



2003 SENATE BILL 267

October 2, 2003 - Introduced by Senators BROWN, JAUCH, ROESSLER, ERPENBACH, CHVALA and SCHULTZ, cosponsored by Representatives M. LEHMAN, W. WOOD, JESKEWITZ, MUSSER, AINSWORTH, OLSEN, MILLER, VAN ROY, BIES, J. LEHMAN, KAUFERT, GIELOW, RICHARDS, MONTGOMERY, PETTIS, HAHN, KRAWCZYK, ZIEGELBAUER, MCCORMICK and SCHOOFF. Referred to Committee on Homeland Security, Veterans and Military Affairs and Government Reform.

1 **AN ACT to repeal** 20.435 (3) (bm), 46.513, 77.51 (4), 77.51 (14) (d), 77.51 (14) (i),
2 77.51 (14) (k), 77.51 (14) (L), 77.51 (14r), 77.51 (15), 77.52 (6), 77.52 (14) (a) 2.,
3 77.523 (title), 77.53 (4), 77.54 (14g), 77.54 (14s), 77.54 (20), 77.54 (20m), 77.54
4 (22), 77.54 (40), 77.61 (3), 77.65 (2) (c), 77.72 (title) and 77.72 (2) and (3); **to**
5 **renumber** 77.51 (1), 77.51 (14) (g), 77.524 (1) (a), 77.524 (1) (b) and 77.53 (9m);
6 **to renumber and amend** 77.52 (1), 77.523, 77.61 (2), 77.72 (1) and 77.77 (1);
7 **to consolidate, renumber and amend** 77.52 (14) (a) (intro.) and 1. and (b);
8 **to amend** 66.0615 (1m) (f) 2., 70.111 (23), 73.03 (50) (d), 76.07 (4g) (b) 8., 77.51
9 (5), 77.51 (13) (o), 77.51 (14) (intro.), 77.51 (14) (a), 77.51 (14) (j), 77.51 (17),
10 77.51 (20), 77.51 (21), 77.52 (2) (intro.), 77.52 (2) (a) 10., 77.52 (7), 77.52 (13),
11 77.52 (15), 77.524 (1) (intro.), 77.53 (1), 77.53 (9), 77.53 (10), 77.53 (11), 77.53
12 (16), 77.53 (17), 77.53 (17m), 77.53 (17r) (a), 77.53 (18), 77.54 (1), 77.54 (2), 77.54
13 (2m), 77.54 (3) (a), 77.54 (3m) (intro.), 77.54 (4), 77.54 (5) (intro.), 77.54 (6)
14 (intro.), 77.54 (8), 77.54 (9), 77.54 (9a) (intro.), 77.54 (10), 77.54 (11), 77.54 (12),

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1 77.54 (13), 77.54 (14) (intro.), 77.54 (14) (a), 77.54 (14) (b), 77.54 (14) (f), 77.54
2 (15), 77.54 (16), 77.54 (17), 77.54 (18), 77.54 (21), 77.54 (23m), 77.54 (25), 77.54
3 (26), 77.54 (26m), 77.54 (27), 77.54 (28), 77.54 (29), 77.54 (30) (a) (intro.), 77.54
4 (30) (c), 77.54 (31), 77.54 (32), 77.54 (33), 77.54 (34), 77.54 (35), 77.54 (36), 77.54
5 (37), 77.54 (38), 77.54 (39), 77.54 (41), 77.54 (42), 77.54 (43), 77.54 (44), 77.54
6 (45), 77.54 (46), 77.54 (46m), 77.55 (1) (intro.), 77.55 (2), 77.55 (2m), 77.55 (3),
7 77.56 (1), 77.57, 77.58 (3) (b), 77.58 (6), 77.59 (9), 77.61 (1) (b), 77.61 (1) (c), 77.61
8 (4) (c), 77.65 (2) (e), 77.70, 77.705, 77.706, 77.707 (1), 77.707 (2), 77.71 (1), 77.71
9 (2), 77.71 (3), 77.71 (4), 77.73 (2), 77.785 (1), 77.785 (2), 77.98, 77.981, 77.982
10 (2), 77.99, 77.991 (2), 77.994 (1) (intro.), 77.9941 (4), 77.995 (2), 77.9951 (2),
11 86.195 (3) (b) 3. and 218.0171 (2) (cq); **to repeal and recreate** 77.51 (7), 77.51
12 (17m) and 77.63; and **to create** 73.03 (50b), 73.03 (61), 77.51 (1b), 77.51 (1e),
13 77.51 (1n), 77.51 (1p), 77.51 (2k), 77.51 (2m), 77.51 (3p), 77.51 (3pd), 77.51 (3pj),
14 77.51 (3pm), 77.51 (3pp), 77.51 (3t), 77.51 (7m), 77.51 (10m), 77.51 (10n), 77.51
15 (10r), 77.51 (11m), 77.51 (12m), 77.51 (12p), 77.51 (13s), 77.51 (15a), 77.51
16 (15b), 77.51 (17w), 77.51 (21p), 77.51 (22) (bm), 77.52 (1) (b), 77.52 (1) (c), 77.52
17 (7b), 77.522, 77.524 (1) (ag), 77.53 (9m) (b), 77.53 (9m) (c), 77.54 (14b), 77.54
18 (20n), 77.54 (20r), 77.54 (22b), 77.58 (6m), 77.58 (9a), 77.585, 77.59 (2m), 77.59
19 (9n), 77.59 (9p) (b), 77.59 (9r), 77.60 (13), 77.61 (2) (b), 77.61 (3m), 77.61 (5m),
20 77.61 (16), 77.67, 77.73 (3) and 77.77 (1) (b) of the statutes; **relating to:** the
21 Uniform Sales and Use Tax Administration Act, granting rule-making
22 authority, making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill adopts the substantive provisions of the streamlined sales and use tax agreement (agreement) for purposes of administering and collecting state, county,

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and stadium district sales and use taxes. The agreement is intended to simplify and modernize sales and use tax administration for the states that enter into the agreement 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 goods 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).

States that wish to enter into the agreement must adopt uniform definitions related to the administration of sales and use taxes and uniform policies related to sourcing sales of goods and services, bad debt allowances, refunds, and, to some extent, exemptions. Under the agreement, DOR may act jointly with other states that are signatories to the agreement to establish standards for certifying service providers and automated systems to aid out-of-state retailers with the collection of state sales and use taxes.

Under current law, "gross receipts" refers to the measure of the sales tax, and "sales price" refers to the measure of the use tax. Under the bill, "sales price" refers to the measure of the sales tax, and "purchase price" refers to the measure of the use tax.

The bill creates definitions for "alcohol beverages," "candy," "delivery charges," "dietary supplement," "food and food ingredients," "prepared food," and "soft drink."

The agreement provides that a state that is a signatory to the agreement may choose to tax or not tax all articles that are covered by one definition, but a state may not exempt from sales tax or use tax a particular item that is included in a definition. The members of the project working on the agreement approved a definition for "clothing." Therefore, in order to comply with the agreement, a state may either tax all clothing or exempt all clothing, but a state may not exempt certain items of clothing and tax others. This bill, therefore, eliminates the sales tax and use tax exemptions for cloth diapers and antiembolism hose.

This bill creates definitions for "durable medical equipment," "mobility-enhancing equipment," and "prosthetic device." Under the bill, the sale of such equipment and devices is exempt from the sales tax and the use tax.

Under the bill, generally, for purposes of determining which jurisdiction may impose a sales tax or use tax on a sale, if a purchaser receives a product at the seller's business location, the sale of that product occurs at the seller's business location. If a purchaser does not receive the product at a seller's business location, the sale occurs at the location where the purchaser receives the product. If the location of the sale cannot be so determined, the sale occurs at the purchaser's address, as indicated by the seller's business records. If the address cannot be determined from the business records, the sale occurs at the purchaser's address, as obtained during the consummation of the sale, including the address indicated on the purchaser's check. Finally, if the location of a sale cannot be determined in any other way, the sale of tangible personal property occurs at the location from which the tangible personal property is shipped. Under the bill, if the item sold is a digital good or computer software, and the digital good or computer software is delivered electronically, the

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sale occurs at the location from which the digital good or computer software was first available for transmission by the seller.

Under the bill, generally, the sale of a telecommunications service occurs at a location that is determined to be consistent with the provisions of the federal Mobile Telecommunications Sourcing Act.

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.** 20.435 (3) (bm) of the statutes is repealed.

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

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

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

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

10 70.111 **(23)** VENDING MACHINES. All machines that automatically dispense soda
11 water beverages, as defined in s. 97.29 (1) (i), and items included as a food or beverage
12 under s. 77.54 (20) (~~a~~) and (~~b~~) food and food ingredient, as defined in s. 77.51 (3t),
13 upon the deposit in the machines of specified coins or currency, or insertion of a credit
14 card, in payment for the soda water beverages, ~~food or beverages~~ food and food
15 ingredient, as defined in s. 77.51 (3t).

16 **SECTION 5.** 73.03 (50) (d) of the statutes is amended to read:

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

9 **SECTION 6.** 73.03 (50b) of the statutes is created to read:

10 73.03 (50b) To waive the fee established under sub. (50) for applying for and
11 renewing the business tax registration certificate, if the person who is applying for
12 or renewing the certificate is not required for purposes of ch. 77 to hold such a
13 certificate.

14 **SECTION 7.** 73.03 (61) of the statutes is created to read:

15 73.03 (61) To do all of the following related to the Uniform Sales and Use Tax
16 Administration Act:

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

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

21 (c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish
22 performance standards and eligibility criteria for a seller that sells tangible personal
23 property or taxable services in at least 5 states that are signatories to the agreement,
24 as defined in s. 77.65 (2) (a); that has total annual sales revenue of at least
25 \$500,000,000; that has a proprietary system that calculates the amount of tax owed

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1 to each taxing jurisdiction in which the seller sells tangible personal property or
2 taxable services; and that has entered into a performance agreement with the states
3 that are signatories to the agreement, as defined in s. 77.65 (2) (a). For purposes of
4 this paragraph, "seller" includes an affiliated group of sellers using the same
5 proprietary system to calculate the amount of tax owed in each taxing jurisdiction
6 in which the sellers sell tangible personal property or taxable services.

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

11 (e) Maintain a database that is accessible to sellers and certified service
12 providers, as defined in s. 77.51 (1g), that indicates whether items defined in
13 accordance with the Uniform Sales and Use Tax Administration Act are taxable or
14 nontaxable.

15 (f) Maintain a database that is accessible to sellers and certified service
16 providers, as defined in s. 77.51 (1g), that indicates tax rates, taxing jurisdiction
17 boundaries, and zip code or address assignments related to the administration of
18 taxes imposed under subchs. III and V of ch. 77.

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

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

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

2 76.07 **(4g)** (b) 8. Determine transport-related revenue by adding public service
3 revenue allocated to this state on the basis of routes for which the company is
4 authorized to receive subsidy payments, mutual aid allocated to this state on the
5 basis of the ratio of transport revenues allocated to this state to transport revenues
6 everywhere in the previous year, in-flight sales allocated to this state as they are
7 allocated under s. ~~77.51 (14r)~~ 77.522 and all other transport-related revenues from
8 sales made in this state.

9 **SECTION 9.** 77.51 (1) of the statutes is renumbered 77.51 (1d).

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

11 77.51 **(1b)** “Alcohol beverage” means a beverage that is suitable for human
12 consumption and that contains 0.5 percent or more of alcohol by volume.

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

14 77.51 **(1e)** “Candy” means a preparation of sugar, honey, or other natural or
15 artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or
16 flavorings in the form of bars, drops, or pieces. “Candy” does not include a
17 preparation that contains flour or that requires refrigeration.

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

19 77.51 **(1n)** “Computer” means an electronic device that accepts information in
20 digital or similar form and that manipulates such information to achieve a result
21 based on a sequence of instructions.

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

23 77.51 **(1p)** “Computer software” means a set of coded instructions designed to
24 cause a computer or automatic data processing equipment to perform a task.

25 **SECTION 14.** 77.51 (2k) of the statutes is created to read:

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1 77.51 (2k) “Delivered electronically” means delivered to a purchaser by means
2 other than by tangible storage media.

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

4 77.51 (2m) “Delivery charges” means charges by a seller to prepare and deliver
5 tangible personal property or services to a location designated by the purchaser of
6 the tangible personal property or services, including charges for transportation,
7 shipping, postage, handling, crating, and packing.

8 **SECTION 16.** 77.51 (3p) of the statutes is created to read:

9 77.51 (3p) “Dietary supplement” means a product, other than tobacco, that is
10 intended to supplement a person’s diet, if all of the following apply:

11 (a) The product contains any of the following ingredients or any combination
12 of any of the following ingredients:

13 1. A vitamin.

14 2. A mineral.

15 3. An herb or other botanical.

16 4. An amino acid.

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

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

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

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

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

2 77.51 **(3pd)** “Direct mail” means printed material that is delivered by the U.S.
3 postal service or other delivery service to a mass audience or to addressees on a
4 mailing list provided by or at the direction of the purchaser of the printed material,
5 if the cost of the printed material or any tangible personal property included with the
6 printed material is not billed directly to the recipients of the printed material.
7 “Direct mail” includes any tangible personal property provided directly or indirectly
8 by the purchaser of the printed material to the seller of the printed material for
9 inclusion in any package containing printed material. “Direct mail” does not include
10 multiple items of printed material delivered to a single address.

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

12 77.51 **(3pj)** “Drug” means a compound, substance, or preparation, or any
13 component of them, other than food and food ingredients, dietary supplements, or
14 alcoholic beverages, to which any of the following applies:

15 (a) It is listed in the United States Pharmacopoeia, Homeopathic
16 Pharmacopoeia of the United States, or National Formulary, or any supplement to
17 any of them.

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

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

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

22 77.51 **(3pm)** “Durable medical equipment” means equipment, including the
23 repair parts and replacement parts for the equipment, that is for use in a person’s
24 home; that is primarily and customarily used for a medical purpose related to a
25 person; that can withstand repeated use; that is not generally useful to a person who

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1 is not ill or injured; and that is not placed in or worn on the body. “Durable medical
2 equipment” does not include mobility-enhancing equipment.

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

4 77.51 (3pp) “Electronic” means relating to technology having electrical,
5 digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

7 77.51 (3t) “Food and food ingredient” means a substance in liquid,
8 concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or
9 for chewing, by humans and that is ingested or chewed for its taste or nutritional
10 value. “Food and food ingredient” does not include alcohol beverages or tobacco.

11 **SECTION 22.** 77.51 (4) of the statutes, as affected by 2003 Wisconsin Act 48, is
12 repealed.

13 **SECTION 23.** 77.51 (5) of the statutes is amended to read:

14 77.51 (5) For purposes of subs. (13) (e) and (f) and ~~(14) (L)~~ (15a) and s. 77.52
15 (2m), “incidental” means depending upon or appertaining to something else as
16 primary; something necessary, appertaining to, or depending upon another which is
17 termed the principal; something incidental to the main purpose of the service.
18 Tangible personal property transferred by a service provider is incidental to the
19 service if the purchaser’s main purpose or objective is to obtain the service rather
20 than the property, even though the property may be necessary or essential to
21 providing the service.

