A person selling tangible personal property, ~~items, or property~~ <sup>or works</sup>  
15 under s. 77.52 (1) (b), or (c), or digital audiovisual works <sup>(d)</sup> to a veterinarian to be used  
16 or furnished by the veterinarian in the performance of services in some manner  
17 related to domestic animals, including pets or poultry.

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

19 77.51 (13) (n) A person selling household furniture, furnishings, equipment,  
20 appliances or other items of tangible personal property, ~~items or property~~ <sup>or works</sup> under s.  
21 77.52 (1) (b), ~~or~~ <sup>or</sup> (c), or digital audiovisual works <sup>(d)</sup> to a landlord for use by tenants in  
22 leased or rented living quarters.

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

24 77.51 (13) (o) A person selling medicine drugs for animals to a veterinarian.  
25 As used in this paragraph, "animal" includes livestock, pets and poultry.

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

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

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

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

12           **SECTION 82.** 77.51 (13g) (b) of the statutes is amended to read:

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

18           **SECTION 83.** 77.51 (13g) (c) of the statutes is created to read:

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

22           **SECTION 84.** 77.51 (13r) of the statutes is amended to read:

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

or (d)



1           **SECTION 85.** 77.51 (13rm) of the statutes is created to read:

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

4           **SECTION 86.** 77.51 (13rn) of the statutes is created to read:

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

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

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

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

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

23          **SECTION 89.** 77.51 (14) (b) of the statutes is amended to read:

24          77.51 (14) (b) The furnishing or distributing of tangible personal property,  
25 items, or property under s. 77.52 (1) (b), or (c), digital audiovisual works, or taxable

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

3 SECTION 90. 77.51 (14) (c) of the statutes is amended to read:

4 77.51 (14) (c) A transaction whereby the possession of tangible personal  
5 property is, <sup>or</sup> ~~items or property~~ <sup>or works</sup> under s. 77.52 (1) (b) <sup>or</sup> ~~or~~ (c), or digital audiovisual works <sup>(d)</sup>  
6 are transferred but the seller retains the title as security for the payment of the price.

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

8 SECTION 92. 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4. and  
9 amended to read:

10 77.51 (15a) (b) 4. A sale of tangible personal property, <sup>or</sup> ~~items or property~~ <sup>or works</sup> under  
11 s. 77.52 (1) (b) <sup>or</sup> ~~or~~ (c), or digital audiovisual works <sup>(d)</sup> to a contractor or subcontractor for  
12 use in the performance of contracts with the United States or its instrumentalities  
13 for the construction of improvements on or to real property.

14 SECTION 93. 77.51 (14) (h) of the statutes is amended to read:

15 77.51 (14) (h) A transfer for a consideration of the title or possession of tangible  
16 personal property, <sup>or</sup> ~~items or property~~ <sup>or works</sup> under s. 77.52 (1) (b) <sup>or</sup> ~~or~~ (c), or digital audiovisual <sup>(d)</sup>  
17 works which ~~has~~ <sup>have</sup> been produced, fabricated, or printed to the special order of  
18 the customer or of any publication.

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

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

21 77.51 (14) (j) The granting of possession of tangible personal property, <sup>or</sup> ~~items~~  
22 or property <sup>or works</sup> under s. 77.52 (1) (b) <sup>or</sup> ~~or~~ (c), or digital audiovisual works <sup>(d)</sup> by a lessor to a  
23 lessee, or to another person at the direction of the lessee. Such a transaction is  
24 deemed a continuing sale in this state by the lessor for the duration of the lease as

1 respects any period of time the leased property is situated in this state, irrespective  
2 of the time or place of delivery of the property to the lessee or such other person.

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

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

5 SECTION 98. 77.51 (14g) (a) of the statutes is amended to read:

6 77.51 (14g) (a) The transfer of property, ~~items or property~~ <sup>or works</sup> under s. 77.52 (1) (b)  
7 ~~or (c), or digital audiovisual works~~ to a corporation upon its organization solely in  
8 consideration for the issuance of its stock; <sup>(d)</sup>

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

10 77.51 (14g) (b) The contribution of property, ~~items or property~~ <sup>or works</sup> under s. 77.52  
11 (1) (b), ~~or (c), or digital audiovisual works~~ to a newly formed partnership solely in  
12 consideration for a partnership interest therein; <sup>(d)</sup>

13 SECTION 100. 77.51 (14g) (bm) of the statutes is amended to read:

14 77.51 (14g) (bm) The contribution of property, ~~items or property~~ <sup>or works</sup> under s. 77.52  
15 (1) (b), ~~or (c), or digital audiovisual works~~ to a limited liability company upon its  
16 organization solely in consideration for a membership interest; <sup>(d)</sup>