22 **SECTION 24.** 77.51 (7) of the statutes is repealed and recreated to read:

23 77.51 (7) (a) “Lease or rental” means any transfer of possession or control of
24 tangible personal property for a fixed or indeterminate term and for consideration
25 and includes:

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- 1 1. A transfer that includes future options to purchase or extend.
- 2 2. Agreements related to the transfer of possession or control of motor vehicles
3 or trailers, if the amount of any consideration may be increased or decreased by
4 reference to the amount realized on the sale or other disposition of such motor
5 vehicles or trailers, consistent with section 7701 (h) (1) of the Internal Revenue Code.
- 6 (b) "Lease or rental" does not include any of the following:
- 7 1. A transfer of possession or control of tangible personal property under a
8 security agreement or deferred payment plan, if such agreement or plan requires
9 transferring title to the tangible personal property after making all required
10 payments.
- 11 2. A transfer of possession or control of tangible personal property under any
12 agreement that requires transferring title to the tangible personal property after
13 making all required payments and after paying an option price that does not exceed
14 the greater of \$100 or 1 percent of the total amount of the required payments.
- 15 3. Providing tangible personal property along with an operator, if the operator
16 is necessary for the tangible personal property to perform in the manner for which
17 it is designed and if the operator does more than maintain, inspect, or set up the
18 tangible personal property.
- 19 (c) 1. Transfers described under par. (a) are considered a lease or rental,
20 regardless of whether such transfer is considered a lease or rental under generally
21 accepted accounting principles, or any provision of federal or local law, or any other
22 provision of state law.
- 23 2. Transfers described under par. (b) are not considered a lease or rental,
24 regardless of whether such transfer is considered a lease or rental under generally

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1 accepted accounting principles, or any provision of federal or local law, or any other
2 provision of state law.

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

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

11 **SECTION 26.** 77.51 (10m) of the statutes is created to read:

12 77.51 (10m) (a) “Prepared food” means:

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

14 2. Food and food ingredients heated by the retailer, except as provided in par.
15 (b).

16 3. Food and food ingredients sold with eating utensils that are provided by the
17 retailer of the food and food ingredients, including plates, knives, forks, spoons,
18 glasses, cups, napkins, and straws. In this subdivision, “plate” does not include a
19 container or packaging used to transport food and food ingredients.

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

22 (b) “Prepared food” under par. (a) 2. and 4. does not include:

23 1. Two or more food ingredients mixed or combined by a retailer for sale as a
24 single item, if the retailer’s primary classification in the 1997 North American
25 Industry Classification System, published by the federal office of management and

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1 budget, is manufacturing under sectors 31 to 33, not including bakeries and tortilla
2 manufacturing under industry group number 3118.

3 2. Two or more food ingredients mixed or combined by a retailer for sale as a
4 single item, sold unheated, and sold by volume or weight.

5 3. Bakery items made by a retailer, including breads, rolls, pastries, buns,
6 biscuits, bagels, croissants, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,
7 cookies, and tortillas.

8 4. Food and food ingredients that are only sliced, repackaged, or pasteurized
9 by a retailer.

10 5. Eggs, fish, meat, and poultry, and foods containing any of them in raw form,
11 that require cooking by the consumer, as recommended by the food and drug
12 administration in chapter 3, part 401.11 of its food code to prevent food-borne
13 illnesses.

14 **SECTION 27.** 77.51 (10n) of the statutes is created to read:

15 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by
16 any oral, written, electronic, or other means of transmission and by a person who is
17 authorized by the laws of this state to issue such an order, formula, or recipe.

18 **SECTION 28.** 77.51 (10r) of the statutes is created to read:

19 77.51 (10r) "Prewritten computer software" means any of the following:

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

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

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

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

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

11 **SECTION 29.** 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 30.** 77.51 (12m) of the statutes is created to read:

17 77.51 (12m) (a) "Purchase price" means the total amount of consideration,
18 including cash, credit, property, and services, for which tangible personal property
19 or services are sold, leased, or rented, valued in money, whether paid in money or
20 otherwise, without any deduction for the following:

- 21 1. The seller's cost of the property 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.

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

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

4 5. Installation charges.

5 6. The value of exempt tangible personal property, if the exempt tangible
6 personal property is bundled with taxable tangible personal property and sold by the
7 seller as a single product or piece of merchandise.

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

9 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
10 3rd party; that are allowed by a seller; and that are taken by a purchaser on a sale.

11 2. Interest, financing, and carrying charges from credit that is extended on a
12 sale of personal property or services, if the amount of the interest, financing, or
13 carrying charges is separately stated on the invoice, bill of sale, or similar document
14 that the seller gives to the purchaser.

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

18 4. Delivery charges for direct mail.

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

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

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

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

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

17 **SECTION 31.** 77.51 (12p) of the statutes is created to read:

18 77.51 (12p) "Purchaser" means a person to whom a sale of tangible personal
19 property is made or to whom a service is furnished.

20 **SECTION 32.** 77.51 (13) (o) of the statutes is amended to read:

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

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

24 77.51 (13s) "Retail sale" or "sale at retail" means any sale, lease, or rental for
25 any purpose other than resale, sublease, or subrent.

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1 **SECTION 34.** 77.51 (14) (intro.) of the statutes is amended to read:

2 77.51 (14) (intro.) “Sale”, “sale, lease or rental”, “retail sale”, “sale at retail”, or
3 equivalent terms ~~include~~ includes any ~~one or all~~ of the following: the transfer of the
4 ownership of, title to, possession of, or enjoyment of tangible personal property or
5 services for use or consumption but not for resale as tangible personal property or
6 services and includes:

7 **SECTION 35.** 77.51 (14) (a) of the statutes is amended to read:

8 77.51 (14) (a) Any sale at an auction in respect to tangible personal property
9 which is sold to a successful bidder. ~~The proceeds from, except~~ the sale of property
10 sold at auction which is bid in by the seller and on which title does not pass to a new
11 purchaser ~~shall be deducted from the gross proceeds of the sale and the tax paid only~~
12 on the net proceeds.

13 **SECTION 36.** 77.51 (14) (d) of the statutes is repealed.

14 **SECTION 37.** 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4.

15 **SECTION 38.** 77.51 (14) (i) of the statutes is repealed.

16 **SECTION 39.** 77.51 (14) (j) of the statutes is amended to read:

17 77.51 (14) (j) The granting of possession of tangible personal property by a
18 lessor to a lessee, or to another person at the direction of the lessee. Such a
19 transaction is deemed a continuing sale in this state ~~by the lessor for the duration~~
20 of the lease as respects any period of time the leased property is situated in this state,
21 irrespective of the time or place of delivery of the property to the lessee or such other
22 person.

23 **SECTION 40.** 77.51 (14) (k) of the statutes is repealed.

24 **SECTION 41.** 77.51 (14) (L) of the statutes is repealed.

25 **SECTION 42.** 77.51 (14r) of the statutes is repealed.

SENATE BILL 267**SECTION 43**

1 **SECTION 43.** 77.51 (15) of the statutes, as affected by 2003 Wisconsin Act 48,
2 is repealed.

3 **SECTION 44.** 77.51 (15a) of the statutes is created to read:

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

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

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

17 2. Any sale of tangible personal property to a purchaser even though such
18 property may be used or consumed by some other person to whom such purchaser
19 transfers the tangible personal property without valuable consideration, such as
20 gifts, and advertising specialties distributed gratis apart from the sale of other
21 tangible personal property or service.

22 3. Transfers of tangible personal property to a service provider that the service
23 provider transfers in conjunction with the selling, performing, or furnishing of any
24 service, if the tangible personal property is incidental to the service, unless the

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1 service provider is selling, performing, or furnishing services under s. 77.52 (2) (a)
2 7., 10., 11., or 20.

3 **SECTION 45.** 77.51 (15b) of the statutes is created to read:

4 77.51 (15b) (a) "Sales price" means the total amount of consideration, including
5 cash, credit, property, and services, for which tangible personal property or services
6 are sold, leased, or rented, valued in money, whether received in money or otherwise,
7 without any deduction for the following:

8 1. The seller's cost of the property sold.

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

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

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

15 5. Installation charges.

16 6. The value of exempt tangible personal property, if the exempt tangible
17 personal property is bundled with taxable tangible personal property and sold by the
18 seller as a single product or piece of merchandise.

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

20 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
21 3rd party; that are allowed by a seller; and that are taken by a purchaser on a sale.

22 2. Interest, financing, and carrying charges from credit that is extended on a
23 sale of tangible personal property or services, if the amount of the interest, financing,
24 or carrying charges is separately stated on the invoice, bill of sale, or similar
25 document that the seller gives to the purchaser.

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

4 4. Delivery charges for direct mail.

5 5. In all transactions in which an article of tangible personal property is traded
6 toward the purchase of an article of greater value, the amount of the sales price that
7 represents the amount allowed for the article traded, except that this subdivision
8 does not apply to any transaction to which subd. 7. or 8. applies.

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

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

22 8. At the retailer's option; except that after the retailer chooses an option the
23 retailer may not use the other option for other sales without the department's written
24 approval; either 35 percent of the sales price of a manufactured building, as defined
25 in s. 101.71 (6), or an amount equal to the sales price of the manufactured building

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1 minus the cost of materials that become an ingredient or component part of the
2 building.

3 **SECTION 46.** 77.51 (17) of the statutes is amended to read:

4 77.51 (17) "Seller" includes every person selling, leasing or renting tangible
5 personal property or selling, performing or furnishing services of a kind the gross
6 receipts sales price from the sale, lease, rental, performance or furnishing of which
7 are is required to be included in the measure of the sales tax.

8 **SECTION 47.** 77.51 (17m) of the statutes is repealed and recreated to read:

9 77.51 (17m) "Service address" means any of the following:

10 (a) The location of the telecommunications equipment to which a customer's
11 telecommunications service is charged and from which the telecommunications
12 service originates or terminates, regardless of where the telecommunications service
13 is billed or paid.

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

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

22 **SECTION 48.** 77.51 (17w) of the statutes is created to read:

23 77.51 (17w) "Soft drink" means a beverage that contains less than 0.5 percent
24 of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not

SENATE BILL 267**SECTION 48**

1 include a beverage that contains milk or milk products; soy, rice, or similar milk
2 substitutes; or more than 50 percent vegetable or fruit juice by volume.

3 **SECTION 49.** 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 prewritten computer programs software.

13 **SECTION 50.** 77.51 (21) of the statutes is amended to read:

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

17 **SECTION 51.** 77.51 (21p) of the statutes is created to read:

18 77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,
19 and any other item that contains tobacco.

20 **SECTION 52.** 77.51 (22) (bm) of the statutes is created to read:

21 77.51 (22) (bm) In this subsection, "exercise of any right or power over tangible
22 personal property or taxable services" includes distributing, selecting recipients,
23 determining mailing schedules, or otherwise directing the distribution,
24 dissemination, or disposal of tangible personal property or taxable services,

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1 regardless of whether the purchaser of such property or services owns or physically
2 possesses, in this state, the property or services.

3 **SECTION 53.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a) and amended
4 to read:

5 77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible
6 personal property, including accessories, components, attachments, parts, supplies
7 and materials, at retail a tax is imposed upon all retailers at the rate of 5 percent of
8 the ~~gross receipts~~ sales price from the sale, license, lease or rental of tangible
9 personal property, including accessories, components, attachments, parts, supplies
10 and materials, sold, leased or rented at retail in this state.

11 **SECTION 54.** 77.52 (1) (b) of the statutes is created to read:

12 77.52 (1) (b) For the privilege of selling at retail coins and stamps of the United
13 States that are sold or traded as collectors' items above their face value, a tax is
14 imposed on all retailers at the rate of 5 percent of the sales price from the sale of such
15 coins and stamps.

16 **SECTION 55.** 77.52 (1) (c) of the statutes is created to read:

17 77.52 (1) (c) For the privilege of leasing property that is affixed to real property,
18 a tax is imposed on all retailers at the rate of 5 percent of the sales price from the lease
19 of such property, if the lessor has the right to remove the leased property upon breach
20 or termination of the lease agreement, unless the lessor of the leased property is also
21 the lessor of the real property to which the leased property is affixed.

22 **SECTION 56.** 77.52 (2) (intro.) of the statutes is amended to read:

23 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing
24 the services described under par. (a) at retail in this state to consumers or users, a
25 tax is imposed upon all persons selling, licensing, performing or furnishing the

SENATE BILL 267**SECTION 56**

1 services at the rate of 5% of the ~~gross receipts~~ sales price from the sale, license,
2 performance or furnishing of the services.

3 **SECTION 57.** 77.52 (2) (a) 10. of the statutes is amended to read:

4 77.52 (2) (a) 10. Except for installing or applying tangible personal property
5 which, when installed or applied, will constitute an addition or capital improvement
6 of real property, the repair, service, alteration, fitting, cleaning, painting, coating,
7 towing, inspection, and maintenance of all items of tangible personal property
8 unless, at the time of such repair, service, alteration, fitting, cleaning, painting,
9 coating, towing, inspection, or maintenance, a sale in this state of the type of property
10 repaired, serviced, altered, fitted, cleaned, painted, coated, towed, inspected, or
11 maintained would have been exempt to the customer from sales taxation under this
12 subchapter, other than the exempt sale of a motor vehicle or truck body to a
13 nonresident under s. 77.54 (5) (a) and other than nontaxable sales outside this state
14 under s. ~~77.51 (14r)~~ 77.522. For purposes of this paragraph, the following items shall
15 be considered to have retained their character as tangible personal property,
16 regardless of the extent to which any such item is fastened to, connected with, or built
17 into real property: furnaces, boilers, stoves, ovens, including associated hoods and
18 exhaust systems, heaters, air conditioners, humidifiers, dehumidifiers,
19 refrigerators, coolers, freezers, water pumps, water heaters, water conditioners and
20 softeners, clothes washers, clothes dryers, dishwashers, garbage disposal units,
21 radios and radio antennas, incinerators, television receivers and antennas, record
22 players, tape players, jukeboxes, vacuum cleaners, furniture and furnishings,
23 carpeting and rugs, bathroom fixtures, sinks, awnings, blinds, gas and electric logs,
24 heat lamps, electronic dust collectors, grills and rotisseries, bar equipment,
25 intercoms, recreational, sporting, gymnasium and athletic goods and equipment

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1 including by way of illustration but not of limitation bowling alleys, golf practice
2 equipment, pool tables, punching bags, ski tows, and swimming pools; equipment in
3 offices, business facilities, schools, and hospitals but not in residential facilities
4 including personal residences, apartments, long-term care facilities, as defined
5 under s. 16.009 (1) (em), state institutions, as defined under s. 101.123 (1) (i), Type
6 1 secured correctional facilities, as defined in s. 938.02 (19), or similar facilities
7 including, by way of illustration but not of limitation, lamps, chandeliers, and fans,
8 venetian blinds, canvas awnings, office and business machines, ice and milk
9 dispensers, beverage-making equipment, vending machines, soda fountains, steam
10 warmers and tables, compressors, condensing units and evaporative condensers,
11 pneumatic conveying systems; laundry, dry cleaning, and pressing machines, power
12 tools, burglar alarm and fire alarm fixtures, electric clocks and electric signs.
13 “Service” does not include services performed by veterinarians. The tax imposed
14 under this subsection applies to the repair, service, alteration, fitting, cleaning,
15 painting, coating, towing, inspection, or maintenance of items listed in this
16 subdivision, regardless of whether the installation or application of tangible
17 personal property related to the items is an addition to or a capital improvement of
18 real property, except that the tax imposed under this subsection does not apply to the
19 original installation or the complete replacement of an item listed in this subdivision,
20 if such installation or replacement is a real property construction activity under s.
21 77.51 (2).

22 **SECTION 58.** 77.52 (6) of the statutes is repealed.

23 **SECTION 59.** 77.52 (7) of the statutes is amended to read:

24 77.52 (7) Every person desiring to operate as a seller within this state who
25 holds a valid certificate under s. 73.03 (50) shall file with the department an

SENATE BILL 267**SECTION 59**

1 application for a permit for each place of operations. Every application for a permit
2 shall be made upon a form prescribed by the department and shall set forth the name
3 under which the applicant intends to operate, the location of the applicant's place of
4 operations, and the other information that the department requires. The Except as
5 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;
6 in the case of sellers other than sole proprietors, the application shall be signed by
7 the person authorized to act on behalf of such sellers. A nonprofit organization that
8 has ~~gross receipts~~ a sales price taxable under s. 77.54 (7m) shall obtain a seller's
9 permit and pay taxes under this subchapter on all taxable ~~gross receipts~~ sales prices
10 received after it is required to obtain that permit. If that organization becomes
11 eligible later for the exemption under s. 77.54 (7m) except for its possession of a
12 seller's permit, it may surrender that permit.

13 **SECTION 60.** 77.52 (7b) of the statutes is created to read:

14 77.52 (7b) Any person who may register under sub. (7) may designate an agent,
15 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the
16 manner prescribed by the department.

17 **SECTION 61.** 77.52 (13) of the statutes is amended to read:

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

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

9 **SECTION 62.** 77.52 (14) (a) (intro.) and 1. and (b) of the statutes are consolidated,
10 renumbered 77.52 (14) and amended to read:

11 77.52 (14) The certificate referred to in sub. (13) relieves the seller from the
12 burden of proof only if any of the following is true: 1. The the certificate is taken in
13 good faith from a person who is engaged as a seller of tangible personal property or
14 taxable services and who holds the permit provided for in sub. (9) and who, at the
15 time of purchasing that the person purchases the tangible personal property or
16 services, intends to sell it in the regular course of operations or is unable to ascertain
17 at the time of purchase whether the property or service will be sold or will be used
18 for some other purpose. (b). The certificate under sub. (13) shall not relieve the seller
19 of the burden of proof if the seller fraudulently fails to collect sales tax or solicits the
20 purchaser to claim an unlawful exemption. The certificate referred to in sub. (13)
21 shall be signed by and bear the name and address of provide information that
22 identifies the purchaser, and shall indicate the general character of the tangible
23 personal property or service sold by the purchaser and the basis for the claimed
24 exemption and a paper certificate shall be signed by the purchaser. The certificate
25 shall be in such form as the department prescribes by rule.

SENATE BILL 267**SECTION 63**

1 **SECTION 63.** 77.52 (14) (a) 2. of the statutes is repealed.

2 **SECTION 64.** 77.52 (15) of the statutes is amended to read:

3 77.52 (15) If a purchaser who ~~gives a resale certificate~~ purchases tangible
4 personal property or taxable services without paying a sales tax or use tax on such
5 purchase because such property or services were for resale makes any use of the
6 property or services other than retention, demonstration or display while holding it
7 the property or services for sale, lease or rental in the regular course of the
8 purchaser's operations, the use shall be taxable to the purchaser under s. 77.53 as
9 of the time that the property is or services are first used by the purchaser, and the
10 sales purchase price of the property or services to the purchaser shall be the measure
11 of the tax. ~~Only when there is an unsatisfied use tax liability on this basis because~~
12 ~~the seller has provided incorrect information about that transaction to the~~
13 ~~department shall the seller be liable for sales tax with respect to the sale of the~~
14 ~~property to the purchaser.~~

15 **SECTION 65.** 77.522 of the statutes is created to read:

16 **77.522 Sourcing. (1) GENERAL.** (a) In this section:

17 1. "Direct mail form" means a form for direct mail prescribed by the
18 department.

19 2. "Multiple-points-of-use exemption form" means the
20 multiple-points-of-use exemption form, as prescribed by the department.

21 3. "Product" includes tangible personal property, digital goods, and services.

22 4. "Receive" means taking possession of tangible personal property; making
23 first use of services; or taking possession or making first use of digital goods,
24 whichever comes first. "Receive" does not include a shipping company taking
25 possession of tangible personal property on a purchaser's behalf.

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1 5. "Transportation equipment" means all of the following:

2 a. Locomotives and railcars that are used to carry persons or property in
3 interstate commerce.

4 b. Trucks and truck tractors that have a gross vehicle weight rating of 10,001
5 pounds or greater, trailers, semitrailers, and passenger buses, if such vehicles are
6 registered under the International Registration Plan and operated under the
7 authority of a carrier that is authorized by the federal government to carry persons
8 or property in interstate commerce.

9 c. Aircraft that is operated by air carriers that are authorized by the federal
10 government or a foreign authority to carry persons or property in interstate
11 commerce.

12 d. Containers that are designed for use on the vehicles described in subd. 5. a.
13 to c. and component parts attached to or secured on such vehicles.

14 (b) Except as provided in pars. (c) to (d) and subs. (2), (3), (4), and (5), the
15 location of a sale is determined as follows:

16 1. If a purchaser receives the product at a seller's business location, the sale
17 occurs at that business location.

18 2. If a purchaser does not receive the product at a seller's business location, the
19 sale occurs at the location where the purchaser, or the purchaser's designated donee,
20 receives the product, including the location indicated by the instructions known to
21 the seller for delivery to the purchaser or the purchaser's designated donee.

22 3. If the location of a sale of a product cannot be determined under subs. 1. and
23 2., the sale occurs at the purchaser's address as indicated by the seller's business
24 records, if the records are maintained in the ordinary course of the seller's business
25 and if using that address to establish the location of a sale is not in bad faith.

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1 4. If the location of a sale of a product cannot be determined under subds. 1. to
2 3., the sale occurs at the purchaser's address as obtained during the consummation
3 of the sale, including the address indicated on the purchaser's payment instrument,
4 if no other address is available and if using that address is not in bad faith.

5 5. If the location of a sale of a product cannot be determined under subds. 1. to
6 4., the location of the sale is determined as follows:

7 a. If the item sold is tangible personal property, the sale occurs at the location
8 from which the tangible personal property is shipped.

9 b. If the item sold is a digital good, or computer software delivered
10 electronically, the sale occurs at the location from which the digital good or computer
11 software was first available for transmission by the seller.

12 c. If a service is sold, the sale occurs at the location from which the service was
13 provided.

14 (c) The sale of direct mail occurs at the location from which the direct mail is
15 shipped, if the purchaser does not provide to the seller a direct pay permit, a direct
16 mail form, or other information that indicates the appropriate taxing jurisdiction to
17 which the direct mail is delivered to the ultimate recipients. If the purchaser
18 provides a direct mail form to the seller, the purchaser shall pay or remit, as
19 appropriate, to the department the tax imposed under s. 77.53 (1) on all purchases
20 for which the tax is due and the seller is relieved from liability for collecting such tax.

21 (d) 1. If the service, digital good, or computer software is delivered
22 electronically, a business purchaser who purchases a service, digital good, or
23 computer software who does not hold a direct pay permit under s. 77.52 (17m), and
24 who knows at the time that the purchaser purchases such service, good, or software
25 that the service, good, or software will be concurrently available for use in more than

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1 one taxing jurisdiction shall provide a multiple-points-of-use exemption form to the
2 seller, in conjunction with the purchase, and shall pay or remit, as appropriate, to the
3 department the tax imposed under s. 77.53 (1) on all purchases for which the tax is
4 due.

5 2. To apportion the amount of the tax due multiple taxing jurisdictions, a
6 purchaser who provides an exemption form under subd. 1. shall use any reasonable,
7 consistent, and uniform apportionment method supported by the purchaser's
8 business records that exist at the time of the sale.

9 3. An exemption form provided under subd. 1. shall remain effective for all sales
10 by the seller who received the form to the purchaser who provided the form, unless
11 the purchaser revokes the form in writing and provides such a revocation to the
12 seller.

13 4. If the service, digital good, or computer software is delivered electronically,
14 a business purchaser who purchases a service, digital good, or computer software,
15 who holds a direct pay permit under s. 77.52 (17m), and who knows at the time that
16 the purchaser purchases such service, good, or software that the service, good, or
17 software will be concurrently available for use in more than one taxing jurisdiction
18 is not required to provide a multiple-points-of-use exemption form to the seller, but
19 shall collect, pay, or remit, as appropriate, to the department the tax imposed under
20 s. 77.53 (1) and shall use the apportionment method described under par. (b) to
21 apportion the tax due multiple taxing jurisdictions.

22 5. A seller who receives a multiple-points-of-use exemption form under this
23 paragraph is relieved from liability for collecting the tax imposed under s. 77.53 (1)
24 on purchases related to the multiple-points-of-use exemption form.

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1 **(2) LEASE OR RENTAL.** (a) Except as provided in pars. (b) and (c), with regards
2 to the first or only payment on the lease or rental, the lease or rental of tangible
3 personal property occurs at the location determined under sub. (1) (b) 1. If the
4 property is moved from the place where the property was initially delivered, the
5 subsequent periodic payments on the lease or rental occur at the property's primary
6 location as indicated by an address for the property that is provided by the lessee and
7 that is available to the lessor in records that the lessor maintains in the ordinary
8 course of the lessor's business, if the use of such an address does not constitute bad
9 faith. The location of a lease or rental as determined under this paragraph shall not
10 be altered by any intermittent use of the property at different locations.

11 (b) The lease or rental of motor vehicles, semitrailers, and aircraft, that are not
12 transportation equipment, occurs at the primary location of such motor vehicles,
13 semitrailers, or aircraft as indicated by an address for the property that is provided
14 by the lessee and that is available to the lessor in records that the lessor maintains
15 in the ordinary course of the lessor's business, if the use of such an address does not
16 constitute bad faith. The location of a lease or rental as determined under this
17 paragraph shall not be altered by any intermittent use of the property at different
18 locations.

19 (c) The lease or rental of transportation equipment occurs at the location
20 determined under sub. (1) (b) 1.

21 **(3) TELECOMMUNICATIONS.** (a) In this subsection:

22 1. "Air-to-ground radiotelephone service" means a radio service in which
23 common carriers are authorized to offer and provide radio telecommunications
24 service for hire to subscribers in aircraft.

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1 2. “Call-by-call basis” means any method of charging for telecommunications
2 services by which the price of such services is measured by individual calls.

3 3. “Communications channel” means a physical or virtual path of
4 communications over which signals are transmitted between or among customer
5 channel termination points.

6 4. “Customer” means a person who enters into a contract with a seller of
7 telecommunications services or, in any transaction for which the end user is not the
8 person who entered into a contract with the seller of telecommunications services,
9 the end user of the telecommunications services. “Customer” does not include a
10 person who resells telecommunications services or, for mobile telecommunications
11 services, a serving carrier under an agreement to serve a customer outside the home
12 service provider’s licensed service area.

13 5. “Customer channel termination point” means the location where a customer
14 inputs or receives communications.

15 6. “End user” means an individual who uses a telecommunications service.

16 7. “Home service provider” means a home service provider under section 124
17 (5) of P.L. 106-252.

18 8. “Mobile telecommunications service” means a mobile telecommunications
19 service under 4 USC 116 to 126, as amended by P.L. 106-252.

20 9. “Place of primary use” means place of primary use, as determined under 4
21 USC 116 to 126, as amended by P.L. 106-252.

22 10. “Postpaid calling service” means a telecommunications service that is
23 obtained by paying for it on a call-by-call basis using a bankcard, travel card, credit
24 card, debit card, or similar method, or by charging it to a telephone number that is
25 not associated with the location where the telecommunications service originates or

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1 terminates. "Postpaid calling service" includes a service that would otherwise be a
2 prepaid calling service except that the service provided to the customer is not
3 exclusively a telecommunications service.

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

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

16 13. "Radio service" means a communication service provided by the use of radio,
17 including radiotelephone, radiotelegraph, paging, and facsimile service.

18 14. "Radiotelegraph service" means transmitting messages from one place to
19 another by means of radio.

20 15. "Radiotelephone service" means transmitting sound from one place to
21 another by means of radio.

22 (b) Except as provided in pars. (d) to (g), the sale of a telecommunications
23 service that is sold on a call-by-call basis occurs in the taxing jurisdiction for sales
24 and use tax purposes where the call originates and terminates, in the case of a call
25 that originates and terminates in the same such jurisdiction, or the taxing

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1 jurisdiction for sales and use tax purposes where the call originates or terminates
2 and where the service address is located.

3 (c) Except as provided in pars. (d) to (g), the sale of a telecommunications
4 service that is sold on a basis other than a call-by-call basis occurs at the customer's
5 place of primary use.

6 (d) The sale of a mobile telecommunications service, except an air-to-ground
7 radiotelephone service and a prepaid calling service, occurs at the customer's place
8 of primary use.

9 (e) The sale of a postpaid calling service occurs at the location where the signal
10 of the telecommunications service originates, as first identified by the seller's
11 telecommunications system or, if the signal is not transmitted by the seller's
12 telecommunications system, by information that the seller received from the seller's
13 service provider.

14 (f) The sale of a prepaid calling service occurs at the location determined under
15 sub. (1) (b), except that, if the service is a mobile telecommunications service and the
16 location cannot be determined under sub. (1) (b) 1. to 4., the prepaid calling service
17 occurs at the location determined under sub. (1) (b) 5. c. or at the location associated
18 with the mobile telephone number, as determined by the seller.

19 (g) 1. The sale of a private communication service for a separate charge related
20 to a customer channel termination point occurs at the location of the customer
21 channel termination point.

22 2. The sale of a private communication service in which all customer channel
23 termination points are located entirely in one taxing jurisdiction for sales and use
24 tax purposes occurs in the taxing jurisdiction in which the customer channel
25 termination points are located.

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1 3. If the segments are charged separately, the sale of a private communication
2 service that represents segments of a communications channel between 2 customer
3 channel termination points that are located in different taxing jurisdictions for sales
4 and use tax purposes occurs in an equal percentage in both such jurisdictions.