17 SECTION 101. 77.51 (14g) (c) of the statutes is amended to read:

18 77.51 (14g) (c) The transfer of property, ~~items or property~~ <sup>or works</sup> under s. 77.52 (1) (b)  
19 ~~or (c), or digital audiovisual works~~ to a corporation, solely in consideration for the  
20 issuance of its stock, pursuant to a merger or consolidation; <sup>(d)</sup>

21 SECTION 102. 77.51 (14g) (cm) of the statutes is amended to read:

22 77.51 (14g) (cm) The transfer of property, ~~items or property~~ <sup>or works</sup> under s. 77.52 (1)  
23 (b), ~~or (c), or digital audiovisual works~~ to a limited liability company, solely in  
24 consideration for a membership interest, pursuant to a merger; <sup>(d)</sup>

25 SECTION 103. 77.51 (14g) (d) of the statutes is amended to read:

**SECTION 103**

1 77.51 (14g) (d) The distribution of property, items or property under s. 77.52  
2 (1) (b), or (c), or digital audiovisual works by a corporation to its stockholders as a  
3 dividend or in whole or partial liquidation; (d)

4 **SECTION 104.** 77.51 (14g) (e) of the statutes is amended to read: *or works*

5 77.51 (14g) (e) The distribution of property, items or property under s. 77.52  
6 (1) (b), or (c), or digital audiovisual works by a partnership to its partners in whole  
7 or partial liquidation; (d)

8 **SECTION 105.** 77.51 (14g) (em) of the statutes is amended to read: *or works*

9 77.51 (14g) (em) The distribution of property, items or property under s. 77.52  
10 (1) (b), or (c), or digital audiovisual works by a limited liability company to its  
11 members in whole or partial liquidation; (d)

12 **SECTION 106.** 77.51 (14g) (f) of the statutes is amended to read: *or works*

13 77.51 (14g) (f) Repossession of property, items or property under s. 77.52 (1)  
14 (b), or (c), or digital audiovisual works by the seller from the purchaser when the only  
15 consideration is cancellation of the purchaser's obligation to pay the remaining  
16 balance of the purchase price;

17 **SECTION 107.** 77.51 (14g) (g) of the statutes is amended to read: *or works*

18 77.51 (14g) (g) The transfer of property, items or property under s. 77.52 (1) (b)  
19 or (c), or digital audiovisual works in a reorganization as defined in section 368 of the  
20 internal revenue code in which no gain or loss is recognized for franchise or income  
21 tax purposes; or

22 **SECTION 108.** 77.51 (14g) (h) of the statutes is amended to read: *or*

23 77.51 (14g) (h) Any transfer of all or substantially all the property, items or  
24 property under s. 77.52 (1) (b), or (c), or digital audiovisual works held or used by a  
25 person in the course of an activity requiring the holding of a seller's permit, if after (d)

*or works*

1 the transfer the real or ultimate ownership of the property, items, or works is  
 2 substantially similar to that which existed before the transfer. For the purposes of  
 3 this section, stockholders, bondholders, partners, members or other persons holding  
 4 an interest in a corporation or other entity are regarded as having the real or  
 5 ultimate ownership of the property, items, or works of the corporation or other entity.  
 6 In this paragraph, "substantially similar" means 80% or more of ownership.

7 **SECTION 109.** 77.51 (14r) of the statutes is repealed.

8 **SECTION 110.** 77.51 (15) of the statutes is repealed.

9 **SECTION 111.** 77.51 (15a) of the statutes is created to read:

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

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

- 21 1. The sale of building materials, supplies, and equipment to owners,  
 22 contractors, subcontractors, or builders for use in real property construction  
 23 activities or the alteration, repair, or improvement of real property, regardless of the  
 24 quantity of such materials, supplies, and equipment sold.

SECTION 111

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

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

SECTION 112. 77.51 (15b) of the statutes is created to read:

15 77.51 (15b) (a) "Sales price" means the total amount of consideration, including  
 16 cash, credit, property, and services, for which tangible personal property, items, or  
 17 property under s. 77.52 (1) (b), or (c), digital audiovisual works or services are sold,  
 18 licensed, leased, or rented, valued in money, whether received in money or otherwise,  
 19 without any deduction for the following:

20 1. The seller's cost of the property, items, property under s. 77.52 (1) (b), or (c),  
 21 or digital audiovisual works sold.