5 4. If the segments are not charged separately, the sale of a private
6 communication service for segments of a communications channel that is located in
7 more than one taxing jurisdiction for sales and use tax purposes occurs in each such
8 jurisdiction in a percentage determined by dividing the number of customer channel
9 termination points in that jurisdiction by the number of customer channel
10 termination points in all jurisdictions where segments of the communications
11 channel are located.

12 **(4) FLOLISTS.** (a) For purposes of this subsection, “retail florist” means a person
13 engaged in the business of selling cut flowers, floral arrangements, and potted plants
14 and who prepares such flowers, floral arrangements, and potted plants. “Retail
15 florist” does not include a person who sells cut flowers, floral arrangements, and
16 potted plants primarily by mail or via the Internet.

17 (b) The sale of tangible personal property by a retail florist who takes an order
18 from a purchaser occurs at the location where the retail florist takes the order, if the
19 retail florist forwards the order to another retail florist who is at a location other than
20 the location of the florist who takes the order and who transfers the tangible personal
21 property to a person identified by the purchaser.

22 (c) This subsection does not apply to sales occurring on or after January 1, 2006.

23 **(5) WHEN A SALE OCCURS.** A sale or purchase involving transfer of ownership
24 of property is completed at the time when possession is transferred by the seller or
25 the seller’s agent to the purchaser or the purchaser’s agent, except that for purposes

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1 of sub. (1) a common carrier or the U.S. postal service shall be considered the agent
2 of the seller, regardless of any f.o.b. point and regardless of the method by which
3 freight or postage is paid.

4 **SECTION 66.** 77.523 (title) of the statutes is repealed.

5 **SECTION 67.** 77.523 of the statutes is renumbered 77.59 (9p) (a) and amended
6 to read:

7 77.59 (9p) (a) If a customer purchases a service that is subject to 4 USC 116
8 to 126, as amended by P.L. 106-252, and if the customer believes that the amount
9 of the tax assessed for the service under this subchapter or the place of primary use
10 or taxing jurisdiction assigned to the service is erroneous, the customer may request
11 that the service provider correct the alleged error by sending a written notice to the
12 service provider. The notice shall include a description of the alleged error, the street
13 address for the customer's place of primary use of the service, the account name and
14 number of the service for which the customer seeks a correction, and any other
15 information that the service provider reasonably requires to process the request.
16 Within 60 days from the date that a service provider receives a request under this
17 ~~section~~ paragraph, the service provider shall review its records to determine the
18 customer's taxing jurisdiction. If the review indicates that there is no error as
19 alleged, the service provider shall explain the findings of the review in writing to the
20 customer. If the review indicates that there is an error as alleged, the service
21 provider shall correct the error and shall refund or credit the amount of any tax
22 collected erroneously, along with the related interest, as a result of the error from the
23 customer in the previous 48 months, consistent with s. 77.59 (4). A customer may
24 take no other action, or commence any action, to correct an alleged error in the
25 amount of the tax assessed under this subchapter on a service that is subject to 4 USC

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1 116 to 126, as amended by P.L. 106-252, or to correct an alleged error in the assigned
2 place of primary use or taxing jurisdiction, unless the customer has exhausted his
3 or her remedies under this ~~section~~ paragraph.

4 **SECTION 68.** 77.524 (1) (intro.) of the statutes is amended to read:

5 77.524 (1) (intro.) In this ~~subsection~~ section:

6 **SECTION 69.** 77.524 (1) (a) of the statutes is renumbered 77.524 (1) (am).

7 **SECTION 70.** 77.524 (1) (ag) of the statutes is created to read:

8 77.524 (1) (ag) "Agent" means a person appointed by a seller to represent the
9 seller before the states that are signatories to the agreement, as defined in 77.65 (2)
10 (a).

11 **SECTION 71.** 77.524 (1) (b) of the statutes is renumbered 77.51 (1g).

12 **SECTION 72.** 77.53 (1) of the statutes is amended to read:

13 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
14 on the use or consumption in this state of coins, stamps, leased property, and taxable
15 services under s. 77.52 purchased from any retailer, at the rate of 5% of the sales
16 purchase price of those such coins, stamps, leased property, and services; on the
17 storage, use or other consumption in this state of tangible personal property
18 purchased from any retailer, at the rate of 5% of the sales purchase price of that
19 property; and on the storage, use or other consumption of tangible personal property
20 manufactured, processed or otherwise altered, in or outside this state, by the person
21 who stores, uses or consumes it, from material purchased from any retailer, at the
22 rate of 5% of the sales purchase price of that material.

23 **SECTION 73.** 77.53 (4) of the statutes is repealed.

24 **SECTION 74.** 77.53 (9) of the statutes is amended to read:

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1 77.53 (9) Every retailer selling tangible personal property or taxable services
2 for storage, use or other consumption in this state shall register with the department
3 and obtain a certificate under s. 73.03 (50) and give the name and address of all
4 agents operating in this state, the location of all distribution or sales houses or offices
5 or other places of business in this state, the standard industrial code classification
6 of each place of business in this state and the other information that the department
7 requires. Any person who may register under this subsection may designate an
8 agent, as defined in s. 77.524 (1) (ag), to register with the department under this
9 subsection, in the manner prescribed by the department.

10 **SECTION 75.** 77.53 (9m) of the statutes is renumbered 77.53 (9m) (a).

11 **SECTION 76.** 77.53 (9m) (b) of the statutes is created to read:

12 77.53 (9m) (b) Any person who may register under par. (a) may designate an
13 agent, as defined in s. 77.524 (1) (ag), to register with the department under par. (a),
14 in the manner prescribed by the department.

15 **SECTION 77.** 77.53 (9m) (c) of the statutes is created to read:

16 77.53 (9m) (c) The registration under par. (a) by a person who is not otherwise
17 required to collect any tax imposed by this subchapter shall not be used as a factor
18 in determining whether the seller has nexus with this state for any tax at any time.

19 **SECTION 78.** 77.53 (10) of the statutes is amended to read:

20 77.53 (10) For the purpose of the proper administration of this section and to
21 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
22 tangible personal property or taxable services sold by any person for delivery in this
23 state is sold for storage, use, or other consumption in this state until the contrary is
24 established. The burden of proving the contrary is upon the person who makes the
25 sale unless that person takes from the purchaser ~~a~~ an electronic or paper certificate,

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1 in a manner prescribed by department, to the effect that the property or taxable
2 service is purchased for resale, or otherwise exempt from the tax~~s~~, except that no
3 certificate is required for sales of cattle, sheep, goats, and pigs that are sold at a
4 livestock market, as defined in s. 95.68 (1) (e), and no certificate is required for sales
5 of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in
6 or from which the commodity is deliverable on a contract for future delivery subject
7 to the rules of a commodity market regulated by the U.S. commodity futures trading
8 commission if upon the sale the commodity is not removed from the warehouse the
9 sale of tangible personal property that is exempt under s. 77.54 (7), (7m), (8), (10),
10 (11), (14), (14b), (15), (17), (20n), (21), (22b), (30), (31), (32), (35), (36), (37), (42), (44),
11 (45), and (46), except as provided in s. 77.54 (30) (e) and (f).

12 **SECTION 79.** 77.53 (11) of the statutes is amended to read:

13 77.53 (11) The certificate referred to in sub. (10) relieves the person selling the
14 property or service from the burden of proof only if taken ~~in good faith~~ from a person
15 who is engaged as a seller of tangible personal property or taxable services and who
16 holds the permit provided for by s. 77.52 (9) and who, at the time of purchasing that
17 the person purchases the tangible personal property or taxable service, intends to
18 sell it in the regular course of operations or is unable to ascertain at the time of
19 purchase whether the property or service will be sold or will be used for some other
20 purpose, or if taken in good faith from a person claiming exemption. The certificate
21 under sub. (10) shall not relieve the seller of the burden of proof if the seller
22 fraudulently fails to collect sales tax or solicit the purchaser to claim an unlawful
23 exemption. The certificate shall be signed by and bear the name and address of
24 provide information that identifies the purchaser and shall indicate the number of
25 the permit issued to the purchaser, the general character of tangible personal

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1 ~~property or taxable service sold by the purchaser and the basis for the claimed~~
2 ~~exemption and a paper certificate shall be signed by the purchaser.~~ The certificate
3 shall be substantially in the form that the department prescribes.

4 **SECTION 80.** 77.53 (16) of the statutes is amended to read:

5 77.53 (16) If the purchase, rental or lease of tangible personal property or
6 service subject to the tax imposed by this section was subject to a sales tax by another
7 state in which the purchase was made, the amount of sales tax paid the other state
8 shall be applied as a credit against and deducted from the tax, to the extent thereof,
9 imposed by this section, except no credit may be applied against and deducted from
10 a sales tax paid on the purchase of direct mail, if the direct mail purchaser did not
11 provide to the seller a direct pay permit, a direct mail form, or other information that
12 indicates the appropriate taxing jurisdiction to which the direct mail is delivered to
13 the ultimate recipients. In this subsection "sales tax" includes a use or excise tax
14 imposed on the use of tangible personal property or taxable service by the state in
15 which the sale occurred and "state" includes the District of Columbia but does not
16 include the commonwealth of Puerto Rico or the several territories organized by
17 congress.

18 **SECTION 81.** 77.53 (17) of the statutes is amended to read:

19 77.53 (17) This section does not apply to tangible personal property purchased
20 outside this state, as determined under s. 77.522, other than motor vehicles, boats,
21 snowmobiles, mobile homes not exceeding 45 feet in length, trailers, semitrailers,
22 all-terrain vehicles and airplanes registered or titled or required to be registered or
23 titled in this state, which is brought into this state by a nondomiciliary for the
24 person's own storage, use or other consumption while temporarily within this state
25 when such property is not stored, used or otherwise consumed in this state in the

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1 conduct of a trade, occupation, business or profession or in the performance of
2 personal services for wages or fees.

3 **SECTION 82.** 77.53 (17m) of the statutes is amended to read:

4 77.53 (17m) This section does not apply to a boat purchased in a state
5 contiguous to this state, as determined under s. 77.522, by a person domiciled in that
6 state if the boat is berthed in this state's boundary waters adjacent to the state of the
7 domicile of the purchaser and if the transaction was an exempt occasional sale under
8 the laws of the state in which the purchase was made.

9 **SECTION 83.** 77.53 (17r) (a) of the statutes is amended to read:

10 77.53 (17r) (a) It is purchased in another state, as determined under s. 77.522.

11 **SECTION 84.** 77.53 (18) of the statutes is amended to read:

12 77.53 (18) This section does not apply to the storage, use or other consumption
13 in this state of household goods for personal use or to aircraft, motor vehicles, boats,
14 snowmobiles, mobile homes, trailers, semitrailers and all-terrain vehicles, for
15 personal use, purchased by a nondomiciliary of this state outside this state, as
16 determined under s. 77.522, 90 days or more before bringing the goods or property
17 into this state in connection with a change of domicile to this state.

18 **SECTION 85.** 77.54 (1) of the statutes is amended to read:

19 77.54 (1) The ~~gross receipts~~ sales price from the sale of and the storage, use or
20 other consumption in this state of tangible personal property and services the ~~gross~~
21 ~~receipts~~ sales price from the sale of which, or the storage, use or other consumption
22 of which, this state is prohibited from taxing under the constitution or laws of the
23 United States or under the constitution of this state.

24 **SECTION 86.** 77.54 (2) of the statutes is amended to read:

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1 77.54 (2) The ~~gross receipts~~ sales price from sales of and the storage, use or
2 other consumption of tangible personal property becoming an ingredient or
3 component part of an article of tangible personal property or which is consumed or
4 destroyed or loses its identity in the manufacture of tangible personal property in
5 any form destined for sale, but this exemption shall not include fuel or electricity.

6 **SECTION 87.** 77.54 (2m) of the statutes is amended to read:

7 77.54 (2m) The ~~gross receipts~~ sales price from the sales of and the storage, use
8 or other consumption of tangible personal property or services that become an
9 ingredient or component of shoppers guides, newspapers or periodicals or that are
10 consumed or lose their identity in the manufacture of shoppers guides, newspapers
11 or periodicals, whether or not the shoppers guides, newspapers or periodicals are
12 transferred without charge to the recipient. In this subsection, “shoppers guides”,
13 “newspapers” and “periodicals” have the meanings under sub. (15). The exemption
14 under this subdivision does not apply to advertising supplements that are not
15 newspapers.

16 **SECTION 88.** 77.54 (3) (a) of the statutes is amended to read:

17 77.54 (3) (a) The ~~gross receipts~~ sales price from the sales of and the storage, use
18 or other consumption of tractors and machines, including accessories, attachments
19 and parts therefor, used exclusively and directly in the business of farming, including
20 dairy farming, agriculture, horticulture, floriculture and custom farming services,
21 but excluding automobiles, trucks, and other motor vehicles for highway use;
22 excluding personal property that is attached to, fastened to, connected to or built into
23 real property or that becomes an addition to, component of or capital improvement
24 of real property and excluding tangible personal property used or consumed in the
25 erection of buildings or in the alteration, repair or improvement of real property,

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1 regardless of any contribution that ~~that~~ the personal property makes to the
2 production process in that building or real property and regardless of the extent to
3 which that personal property functions as a machine.

4 **SECTION 89.** 77.54 (3m) (intro.) of the statutes is amended to read:

5 77.54 **(3m)** (intro.) The ~~gross receipts~~ sales price from the sale of and the
6 storage, use or other consumption of the following items if they are used exclusively
7 by the purchaser or user in the business of farming; including dairy farming,
8 agriculture, horticulture, floriculture and custom farming services:

9 **SECTION 90.** 77.54 (4) of the statutes is amended to read:

10 77.54 **(4)** ~~Gross receipts~~ The sales price from the sale of tangible personal
11 property, and the storage, use or other consumption in this state of tangible personal
12 property which is the subject of any such sale, by any elementary school or secondary
13 school, exempted as such from payment of income or franchise tax under ch. 71,
14 whether public or private.

15 **SECTION 91.** 77.54 (5) (intro.) of the statutes is amended to read:

16 77.54 **(5)** (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
17 use or other consumption of:

18 **SECTION 92.** 77.54 (6) (intro.) of the statutes is amended to read:

19 77.54 **(6)** (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
20 use or other consumption of:

21 **SECTION 93.** 77.54 (8) of the statutes is amended to read:

22 77.54 **(8)** Charges for ~~interest, financing or~~ insurance where such charges are
23 separately set forth upon the invoice given by the seller to the purchaser.

24 **SECTION 94.** 77.54 (9) of the statutes is amended to read:

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1 77.54 (9) The ~~gross receipts~~ sales price from sales of tickets or admissions to
2 public and private elementary and secondary school activities, where the entire net
3 proceeds therefrom are expended for educational, religious or charitable purposes.

4 **SECTION 95.** 77.54 (9a) (intro.) of the statutes is amended to read:

5 77.54 (9a) (intro.) The ~~gross receipts~~ sales price from sales to, and the storage
6 by, use by or other consumption of tangible personal property and taxable services
7 by:

8 **SECTION 96.** 77.54 (10) of the statutes is amended to read:

9 77.54 (10) The ~~gross receipts~~ sales price from the sale of all admission fees,
10 admission stickers or camping fees under s. 27.01 (7) to (11) and all admission fees
11 to any museum operated by a nonprofit corporation under a lease agreement with
12 the state historical society.

13 **SECTION 97.** 77.54 (11) of the statutes is amended to read:

14 77.54 (11) The ~~gross receipts~~ sales price from the sales of and the storage, use
15 or other consumption in this state of motor vehicle fuel, general aviation fuel or
16 alternate fuel, subject to taxation under ch. 78, unless the motor vehicle fuel or
17 alternate fuel tax is refunded under s. 78.75 because the buyer does not use the fuel
18 in operating a motor vehicle upon the public highways.

19 **SECTION 98.** 77.54 (12) of the statutes is amended to read:

20 77.54 (12) The ~~gross receipts~~ sales price from the sales of and the storage, use
21 or other consumption in this state of rail freight or passenger cars, locomotives or
22 other rolling stock used in railroad operations, or accessories, attachments, parts,
23 lubricants or fuel therefor.

24 **SECTION 99.** 77.54 (13) of the statutes is amended to read:

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1 77.54 (13) The ~~gross receipts~~ sales price from the sales of and the storage, use
2 or other consumption in this state of commercial vessels and barges of 50-ton burden
3 or over primarily engaged in interstate or foreign commerce or commercial fishing,
4 and the accessories, attachments, parts and fuel therefor.

5 **SECTION 100.** 77.54 (14) (intro.) of the statutes is amended to read:

6 77.54 (14) (intro.) The ~~gross receipts~~ sales price from the sales of and the
7 storage, use, or other consumption in this state of ~~medicines~~ drugs that are any of
8 the following:

9 **SECTION 101.** 77.54 (14) (a) of the statutes is amended to read:

10 77.54 (14) (a) Prescribed for the treatment of a human being by a person
11 authorized to prescribe the ~~medicines~~ drugs, and dispensed on prescription filled by
12 a registered pharmacist in accordance with law.

13 **SECTION 102.** 77.54 (14) (b) of the statutes is amended to read:

14 77.54 (14) (b) Furnished by a licensed physician, surgeon, podiatrist, or dentist
15 to a patient who is a human being for treatment of the patient.

16 **SECTION 103.** 77.54 (14) (f) of the statutes is amended to read:

17 77.54 (14) (f) Furnished without charge to a physician, surgeon, nurse
18 anesthetist, advanced practice nurse, osteopath, dentist who is licensed under ch.
19 447, podiatrist who is licensed under ch. 448, or optometrist who is licensed under
20 ch. 449 if the ~~medicine~~ drug may not be dispensed without a prescription.

21 **SECTION 104.** 77.54 (14b) of the statutes is created to read:

22 77.54 (14b) The sales price from the sales of and the storage, use, or other
23 consumption of bandages, dressings, syringes, and similar items that are bundled
24 together with drugs that are exempt under sub. (14) for sale by the seller as a single
25 product or piece of merchandise.

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1 **SECTION 105.** 77.54 (14g) of the statutes is repealed.

2 **SECTION 106.** 77.54 (14s) of the statutes is repealed.

3 **SECTION 107.** 77.54 (15) of the statutes is amended to read:

4 77.54 (15) The ~~gross receipts~~ sales price from the sale of and the storage, use
5 or other consumption of all newspapers, of periodicals sold by subscription and
6 regularly issued at average intervals not exceeding 3 months, or issued at average
7 intervals not exceeding 6 months by an educational association or corporation sales
8 to which are exempt under sub. (9a) (f), of controlled circulation publications sold to
9 commercial publishers for distribution without charge or mainly without charge or
10 regularly distributed by or on behalf of publishers without charge or mainly without
11 charge to the recipient and of shoppers guides which distribute no less than 48 issues
12 in a 12-month period. In this subsection, "shoppers guide" means a community
13 publication delivered, or attempted to be delivered, to most of the households in its
14 coverage area without a required subscription fee, which advertises a broad range
15 of products and services offered by several types of businesses and individuals. In
16 this subsection, "controlled circulation publication" means a publication that has at
17 least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes
18 not more than 75% of its pages to advertising and that is not conducted as an
19 auxiliary to, and essentially for the advancement of, the main business or calling of
20 the person that owns and controls it.

21 **SECTION 108.** 77.54 (16) of the statutes is amended to read:

22 77.54 (16) The ~~gross receipts~~ sales price from the sale of and the storage, use
23 or other consumption of fire trucks and fire fighting equipment, including
24 accessories, attachments, parts and supplies therefor, sold to volunteer fire
25 departments.

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1 **SECTION 109.** 77.54 (17) of the statutes is amended to read:

2 77.54 (17) The ~~gross receipts~~ sales price from the sales of and the storage, use
3 or other consumption of water, that is not food and food ingredient, when delivered
4 through mains.

5 **SECTION 110.** 77.54 (18) of the statutes is amended to read:

6 77.54 (18) When the sale, lease or rental of a service or property that was
7 previously exempt or not taxable under this subchapter becomes taxable, and the
8 service or property is furnished under a written contract by which the seller is
9 unconditionally obligated to provide the service or property for the amount fixed
10 under the contract, the seller is exempt from sales or use tax on the ~~gross receipts~~
11 sales price for services or property provided until the contract is terminated,
12 extended, renewed or modified. However, from the time the service or property
13 becomes taxable until the contract is terminated, extended, renewed or modified the
14 user is subject to use tax, measured by the sales purchase price, on the service or
15 property purchased under the contract.

16 **SECTION 111.** 77.54 (20) of the statutes is repealed.

17 **SECTION 112.** 77.54 (20m) of the statutes is repealed.

18 **SECTION 113.** 77.54 (20n) of the statutes is created to read:

19 77.54 (20n) (a) The sales price from the sale of and the storage, use, or other
20 consumption of food and food ingredients, except candy, soft drinks, dietary
21 supplements, and prepared food.

22 (b) The sales price from the sale of and the storage, use, or other consumption
23 of food and food ingredients, except soft drinks, sold by hospitals, sanatoriums,
24 nursing homes, retirement homes, community-based residential facilities, as
25 defined in s. 50.01 (1g), or day care centers registered under ch. 48, including

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1 prepared food that is sold to the elderly or handicapped by persons providing mobile
2 meals on wheels. In this paragraph, “retirement home” means a nonprofit
3 residential facility where 3 or more unrelated adults or their spouses have their
4 principal residence and where support services, including meals from a common
5 kitchen, are available to residents.

6 (c) The sales price from the sale of and the storage, use, or other consumption
7 of food and food ingredients, furnished in accordance with any contract or agreement
8 or paid for to such institution through the use of an account of such institution, by
9 a public or private institution of higher education to any of the following:

10 1. An undergraduate student, a graduate student, or a student enrolled in a
11 professional school if the student is enrolled for credit at the public or private
12 institution of higher education and if the food and food ingredients are consumed by
13 the student.

14 2. A national football league team.

15 **SECTION 114.** 77.54 (20r) of the statutes is created to read:

16 77.54 (20r) The sales price from the sales of and the storage, use, or other
17 consumption of candy, soft drinks, dietary supplements, and prepared foods, and
18 disposable products that are transferred with such items, furnished for no
19 consideration by a restaurant to the restaurant’s employee during the employee’s
20 work hours.

21 **SECTION 115.** 77.54 (21) of the statutes is amended to read:

22 77.54 (21) The ~~gross receipts~~ sales price from the sales of and the storage, use
23 or other consumption of caskets and burial vaults for human remains.

24 **SECTION 116.** 77.54 (22) of the statutes is repealed.

25 **SECTION 117.** 77.54 (22b) of the statutes is created to read:

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1 77.54 **(22b)** The sales price from the sale of and the storage, use, or other
2 consumption of durable medical equipment, mobility-enhancing equipment, and
3 prosthetic devices, and accessories for such equipment or devices, if the equipment
4 or devices are used for a human being.

5 **SECTION 118.** 77.54 (23m) of the statutes is amended to read:

6 77.54 **(23m)** The ~~gross receipts~~ sales price from the sale, lease or rental of or
7 the storage, use or other consumption of motion picture film or tape, and advertising
8 materials related thereto, sold, leased or rented to a motion picture theater or radio
9 or television station.

10 **SECTION 119.** 77.54 (25) of the statutes is amended to read:

11 77.54 **(25)** The ~~gross receipts~~ sales price from the sale of and the storage of
12 printed material which is designed to advertise and promote the sale of merchandise,
13 or to advertise the services of individual business firms, which printed material is
14 purchased and stored for the purpose of subsequently transporting it outside the
15 state by the purchaser for use thereafter solely outside the state.

16 **SECTION 120.** 77.54 (26) of the statutes is amended to read:

17 77.54 **(26)** The ~~gross receipts~~ sales price from the sales of and the storage, use,
18 or other consumption of tangible personal property which becomes a component part
19 of an industrial waste treatment facility that is exempt under s. 70.11 (21) (a) or that
20 would be exempt under s. 70.11 (21) (a) if the property were taxable under ch. 70, or
21 tangible personal property which becomes a component part of a waste treatment
22 facility of this state or any agency thereof, or any political subdivision of the state or
23 agency thereof as provided in s. 40.02 (28). The exemption includes replacement
24 parts therefor, and also applies to chemicals and supplies used or consumed in
25 operating a waste treatment facility and to purchases of tangible personal property

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1 made by construction contractors who transfer such property to their customers in
2 fulfillment of a real property construction activity. This exemption does not apply
3 to tangible personal property installed in fulfillment of a written construction
4 contract entered into, or a formal written bid made, prior to July 31, 1975.

5 **SECTION 121.** 77.54 (26m) of the statutes is amended to read:

6 77.54 (26m) The ~~gross receipts~~ sales price from the sale of and the storage, use
7 or other consumption of waste reduction or recycling machinery and equipment,
8 including parts therefor, exclusively and directly used for waste reduction or
9 recycling activities which reduce the amount of solid waste generated, reuse solid
10 waste, recycle solid waste, compost solid waste or recover energy from solid waste.
11 The exemption applies even though an economically useful end product results from
12 the use of the machinery and equipment. For the purposes of this subsection, "solid
13 waste" means garbage, refuse, sludge or other materials or articles, whether these
14 materials or articles are discarded or purchased, including solid, semisolid, liquid or
15 contained gaseous materials or articles resulting from industrial, commercial,
16 mining or agricultural operations or from domestic use or from public service
17 activities.

18 **SECTION 122.** 77.54 (27) of the statutes is amended to read:

19 77.54 (27) The ~~gross receipts~~ sales price from the sale of semen used for
20 artificial insemination of livestock.

21 **SECTION 123.** 77.54 (28) of the statutes is amended to read:

22 77.54 (28) The gross receipts from the sale of and the storage, use or other
23 consumption to or by the ultimate consumer of ~~apparatus or equipment for the~~
24 ~~injection of insulin or the treatment of diabetes and supplies used to determine blood~~
25 sugar level.

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1 **SECTION 124.** 77.54 (29) of the statutes is amended to read:

2 77.54 **(29)** The ~~gross receipts~~ sales price from the sales of and the storage, use
3 or other consumption of equipment used in the production of maple syrup.

4 **SECTION 125.** 77.54 (30) (a) (intro.) of the statutes is amended to read:

5 77.54 **(30)** (a) (intro.) The ~~gross receipts~~ sales price from the sale of:

6 **SECTION 126.** 77.54 (30) (c) of the statutes is amended to read:

7 77.54 **(30)** (c) If fuel or electricity is sold partly for a use exempt under this
8 subsection and partly for a use which is not exempt under this subsection, no tax
9 shall be collected on that percentage of the ~~gross receipts~~ sales price equal to the
10 percentage of the fuel or electricity which is used for an exempt use, as specified in
11 an exemption certificate provided by the purchaser to the seller.

12 **SECTION 127.** 77.54 (31) of the statutes is amended to read:

13 77.54 **(31)** The ~~gross receipts~~ sales price from the sale of and the storage, use
14 or other consumption in this state, but not the lease or rental, of used mobile homes
15 that are primary housing units under s. 340.01 (29).

16 **SECTION 128.** 77.54 (32) of the statutes is amended to read:

17 77.54 **(32)** The ~~gross receipts~~ sales price from charges, including charges for a
18 search, imposed by an authority, as defined in s. 19.32 (1), for copies of a public record
19 that a person may examine and use under s. 16.61 (12) or for copies of a record under
20 s. 19.35 (1).

21 **SECTION 129.** 77.54 (33) of the statutes is amended to read:

22 77.54 **(33)** The ~~gross receipts~~ sales price from sales of and the storage, use or
23 other consumption of ~~medieines~~ drugs used on farm livestock, not including
24 workstock.

25 **SECTION 130.** 77.54 (34) of the statutes is amended to read:

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1 77.54 (34) The ~~gross receipts~~ sales price from the sale of and the storage, use
2 or other consumption of milk house supplies used exclusively in producing and
3 handling milk on dairy farms.

4 **SECTION 131.** 77.54 (35) of the statutes is amended to read:

5 77.54 (35) The ~~gross receipts~~ sales price from the sales of tangible personal
6 property, tickets or admissions by any baseball team affiliated with the Wisconsin
7 Department of American Legion baseball.

8 **SECTION 132.** 77.54 (36) of the statutes is amended to read:

9 77.54 (36) The ~~gross receipts~~ sales price from the rental for a continuous period
10 of one month or more of a mobile home, as defined in s. 66.0435 (1) (d), that is used
11 as a residence. In this subsection, "one month" means a calendar month or 30 days,
12 whichever is less, counting the first day of the rental and not counting the last day
13 of the rental.

14 **SECTION 133.** 77.54 (37) of the statutes is amended to read:

15 77.54 (37) The ~~gross receipts~~ sales price from revenues collected under s.
16 146.70 (3) and the surcharge established by rule by the public service commission
17 under s. 146.70 (3m) (f) for customers of wireless providers, as defined in s. 146.70
18 (3m) (a) 6.

19 **SECTION 134.** 77.54 (38) of the statutes is amended to read:

20 77.54 (38) The ~~gross receipts~~ sales price from the sale of and the storage, use
21 or other consumption of snowmobile trail groomers and attachments for them that
22 are purchased, stored, used or consumed by a snowmobile club that meets at least
23 3 times a year, that has at least 10 members, that promotes snowmobiling and that
24 participates in the department of natural resources' snowmobile program under s.
25 350.12 (4) (b).