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

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

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

4           b. If a shipment includes property or items that are subject to tax under this  
5 subchapter and property or items that are not subject to tax under this subchapter,  
6 the amount of the delivery charge that the seller allocates to the property and items  
7 that are subject to tax under this subchapter is based either on the total sales price  
8 of the property and items that are subject to tax under this subchapter as compared  
9 to the total sales price of all the property and items or on the total weight of the  
10 property and items that are subject to tax under this subchapter as compared to the  
11 total weight of all the property and items.

12           5. Installation charges.

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

14           1. Discounts, including cash, terms, or coupons, that are not reimbursed by a  
15 3rd party, except as provided in par. (c); that are allowed by a seller; and that are  
16 taken by a purchaser on a sale.

17           2. Interest, financing, and carrying charges from credit that is extended on a  
18 sale of tangible personal property, items, <sup>or</sup> property under s. 77.52 (1) (b), <sup>or</sup> (c), <sup>or works</sup>  
19 digital audiovisual works, <sup>(old)</sup> or services, if the amount of the interest, financing, or  
20 carrying charges is separately stated on the invoice, bill of sale, or similar document  
21 that the seller gives to the purchaser.

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

1           4. Delivery charges for direct mail, if the delivery charges for direct mail are  
2 separately stated on the invoice, bill of sale, or similar document that the seller gives  
3 to the purchaser. *under s. 77.52(1)(d)*

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

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

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

20           8. At the retailer's option; except that after the retailer chooses an option the  
21 retailer may not use the other option for other sales without the department's written  
22 approval; either 35 percent of the sales price of a modular home, as defined in s.  
23 101.71 (6), or an amount equal to the sales price of the home minus the cost of  
24 materials that become an ingredient or component part of the home.



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

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

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

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

10 4. One of the following also applies:

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

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

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

21 **SECTION 113.** 77.51 (17) (intro.) of the statutes is amended to read: *10 works*

22 77.51 (17) (intro.) "Seller" includes every person selling, licensing, leasing, or  
23 renting tangible personal property, items or property under s. 77.52 (1) (b), or (c), or (d)

24 digital audiovisual works or selling, performing, or furnishing services of a kind the  
25 gross receipts sales price from the sale, license, lease, rental, performance, or

1 furnishing of which ~~are~~ is required to be included in the measure of the sales tax,  
2 regardless of all of the following:

3 **SECTION 114.** 77.51 (17m) of the statutes is repealed and recreated to read:

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

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

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

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

17 **SECTION 115.** 77.51 (17w) of the statutes is created to read:

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

22 **SECTION 116.** 77.51 (18) of the statutes is amended to read:

23 77.51 (18) "Storage" includes any keeping or retention in this state of tangible  
24 personal property, ~~items or property~~ under s. 77.52 (1) (b) or (c), or digital audiovisual

(d)

1 works purchased from a retailer for any purpose except sale in the regular course of  
2 business.

3 **SECTION 117.** 77.51 (20) of the statutes is amended to read:

4 77.51 (20) "Tangible personal property" means ~~all tangible personal property~~  
5 ~~of every kind and description that can be seen, weighed, measured, felt, or touched,~~  
6 ~~or that is in any other manner perceptible to the senses,~~ and includes electricity,  
7 natural gas, steam and, water, and also leased property affixed to realty if the lessor  
8 has the right to remove the property upon breach or termination of the lease  
9 agreement, unless the lessor of the property is also the lessor of the realty to which  
10 the property is affixed. "Tangible personal property" also includes coins and stamps  
11 of the United States sold or traded as collectors' items above their face value and  
12 computer programs except custom computer programs prewritten computer  
13 software.

14 **SECTION 118.** 77.51 (21) of the statutes is amended to read:

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

18 **SECTION 119.** 77.51 (21m) of the statutes is amended to read:

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

1 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.  
2 “Telecommunications and Internet access services” does not include sending collect  
3 telecommunications that are received outside of the state.

4 **SECTION 120.** 77.51 (21m) of the statutes, as affected by 2009 Wisconsin Act ....  
5 (this act), is renumbered 77.51 (5f) and amended to read:

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

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

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

1 federal communications commission as an enhanced or value-added nonvoice data  
2 service. "Telecommunications services" does not include any of the following:

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

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

8 (c) Tangible personal property.

9 (d) Advertising, including directory advertising.

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

11 (f) Internet access services.

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

17 (h) Ancillary services.

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

20 **SECTION 122.** 77.51 (21p) of the statutes is created to read:

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

23 **SECTION 123.** 77.51 (21q) of the statutes is created to read:

24 77.51 (21q) "Transferred electronically" means accessed or obtained by the  
25 purchaser by means other than tangible storage media.