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1 **SECTION 135.** 77.54 (39) of the statutes is amended to read:

2 77.54 (39) The ~~gross receipts~~ sales price from the sale of and the storage, use
3 or other consumption of off-highway, heavy mechanical equipment such as feller
4 bunchers, slashers, delimiters, chippers, hydraulic loaders, loaders,
5 skidder-forwarders, skidders, timber wagons and tractors used exclusively and
6 directly in the harvesting or processing of raw timber products in the field by a person
7 in the logging business. In this subsection, “heavy mechanical equipment” does not
8 include hand tools such as axes, chains, chain saws and wedges.

9 **SECTION 136.** 77.54 (40) of the statutes is repealed.

10 **SECTION 137.** 77.54 (41) of the statutes is amended to read:

11 77.54 (41) The ~~gross receipts~~ sales price from the sale of building materials,
12 supplies and equipment to; and the storage, use or other consumption of those kinds
13 of property by; owners, contractors, subcontractors or builders if that property is
14 acquired solely for or used solely in, the construction, renovation or development of
15 property that would be exempt under s. 70.11 (36).

16 **SECTION 138.** 77.54 (42) of the statutes is amended to read:

17 77.54 (42) The ~~gross receipts~~ sales price from the sale of and the storage, use
18 or other consumption of animal identification tags provided under s. 93.06 (1h) and
19 standard samples provided under s. 93.06 (1s).

20 **SECTION 139.** 77.54 (43) of the statutes is amended to read:

21 77.54 (43) The ~~gross receipts~~ sales price from the sale of and the storage, use
22 or other consumption of raw materials used for the processing, fabricating or
23 manufacturing of, or the attaching to or incorporating into, printed materials that
24 are transported and used solely outside this state.

25 **SECTION 140.** 77.54 (44) of the statutes is amended to read:

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1 77.54 (44) The ~~gross receipts~~ sales price from the collection of public benefits
2 fees that are charged under s. 16.957 (4) (a) or (5) (a).

3 **SECTION 141.** 77.54 (45) of the statutes is amended to read:

4 77.54 (45) The ~~gross receipts~~ sales price from the sale of and the use or other
5 consumption of a onetime license or similar right to purchase admission to
6 professional football games at a football stadium, as defined in s. 229.821 (6), that
7 is granted by a municipality; a local professional football stadium district; or a
8 professional football team or related party, as defined in s. 229.821 (12); if the person
9 who buys the license or right is entitled, at the time the license or right is transferred
10 to the person, to purchase admission to at least 3 professional football games in this
11 state during one football season.

12 **SECTION 142.** 77.54 (46) of the statutes is amended to read:

13 77.54 (46) The ~~gross receipts~~ sales price from the sale of and the storage, use,
14 or other consumption of the U.S. flag or the state flag. This subsection does not apply
15 to a representation of the U.S. flag or the state flag.

16 **SECTION 143.** 77.54 (46m) of the statutes is amended to read:

17 77.54 (46m) The ~~gross receipts~~ sales price from the sale of and the storage, use,
18 or other consumption of telecommunications services, if the telecommunications
19 services are obtained by using the rights to purchase telecommunications services,
20 including purchasing reauthorization numbers, by paying in advance and by using
21 an access number and authorization code; and if the tax imposed under s. 77.52 or
22 77.53 was previously paid on the sale or purchase of such rights.

23 **SECTION 144.** 77.55 (1) (intro.) of the statutes is amended to read:

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1 77.55 (1) (intro.) There ~~are~~ is exempted from the computation of the amount
2 of the sales tax the ~~gross receipts~~ sales price from the sale of any tangible personal
3 property or services to:

4 **SECTION 145.** 77.55 (2) of the statutes is amended to read:

5 77.55 (2) There ~~are~~ is exempted from the computation of the amount of the sales
6 tax the ~~gross receipts~~ sales price from sales of tangible personal property to a
7 common or contract carrier, shipped by the seller via the purchasing carrier under
8 a bill of lading whether the freight is paid in advance, or the shipment is made freight
9 charges collect, to a point outside this state and the property is actually transported
10 to the out-of-state destination for use by the carrier in the conduct of its business
11 as a carrier.

12 **SECTION 146.** 77.55 (2m) of the statutes is amended to read:

13 77.55 (2m) There ~~are~~ is exempted from the computation of the amount of sales
14 tax the ~~gross receipts~~ sales price from sales of railroad crossties to a common or
15 contract carrier, shipped wholly or in part by way of the purchasing carrier under a
16 bill of lading, whether the freight is paid in advance or the shipment is made freight
17 charges collect, to a point outside this state if the property is transported to the
18 out-of-state destination for use by the carrier in the conduct of its business as a
19 carrier. Interruption of the shipment for storage, drying, processing or creosoting of
20 the railroad crossties in this state does not invalidate the exemption under this
21 subsection.

22 **SECTION 147.** 77.55 (3) of the statutes is amended to read:

23 77.55 (3) There ~~are~~ is exempted from the computation of the amount of the sales
24 tax the ~~gross receipts~~ sales price from sales of tangible personal property purchased
25 for use solely outside this state and delivered to a forwarding agent, export packer,

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1 or other person engaged in the business of preparing goods for export or arranging
2 for their exportation, and actually delivered to a port outside the continental limits
3 of the United States prior to making any use thereof.

4 **SECTION 148.** 77.56 (1) of the statutes is amended to read:

5 77.56 (1) The storage, use or other consumption in this state of property, the
6 ~~gross receipts~~ sales price from the sale of which are is reported to the department in
7 the measure of the sales tax, is exempted from the use tax.

8 **SECTION 149.** 77.57 of the statutes is amended to read:

9 **77.57 Liability of purchaser.** If a purchaser certifies in writing to a seller
10 that the property purchased will be used in a manner or for a purpose entitling the
11 seller to regard the ~~gross receipts~~ sales price from the sale as exempted by this
12 subchapter from the computation of the amount of the sales tax and uses the property
13 in some other manner or for some other purpose, the purchaser is liable for payment
14 of the sales tax. The tax shall be measured by the sales price of the property to the
15 purchaser, but if the ~~taxable use first occurs more than 6 months after the sale to the~~
16 ~~purchaser, the purchaser may use as the measure of the tax either that sales price~~
17 ~~or the fair market value of the property at the time the taxable use first occurs.~~

18 **SECTION 150.** 77.58 (3) (b) of the statutes is amended to read:

19 77.58 (3) (b) ~~For purposes of the sales tax the return shall show the gross~~
20 ~~receipts of the seller during the preceding reporting period. For purposes of the use~~
21 ~~tax, in case of a return filed by a retailer, the return shall show the total sales price~~
22 ~~of the property or taxable services sold, the storage, use or consumption of which~~
23 ~~became subject to the use tax during the preceding reporting period. In case of a sales~~
24 ~~or use tax return filed by a purchaser, the return shall show the total sales price of~~
25 ~~the property and taxable services purchased, the storage, use or consumption of~~

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1 ~~which became subject to the use tax during the preceding reporting period.~~ The
2 return shall also show the amount of the taxes for the period covered by the return
3 and such other information as the department deems necessary for the proper
4 administration of this subchapter.

5 **SECTION 151.** 77.58 (6) of the statutes is amended to read:

6 77.58 (6) For the purposes of the sales tax ~~gross receipts,~~ the sales price from
7 rentals or leases of tangible personal property shall be reported and the tax paid in
8 accordance with such rules as the department prescribes.

9 **SECTION 152.** 77.58 (6m) of the statutes is created to read:

10 77.58 (6m) (a) The department may, in cases where it is satisfied that an undue
11 hardship would otherwise result, permit the reporting of a sales price or purchase
12 price on some basis other than the accrual basis.

13 (b) The entire sales price of credit transactions shall be reported in the period
14 in which the sale is made without reduction in the amount of tax payable by the
15 retailer by reason of the retailer's transfer at a discount the open account, note,
16 conditional sales contract, lease contract, or other evidence of indebtedness.

17 **SECTION 153.** 77.58 (9a) of the statutes is created to read:

18 77.58 (9a) In addition to filing a return as provided in this section, a person
19 described under s. 77.524 (3), (4), or (5) shall provide to the department any
20 information that the department considers necessary for the administration of this
21 subchapter, in the manner prescribed by the department, except that the
22 department may not require that the person provide such information to the
23 department more than once every 180 days.

24 **SECTION 154.** 77.585 of the statutes is created to read:

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1 **77.585 Return adjustments. (1)** (a) In this subsection, “bad debt” means the
2 portion of the sales price or purchase price that the seller has reported as taxable
3 under this subchapter and that the seller may claim as a deduction under section 166
4 of the Internal Revenue Code. “Bad debt” does not include financing charges or
5 interest, sales or use taxes imposed on the sales price or purchase price, uncollectible
6 amounts on property that remains in the seller’s possession until the full sales price
7 or purchase price is paid, expenses incurred in attempting to collect any debt, debts
8 sold or assigned to 3rd parties for collection, and repossessed property.

9 (b) A seller may claim as a deduction on a return under s. 77.58 the amount of
10 any bad debt that the seller writes off as uncollectible in the seller’s books and records
11 and that is eligible to be deducted as bad debt for federal income tax purposes,
12 regardless of whether the seller is required to file a federal income tax return. A
13 seller who claims a deduction under this paragraph shall claim the deduction on the
14 return under s. 77.58 that is submitted for the period in which the seller writes off
15 the amount of the deduction as uncollectible in the seller’s books and records and in
16 which such amount is eligible to be deducted as bad debt for federal income tax
17 purposes. If the seller subsequently collects in whole or in part any bad debt for
18 which a deduction is claimed under this paragraph, the seller shall include the
19 amount collected in the return filed for the period in which the amount is collected
20 and shall pay the tax with the return.

21 (c) For purposes of computing a bad debt deduction or reporting a payment
22 received on a previously claimed bad debt, any payment made on a debt or on an
23 account is applied first to the price of the property or service sold, and the
24 proportionate share of the sales tax on that property or service, and then to interest,
25 service charges, and other charges related to the sale.

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1 (d) A seller may obtain a refund of the tax collected on any bad debt amount
2 deducted under par. (b) that exceeds the amount of the seller's taxable sales as
3 provided under s. 77.59 (4), except that the period for making a claim as determined
4 under s. 77.59 (4) begins on the date on which the return on which the bad debt could
5 be claimed would have been required to be submitted to the department under s.
6 77.58.

7 (e) If a seller is using a certified service provider, the certified service provider
8 may claim a bad debt deduction under this subsection on the seller's behalf if the
9 seller has not claimed and will not claim the same deduction. A certified service
10 provider who receives a bad debt deduction under this subsection shall credit that
11 deduction to the seller and a certified service provider who receives a refund under
12 this subsection shall submit that refund to the seller.

13 (f) If a bad debt relates to the retail sales of tangible personal property or
14 taxable services that occurred in this state and in one or more other states, as
15 determined under s. 77.522, the total amount of such bad debt shall be apportioned
16 among the states in which the underlying sales occurred in a manner prescribed by
17 the department to arrive at the amount of the deduction under par. (b).

18 **(2)** If a lessor of tangible personal property has reimbursed the vendor for the
19 sales tax on the sale of the property by the vendor to the lessor, the tax due from the
20 lessor on the rental receipts may be offset by a credit equal to the tax otherwise due
21 on the rental receipts from the property for the reporting period. The credit shall
22 expire when the cumulative rental receipts equal the sales price upon which the
23 vendor paid sales taxes to this state.

24 **(3)** If a purchaser of tangible personal property has reimbursed the vendor of
25 the property for the sales tax on the sale and subsequently, before making any use

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1 of the property other than retention, demonstration, or display while holding it for
2 sale or rental, makes a taxable sale of the property, the tax due on the taxable sale
3 may be offset by the tax reimbursed.

4 (4) A seller may claim a deduction on any part of the sales price or purchase
5 price that the seller refunds in cash or credit as a result of returned property or
6 adjustments in the sales price or purchase price after the sale has been completed,
7 if the seller has included the refunded price in a prior return made by the seller and
8 has paid the tax on such price, and if the seller has returned to the purchaser in cash
9 or in credit all tax previously paid by the purchaser on the amount of the refund at
10 the time of the purchase. A deduction under this paragraph shall be claimed on the
11 return for the period in which the refund is paid.

12 (5) No reduction in the amount of tax payable by the retailer is allowable in the
13 event property sold on credit is repossessed except where the entire consideration
14 paid by the purchaser is refunded to the purchaser or where a credit for a worthless
15 account is allowable under sub. (1).

16 (6) A purchaser who is subject to the use tax on the storage, use, or other
17 consumption of fuel may claim a deduction from the purchase price that is subject
18 to the use tax for fuel taxes refunded by this state or the United States to the
19 purchaser that is included in the purchase price of the fuel.

20 (7) For sales tax purposes, if a retailer establishes to the department's
21 satisfaction that the sales tax has been added to the total amount of the sales price
22 and has not been absorbed by the retailer, the total amount of the sales price shall
23 be the amount received exclusive of the sales tax imposed.

24 **SECTION 155.** 77.59 (2m) of the statutes is created to read:

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1 77.59 (2m) The department may audit, or may authorize others to audit, sellers
2 and certified service providers who are registered with the department pursuant to
3 the agreement, as defined in s. 77.65 (2) (a).

4 **SECTION 156.** 77.59 (9) of the statutes is amended to read:

5 77.59 (9) If any person fails to file a return, the department shall make an
6 estimate of the amount of the ~~gross receipts~~ sales price of the person ~~person's sales~~,
7 or, as the case may be, of the amount of the total sales purchase price of tangible
8 personal property or taxable service sold or purchased by the person, the sale by or
9 the storage, use or other consumption of which in this state is subject to sales or use
10 tax. The estimate shall be made for the period in respect to which the person failed
11 to make a return and shall be based upon any information which is in the
12 department's possession or may come into its possession. Upon the basis of this
13 estimate the department shall compute and determine the amount required to be
14 paid to the state, adding to the sum thus arrived at a penalty equal to 25% thereof.
15 One or more such determinations may be made for one or for more than one period.
16 When a business is discontinued a determination may be made at any time
17 thereafter, within the periods specified in sub. (3), as to liability arising out of that
18 business.

19 **SECTION 157.** 77.59 (9n) of the statutes is created to read:

20 77.59 (9n) No seller or certified service provider is liable for any deficiency or
21 refund under this subchapter that is the result of the seller or certified service
22 provider relying on erroneous information contained in a database maintained
23 under s. 73.03 (61) (e) or (f).

24 **SECTION 158.** 77.59 (9p) (b) of the statutes is created to read:

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1 77.59 (9p) (b) If a customer purchases a service that is not subject to 4 USC 116
2 to 126, as amended by P.L. 106-252, or tangible personal property, and if the
3 customer believes that the amount of the tax assessed for the sale of the service or
4 property under this subchapter is erroneous, the customer may request that the
5 seller correct the alleged error by sending a written notice to the seller. The notice
6 shall include a description of the alleged error and any other information that the
7 seller reasonably requires to process the request. Within 60 days from the date that
8 a seller receives a request under this paragraph, the seller shall review its records
9 to determine the validity of the customer's claim. If the review indicates that there
10 is no error as alleged, the seller shall explain the findings of the review in writing to
11 the customer. If the review indicates that there is an error as alleged, the seller shall
12 correct the error and shall refund the amount of any tax collected erroneously, along
13 with the related interest, as a result of the error from the customer, consistent with
14 s. 77.59 (4). A customer may take no other action, or commence any action, to correct
15 an alleged error in the amount of the tax assessed under this subchapter on a service
16 that is not subject to 4 USC 116 to 126, as amended by P.L. 106-252, or tangible
17 personal property, unless the customer has exhausted his or her remedies under this
18 paragraph.

19 **SECTION 159.** 77.59 (9r) of the statutes is created to read:

20 77.59 (9r) With regard to a purchaser's request for a refund under this section,
21 a seller is presumed to have reasonable business practices if the seller uses a certified
22 service provider, a certified automated system, as defined in s. 77.524 (1) (am), or a
23 proprietary system certified by the department to collect the taxes imposed under
24 this subchapter and if the seller has remitted to the department all taxes collected
25 under this subchapter, less any deductions, credits, or allowances.

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1 **SECTION 160.** 77.60 (13) of the statutes is created to read:

2 77.60 (13) A person who uses any of the following documents in a manner that
3 is prohibited by or inconsistent with this subchapter, or provides incorrect
4 information to a seller or certified service provider related to the use of such
5 documents or regarding an exemption to the taxes imposed under this subchapter,
6 shall pay a penalty of \$250 for each invoice or bill of sale related to the prohibited or
7 inconsistent use or incorrect information:

8 (a) An exemption certificate described under ss. 77.52 (13) and 77.53 (10).

9 (b) A direct pay permit under s. 77.52 (17m).

10 (c) A direct mail form, as defined in s. 77.522 (1) (a) 1.

11 (d) A multiple-points-of-use exemption form, as defined in s. 77.522 (1) (a) 2.

12 **SECTION 161.** 77.61 (1) (b) of the statutes is amended to read:

13 77.61 (1) (b) In the case of a ~~motor vehicle~~ motor vehicles, boats, snowmobiles,
14 mobile homes not exceeding 45 feet in length, trailers, semitrailers, all-terrain
15 vehicles, or aircraft purchased from a licensed Wisconsin ~~motor vehicle dealer~~
16 retailer, the registrant shall present proof that the tax has been paid to such dealer
17 retailer.

18 **SECTION 162.** 77.61 (1) (c) of the statutes is amended to read:

19 77.61 (1) (c) In the case of motor vehicles, boats, snowmobiles, mobile homes
20 not exceeding 45 feet in length, trailers, semitrailers, all-terrain vehicles or aircraft
21 registered or titled, or required to be registered or titled, in this state purchased from
22 persons who are not Wisconsin ~~boat, trailer or semitrailer dealers, licensed~~
23 ~~Wisconsin aircraft, motor vehicle or mobile home dealers or registered Wisconsin~~
24 ~~snowmobile or all-terrain vehicle dealers~~ retailers, the purchaser shall file a sales
25 tax return and pay the tax prior to registering or titling the motor vehicle, boat,

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1 snowmobile, mobile home not exceeding 45 feet in length, trailer, semitrailer,
2 all-terrain vehicle or aircraft in this state.

3 **SECTION 163.** 77.61 (2) of the statutes is renumbered 77.61 (2) (intro.) and
4 amended to read:

5 77.61 (2) (intro.) In order to protect the revenue of the state:

6 (a) Except as provided in par. (b), the department may require any person who
7 is or will be liable to it for the tax imposed by this subchapter to place with it, before
8 or after a permit is issued, the security, not in excess of \$15,000, that the department
9 determines. In determining the amount of security to require under this subsection,
10 the department may consider the person's payment of other taxes administered by
11 the department and any other relevant facts. If any taxpayer fails or refuses to place
12 that security, the department may refuse or revoke the permit. If any taxpayer is
13 delinquent in the payment of the taxes imposed by this subchapter, the department
14 may, upon 10 days' notice, recover the taxes, interest, costs and penalties from the
15 security placed with the department by the taxpayer in the following order: costs,
16 penalties, delinquent interest, delinquent tax. No interest may be paid or allowed
17 by the state to any person for the deposit of security. Any security deposited under
18 this subsection shall be returned to the taxpayer if the taxpayer has, for 24
19 consecutive months, complied with all the requirements of this subchapter.

20 **SECTION 164.** 77.61 (2) (b) of the statutes is created to read:

21 77.61 (2) (b) A certified service provider who has contracted with a seller, and
22 filed an application, to collect and remit sales and use taxes imposed under this
23 subchapter on behalf of the seller shall submit a surety bond to the department to
24 guarantee the payment of sales and use taxes, including any penalty and interest on
25 such payment. The department shall approve the form and contents of a bond

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1 submitted under this paragraph and shall determine the amount of such bond. The
2 surety bond shall be submitted to the department within 60 days after the date on
3 which the department notifies the certified service provider that the certified service
4 provider is registered to collect sales and use taxes imposed under this subchapter.
5 If the department determines, with regards to any one certified service provider, that
6 no bond is necessary to protect the tax revenues of this state, the secretary of revenue
7 or the secretary's designee may waive the requirements under this paragraph with
8 regard to that certified service provider. Any bond submitted under this paragraph
9 shall remain in force until the secretary of revenue or the secretary's designee
10 releases the liability under the bond.

11 **SECTION 165.** 77.61 (3) of the statutes is repealed.

12 **SECTION 166.** 77.61 (3m) of the statutes is created to read:

13 77.61 **(3m)** A retailer shall use a straight mathematical computation to
14 determine the amount of the tax that the retailer may collect from the retailer's
15 customers. The retailer shall calculate the tax amount by combining the applicable
16 tax rates under this subchapter and subch. V and multiplying the combined tax rate
17 by the sales price or purchase price of each item or invoice, as appropriate. The
18 retailer shall calculate the tax amount to the 3rd decimal place, disregard tax
19 amounts of less than 0.5 cent, and consider tax amounts of at least 0.5 cent but less
20 than 1 cent to be an additional cent. The use of a straight mathematical computation,
21 as provided in this subsection, shall not relieve the retailer from liability for payment
22 of the full amount of the tax levied under this subchapter.

23 **SECTION 167.** 77.61 (4) (c) of the statutes is amended to read:

24 77.61 **(4)** (c) For reporting the sales tax and collecting and reporting the use tax
25 imposed on the retailer under s. 77.53 (3) and the accounting connected with it,

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1 retailers, not including certified service providers, may deduct 0.5% of those taxes
2 payable or \$10 for that reporting period required under s. 77.58 (1), whichever is
3 greater, but not more than the amount of the sales taxes or use taxes that is payable
4 under ss. 77.52 (1) and 77.53 (3) for that reporting period required under s. 77.58 (1),
5 as administration expenses if the payment of the taxes is not delinquent. For
6 purposes of calculating the retailer's discount under this paragraph, the taxes on
7 retail sales reported by retailers under subch. V, including taxes collected and
8 remitted as required under s. 77.785, shall be included if the payment of those taxes
9 is not delinquent.

10 **SECTION 168.** 77.61 (5m) of the statutes is created to read:

11 77.61 (5m) (a) In this subsection, "personally identifiable information" means
12 any information that identifies a person.

13 (b) A certified service provider may use personally identifiable information as
14 necessary only for the administration of its system to perform a seller's sales and use
15 tax functions and shall provide consumers clear and conspicuous notice of its practice
16 regarding such information, including how it collects the information, how it uses the
17 information, and under what circumstances it discloses the information.

18 (c) A certified service provider may retain personally identifiable information
19 only to verify exemption claims, to investigate fraud, and to ensure its system's
20 reliability. A certified service provider who retains an individual's personally
21 identifiable information shall provide reasonable notice of such retention to the
22 individual and shall provide the individual reasonable access to the information and
23 an opportunity to correct inaccurate information. If any person, other than a state
24 that is a signatory to the agreement, as defined in s. 77.65 (2) (a), requests access to

SENATE BILL 267**SECTION 168**

1 an individual's personally identifiable information, the certified service provider
2 shall make a reasonable and timely effort to notify the individual of the request.

3 (d) A certified service provider shall provide sufficient technical, physical, and
4 administrative safeguards to protect personally identifiable information from
5 unauthorized access and disclosure.

6 **SECTION 169.** 77.61 (16) of the statutes is created to read:

7 77.61 (16) Any person who remits taxes and files returns under this subchapter
8 may designate an agent, as defined in s. 77.524 (1) (ag), to remit such taxes and file
9 such returns with the department in a manner prescribed by the department.

10 **SECTION 170.** 77.63 of the statutes is repealed and recreated to read:

11 **77.63 Collection compensation.** (intro.) The following persons may retain
12 a portion of sales and use taxes collected on retail sales under this subchapter and
13 subch. V in an amount determined by the department and by contracts that the
14 department enters into pursuant to the agreement, as defined in s. 77.65 (2) (a):

15 (1) A certified service provider.

16 (2) A seller that uses a certified automated system, as defined in s. 77.524 (1)
17 (am).

18 (3) A seller that sells tangible personal property or taxable services in at least
19 5 states that are signatories to the agreement, as defined in s. 77.65 (2) (a); that has
20 total annual sales revenue of at least \$500,000,000; that has a proprietary system
21 that calculates the amount of tax owed to each taxing jurisdiction in which the seller
22 sells tangible personal property or taxable services; and that has entered into a
23 performance agreement with the states that are signatories to the agreement, as
24 defined in s. 77.65 (2) (a). For purposes of this subdivision, "seller" includes an
25 affiliated group of sellers using the same proprietary system to calculate the amount

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1 of tax owed in each taxing jurisdiction in which the sellers sell tangible personal
2 property or taxable services.

3 **SECTION 171.** 77.65 (2) (c) of the statutes is repealed.

4 **SECTION 172.** 77.65 (2) (e) of the statutes is amended to read:

5 77.65 (2) (e) "Seller" means any person who sells, leases, or rents tangible
6 personal property or services.

7 **SECTION 173.** 77.67 of the statutes is created to read:

8 **77.67 Amnesty for new registrants. (1)** A seller is not liable for uncollected
9 and unpaid taxes, including penalties and interest, imposed under this subchapter
10 and subch. V on sales made to purchasers in this state before the seller registers
11 under par. (a), if all of the following apply:

12 (a) The seller registers with the department, in a manner that the department
13 prescribes, to collect and remit the taxes imposed under this subchapter and subch.
14 V on sales to purchasers in this state in accordance with the agreement, as defined
15 in s. 77.65 (2) (a).

16 (b) The seller registers under par. (a) no later than 365 days after the effective
17 date of this state's participation in the agreement under s. 77.65 (2) (a) [revisor
18 inserts date].

19 (c) The seller was not registered to collect and remit the taxes imposed under
20 this subchapter and subch. V during the 365 consecutive days immediately before
21 the effective date of this state's participation in the agreement under s. 77.65 (2) (a)
22 [revisor inserts date].

23 (d) The seller has not received a notice of the commencement of an audit from
24 the department or, if the seller has received a notice of the commencement of an audit
25 from the department, the audit has not been resolved by any means, including any

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1 related administrative and judicial processes, at the time that the seller registers
2 under par. (a).

3 (e) The seller has not committed or been involved in a fraud or an intentional
4 misrepresentation of a material fact.

5 (f) The seller collects and remits the taxes imposed under this subchapter and
6 subch. V on sales to purchasers in this state for at least 3 consecutive years after the
7 date on which the seller registers under par. (a).

8 **(2)** Subsection (1) does not apply to taxes imposed under this subchapter and
9 subch. V that are due from the seller for purchases made by the seller.

10 **SECTION 174.** 77.70 of the statutes is amended to read:

11 **77.70 Adoption by county ordinance.** Any county desiring to impose county
12 sales and use taxes under this subchapter may do so by the adoption of an ordinance,
13 stating its purpose and referring to this subchapter. The county sales and use taxes
14 may be imposed only for the purpose of directly reducing the property tax levy and
15 only in their entirety as provided in this subchapter. That ordinance shall be
16 effective on the first day of January, the first day of April, the first day of July or the
17 first day of October. A certified copy of that ordinance shall be delivered to the
18 secretary of revenue at least 120 days prior to its effective date. The repeal of any
19 such ordinance shall be effective on December 31. A certified copy of a repeal
20 ordinance shall be delivered to the secretary of revenue at least ~~60~~ 120 days before
21 the effective date of the repeal.

22 **SECTION 175.** 77.705 of the statutes is amended to read:

23 **77.705 Adoption by resolution; baseball park district.** A local
24 professional baseball park district created under subch. III of ch. 229, by resolution
25 under s. 229.68 (15), may impose a sales tax and a use tax under this subchapter at

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1 a rate of no more than 0.1% of the gross receipts or sales price. Those taxes may be
2 imposed only in their entirety. The resolution shall be effective on the first day of the
3 ~~first month~~ January 1, April 1, July 1, or October 1 that begins at least ~~30~~ 120 days
4 after the adoption of the resolution.

5 **SECTION 176.** 77.706 of the statutes is amended to read:

6 **77.706 Adoption by resolution; football stadium district.** A local
7 professional football stadium district created under subch. IV of ch. 229, by
8 resolution under s. 229.824 (15), may impose a sales tax and a use tax under this
9 subchapter at a rate of 0.5% of the gross receipts or sales price. Those taxes may be
10 imposed only in their entirety. The imposition of the taxes under this section shall
11 be effective on the first day of the first month January 1, April 1, July 1, or October
12 1 that begins at least ~~30~~ 120 days after the certification of the approval of the
13 resolution by the electors in the district's jurisdiction under s. 229.824 (15).

14 **SECTION 177.** 77.707 (1) of the statutes is amended to read:

15 **77.707 (1)** Retailers and the department of revenue may not collect a tax under
16 s. 77.705 for any local professional baseball park district created under subch. III of
17 ch. 229 after the last day of the calendar quarter ~~during that is at least 120 days from~~
18 the date on which the local professional baseball park district board makes a
19 certification to the department of revenue under s. 229.685 (2), except that the
20 department of revenue may collect from retailers taxes that accrued before the day
21 after the last day of that calendar quarter and fees, interest and penalties that relate
22 to those taxes.

23 **SECTION 178.** 77.707 (2) of the statutes is amended to read:

24 **77.707 (2)** Retailers and the department of revenue may not collect a tax under
25 s. 77.706 for any local professional football stadium district created under subch. IV

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1 of ch. 229 after the last day of the calendar quarter ~~during~~ that is at least 120 days
2 from the date on which the local professional football stadium district board makes
3 all of the certifications to the department of revenue under s. 229.825 (3), except that
4 the department of revenue may collect from retailers taxes that accrued before the
5 day after the last day of that calendar quarter and fees, interest and penalties that
6 relate to those taxes.

7 **SECTION 179.** 77.71 (1) of the statutes is amended to read:

8 77.71 (1) For the privilege of selling, licensing, leasing or renting tangible
9 personal property and for the privilege of selling, licensing, performing or furnishing
10 services a sales tax is imposed upon retailers at the rate of 0.5% in the case of a county
11 tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the
12 ~~gross receipts~~ sales price from the sale, licensing, lease or rental of tangible personal
13 property, except property taxed under sub. (4), sold, licensed, leased or rented at
14 retail in the county or special district or from selling, licensing, performing or
15 furnishing services described under s. 77.52 (2) in the county or special district.

16 **SECTION 180.** 77.71 (2) of the statutes is amended to read:

17 77.71 (2) An excise tax is imposed at the rate of 0.5% in the case of a county tax
18 or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales
19 purchase price upon every person storing, using or otherwise consuming in the
20 county or special district tangible personal property or services if the property or
21 service is subject to the state use tax under s. 77.53, except that a receipt indicating
22 that the tax under sub. (1), (3) or (4) has been paid relieves the buyer of liability for
23 the tax under this subsection and except that if the buyer has paid a similar local tax
24 in another state on a purchase of the same property or services that tax shall be
25 credited against the tax under this subsection and except that for motor vehicles that

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1 are used for a purpose in addition to retention, demonstration or display while held
2 for sale in the regular course of business by a dealer the tax under this subsection
3 is imposed not on the sales purchase price but on the amount under s. 77.53 (1m).

4 **SECTION 181.** 77.71 (3) of the statutes is amended to read:

5 77.71 (3) An excise tax is imposed upon a contractor engaged in construction
6 activities within the county or special district, at the rate of 0.5% in the case of a
7 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax
8 of the sales purchase price of tangible personal property that is used in constructing,
9 altering, repairing or improving real property and that becomes a component part
10 of real property in that county or special district, except that if the contractor has
11 paid the sales tax of a county in the case of a county tax or of a special district in the
12 case of a special district tax in this state on that property, or has paid a similar local
13 sales tax in another state on a purchase of the same property, that tax shall be
14 credited against the tax under this subsection.

15 **SECTION 182.** 77.71 (4) of the statutes is amended to read:

16 77.71 (4) An excise tax is imposed at the rate of 0.5% in the case of a county tax
17 or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales
18 purchase price upon every person storing, using or otherwise consuming a motor
19 vehicle, boat, ~~snowmobile~~, mobile home not exceeding 45 feet in length, ~~trailer~~,
20 ~~semitrailer~~, ~~all-terrain vehicle~~ or aircraft, if that property must be registered or
21 titled with this state and if that property is to be customarily kept in a county that
22 has in effect an ordinance under s. 77.70 or in a special district that has in effect a
23 resolution under s. 77.705 or 77.706, except that if the buyer has paid a similar local
24 sales tax in another state on a purchase of the same property that tax shall be
25 credited against the tax under this subsection.

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1 **SECTION 183.** 77.72 (title) of the statutes is repealed.

2 **SECTION 184.** 77.72 (1) of the statutes is renumbered 77.72 and amended to
3 read:

4 **77.72 General rule for property.** For the purposes of this subchapter, all
5 retail sales of tangible personal property ~~are completed at the time when, and the~~
6 ~~place where, the seller or the seller's agent transfers possession to the buyer or the~~
7 ~~buyer's agent. In this subsection, a common carrier or the U.S. postal service is the~~
8 ~~agent of the seller, regardless of any f.o.b. point and regardless of the method by~~
9 ~~which freight or postage is paid. Rentals and leases of property, except property~~
10 ~~under sub. (2), have a situs at the location of that property and taxable services occur~~
11 ~~as provided in s. 77.522.~~

12 **SECTION 185.** 77.72 (2) and (3) of the statutes are repealed.

13 **SECTION 186.** 77.73 (2) of the statutes is amended to read:

14 **77.73 (2)** Counties and special districts do not have jurisdiction to impose the
15 tax under s. 77.71 (2) in regard to tangible personal property, except snowmobiles,
16 trailers, semitrailers, and all-terrain vehicles, purchased in a sale that is
17 consummated in another county or special district in this state that does not have
18 in effect an ordinance or resolution imposing the taxes under this subchapter and
19 later brought by the buyer into the county or special district that has imposed a tax
20 under s. 77.71 (2).

21 **SECTION 187.** 77.73 (3) of the statutes is created to read:

22 **77.73 (3)** Counties and special districts have jurisdiction to impose the taxes
23 under this subchapter on retailers who register under s. 77.53 (9m). A retailer who
24 registers under s. 77.53 (9m) shall collect, report, and remit to the department the

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1 taxes imposed under this subchapter for all counties and special districts that have
2 an ordinance or resolution imposing the taxes under this subchapter.

3 **SECTION 188.** 77.77 (1) of the statutes is renumbered 77.77 (1) (a) and amended
4 to read:

5 77.77 (1) (a) ~~The gross receipts~~ sales price from services subject to the tax under
6 s. 77.52 (2) ~~are not~~ is subject to the taxes under this subchapter, and the incremental
7 amount of tax caused by a rate increase applicable to those services is ~~not~~ due, ~~if those~~
8 ~~services are billed to the customer and paid for before~~ beginning with the first billing
9 period starting on or after the effective date of the county ordinance, special district
10 resolution, or rate increase, regardless of whether the service is furnished to the
11 customer before or after that date.

12 **SECTION 189.** 77.77 (1) (b) of the statutes is created to read:

13 77.77 (1) (b) The sales price from services subject to the tax under s. 77.52 (2)
14 is not subject to the taxes under this subchapter, and a decrease in the tax rate
15 imposed under this subchapter on those services first applies, beginning with bills
16 rendered on or after the effective date of the repeal or sunset of a county ordinance
17 or special district resolution imposing the tax or other rate decrease, regardless of
18 whether the service is furnished to the customer before or after that date.

19 **SECTION 190.** 77.785 (1) of the statutes is amended to read:

20 77.785 (1) All retailers shall collect and report the taxes under this subchapter
21 on the ~~gross receipts~~ sales price from leases and rentals of property under s. 77.71
22 (4).

23 **SECTION 191.** 77.785 (2) of the statutes is amended to read:

24 77.785 (2) Prior to registration or titling, a retailer of a boat, ~~all-terrain vehicle,~~
25 ~~trailer and semi-trailer dealers and licensed aircraft,~~ motor vehicle, or mobile home

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1 and snowmobile dealers shall collect the taxes under this subchapter on sales of
2 items under s. 77.71 (4). The dealer retailer shall remit those taxes to the
3 department of revenue along with payments of the taxes under subch. III.

4 **SECTION 192.** 77.98 of the statutes is amended to read:

5 **77.98 Imposition.** A local exposition district under subch. II of ch. 229 may
6 impose a tax on the retail sale, except sales for resale, within the district's
7 jurisdiction under s. 229.43 of products that are subject to a tax under s. 77.54 (20)
8 ~~(e) 1. to 3. and not~~ candy, as defined in s. 77.51 (1e), prepared food, as defined in s.
9 77.51 (10m), and soft drinks, as defined in s. 77.51 (17w), unless exempt from the
10 sales tax under s. 77.54 (1), (4), (7) (a), (7m), (9), (9a) ~~or (20) (e) 5., (20n) (b) and (c),~~
11 and (20r).

12 **SECTION 193.** 77.981 of the statutes is amended to read:

13 **77.981 Rate.** The tax under s. 77.98 is imposed on the sale of taxable products
14 at the rate of 0.25% of the ~~gross receipts~~ sales price, except that the district, by a vote
15 of a majority of the authorized members of its board of directors, may impose the tax
16 at the rate of 0.5% of the ~~gross receipts~~ sales price. A majority of the authorized
17 members of the district's board may vote that, if the balance in a special debt service
18 reserve fund of the district is less than the requirement under s. 229.50 (5), the tax
19 rate under this subchapter is 0.5%. The 0.5% rate shall be effective on the next
20 January 1, April 1, July 1 or October 1, and this tax is irrevocable if any bonds issued
21 by the district and secured by the special debt service reserve fund are outstanding.

22 **SECTION 194.** 77.982 (2) of the statutes is amended to read:

23 77.982 (2) Sections 77.51 (4) ~~(a), (b) 1., 2. and 4., (c) 1. to 3. and (d) (12m), (14),~~
24 ~~(a) to (f), (j) and (k) and (14g), (15a), and (15b), 77.52 (3), (6), (3m), (4), (13), (14), (18)~~
25 and (19), 77.522, 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61 (2), (3m),

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1 (5), (8), (9) ~~and~~, (12) to (14), and (15), and 77.62, as they apply to the taxes under
2 subch. III, apply to the tax under this subchapter. ~~Sections 77.72 (1) and Section~~
3 ~~77.73, as they apply~~ it applies to the taxes under subch. V, ~~apply~~ applies to the tax
4 under this subchapter.

5 **SECTION 195.** 77.99 of the statutes is amended to read:

6 **77.99 Imposition.** A local exposition district under subch. II of ch. 229 may
7 impose a tax at the rate of 3% of the ~~gross receipts~~ sales price on the rental, but not
8 for rental and not for rental as a service or repair replacement vehicle, within the
9 district's jurisdiction under s. 229.43, of Type 1 automobiles, as defined in s. 340.01
10 (4) (a), by establishments primarily engaged in short-term rental of passenger cars
11 without drivers, for a period of 30 days or less, unless the sale is exempt from the sales
12 tax under s. 77.54 (1), (4), (7) (a), (7m), (9) or (9a). If the state makes a payment under
13 s. 229.50 (7) to a district's special debt service reserve fund, a majority of the district's
14 authorized board of directors may vote to increase the tax rate under this subchapter
15 to 4%.

16 **SECTION 196.** 77.991 (2) of the statutes is amended to read:

17 77.991 (2) Sections 77.51 (4) (a), (b) 1., 2. and 4., (c) 1. to 3. and (d) and (12m),
18 (14) (a) to (f), (j) and (k), (14g), (15a), and (15b), 77.52 (3), (3m), (4), (6), (13), (14) and,
19 (18), and (19), 77.522, 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61 (2),
20 (3m), (5), (8), (9) ~~and~~, (12) to (14), and (15), and 77.62, as they apply to the taxes under
21 subch. III, apply to the tax under this subchapter. ~~Sections 77.72 (1) and (2) (a) and~~
22 Section 77.73, as ~~they apply~~ it applies to the taxes under subch. V, ~~apply~~ applies to
23 the tax under this subchapter. The renter shall collect the tax under this subchapter
24 from the person to whom the passenger car is rented.

25 **SECTION 197.** 77.994 (1) (intro.) of the statutes is amended to read:

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1 77.994 (1) (intro.) Except as provided in sub. (2), a municipality or a county all
2 of which is included in a premier resort area under s. 66.1113 may, by ordinance,
3 impose a tax at a rate of 0.5% of the ~~gross receipts~~ sales price from the sale, license,
4 lease, or rental in the municipality or county of goods or services that are taxable
5 under subch. III made by businesses that are classified in the standard industrial
6 classification manual, 1987 edition, published by the U.S. office of management and
7 budget, under the following industry numbers:

8 **SECTION 198.** 77.9941 (4) of the statutes is amended to read:

9 77.9941 (4) Sections 77.72 ~~(1), (2) (a) and (3) (a)~~, 77.73, 77.74, 77.75, 77.76 (1),
10 (2), and (4), 77.77 (1) and (2), 77.785 (1), and 77.79, as they apply to the taxes under
11 subch. V, apply to the tax under this subchapter.

12 **SECTION 199.** 77.995 (2) of the statutes is amended to read:

13 77.995 (2) There is imposed a fee at the rate of 3%, or 5% for the rental of
14 limousines, of the ~~gross receipts~~ sales price on the rental, but not for rental and not
15 for rental as a service or repair replacement vehicle of Type 1 automobiles, as defined
16 in s. 340.01 (4) (a); of mobile homes, as defined in s. 340.01 (29); of motor homes, as
17 defined in s. 340.01 (33m); and of camping trailers, as defined in s. 340.01 (6m) by
18 establishments primarily engaged in short-term rental of vehicles without drivers,
19 for a period of 30 days or less, unless the sale is exempt from the sales tax under s.
20 77.54 (1), (4), (7) (a), (7m) or (9a).

21 **SECTION 200.** 77.9951 (2) of the statutes is amended to read:

22 77.9951 (2) Sections 77.51 (4) ~~(a), (b) 1., 2. and 4., (c) 1. to 3. and (d) and (12m)~~,
23 (14) ~~(a) to (f), (j) and (k)~~, (15a), and (15b), 77.52 (3m), (4), ~~(6)~~, (13), (14) ~~and~~, (18), and
24 (19), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61 (2), (3m), (5), (8), (9)
25 ~~and~~, (12) to (14), and (15), and 77.62, as they apply to the taxes under subch. III, apply

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1 to the fee under this subchapter. The renter shall collect the fee under this
2 subchapter from the person to whom the vehicle is rented.

3 **SECTION 201.** 86.195 (3) (b) 3. of the statutes is amended to read:

4 86.195 (3) (b) 3. Fifty percent of the gross receipts of the business are from meal,
5 food, the sale of food product and beverage sales and food ingredients, as defined in
6 s. 77.51 (3t), that are taxable under s. 77.54 (20) (e) subch. III of ch. 77; and

7 **SECTION 202.** 218.0171 (2) (cq) of the statutes is amended to read:

8 218.0171 (2) (cq) Upon payment of a refund to a consumer under par. (b) 2. b.,
9 the manufacturer shall provide to the consumer a written statement that specifies
10 the trade-in amount previously applied under s. 77.51 (4) (b) 3. ~~or 3m. or (15) (b) 4.~~
11 ~~or 4m. (12m) (b) 5. or 6. or (15b) (b) 5. or 6.~~ toward the sales price of the motor vehicle
12 having the nonconformity and the date on which the manufacturer provided the
13 refund.

14 **SECTION 203. Nonstatutory provisions.**

15 (1) THE STREAMLINED SALES AND USE TAX AGREEMENT. The department of revenue
16 shall notify the revisor of statutes of the effective date of this state's participation in
17 the streamlined sales and use tax agreement, as described in section 77.65 of the
18 statutes, no later than 30 days after such effective date is determined.

19 **SECTION 204. Appropriation changes.**

20 (1) ADMINISTRATIVE COSTS RELATED TO THE STREAMLINED SALES AND USE TAX
21 AGREEMENT. In the schedule under section 20.005 (3) of the statutes for the
22 appropriation to the department of revenue under section 20.566 (1) (a) of the
23 statutes, as affected by the acts of 2003, the dollar amount is increased by \$25,000
24 for fiscal year 2003-04 and the dollar amount is increased by \$25,000 for fiscal year

SENATE BILL 267

1 2004-05 to pay for administrative costs related to the streamlined sales and use tax
2 agreement.

3 **SECTION 205. Effective date.**

4 (1) This act takes effect on July 1, 2004.

5 (END)