

As Introduced

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Representatives Sobecki, Smith, M.

Cosponsors: Representatives Smith, K., Galonski, Sheehy, Sweeney, Leland, Upchurch, O'Brien, Crossman, Miller, A., Denson, Miranda, Weinstein, Davis, Lepore-Hagan, Brown, Hicks-Hudson, Miller, J., Brent, Liston, Jarrells, Robinson, Kelly, Lightbody, West, Russo

A BILL

To amend sections 5739.21, 5741.02, and 5741.03 of
the Revised Code to modify the allocation of
state sales and use tax revenue from the sale of
certain firearms and ammunition.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5739.21, 5741.02, and 5741.03 of
the Revised Code be amended to read as follows:

Sec. 5739.21. (A) One hundred per cent of all money
deposited into the state treasury under sections 5739.01 to
5739.31 of the Revised Code that is not required to be
distributed as provided in section 5739.102 of the Revised Code
or division (B) or (E) of this section shall be credited to the
general revenue fund.

(B) (1) In any case where any county or transit authority
has levied a tax or taxes pursuant to section 5739.021,
5739.023, or 5739.026 of the Revised Code, the tax commissioner
shall, within forty-five days after the end of each month,

determine and certify to the director of budget and management 17
the amount of the proceeds of such tax or taxes received during 18
that month from billings and assessments, or associated with tax 19
returns or reports filed during that month, to be returned to 20
the county or transit authority levying the tax or taxes. The 21
amount to be returned to each county and transit authority shall 22
be a fraction of the aggregate amount of money collected with 23
respect to each area in which one or more of such taxes are 24
concurrently in effect with the tax levied by section 5739.02 of 25
the Revised Code. The numerator of the fraction is the rate of 26
the tax levied by the county or transit authority and the 27
denominator of the fraction is the aggregate rate of such taxes 28
applicable to such area. The amount to be returned to each 29
county or transit authority shall be reduced by the amount of 30
any refunds of county or transit authority tax paid pursuant to 31
section 5739.07 of the Revised Code during the same month, or 32
transfers made pursuant to division (B) (2) of section 5703.052 33
of the Revised Code. 34

(2) On a periodic basis, using the best information 35
available, the tax commissioner shall distribute any amount of a 36
county or transit authority tax that cannot be distributed under 37
division (B) (1) of this section. Through audit or other means, 38
the commissioner shall attempt to obtain the information 39
necessary to make the distribution as provided under that 40
division and, on receipt of that information, shall make 41
adjustments to distributions previously made under this 42
division. 43

(3) Eight and thirty-three one-hundredths of one per cent 44
of the revenue collected from the tax due under division (A) of 45
section 5739.029 of the Revised Code shall be distributed to the 46
county where the sale of the motor vehicle is sitused under 47

section 5739.033 of the Revised Code. The amount to be so 48
distributed to the county shall be apportioned on the basis of 49
the rates of taxes the county levies pursuant to sections 50
5739.021 and 5739.026 of the Revised Code, as applicable, and 51
shall be credited to the funds of the county as provided in 52
divisions (A) and (B) of section 5739.211 of the Revised Code. 53

(C) The aggregate amount to be returned to any county or 54
transit authority shall be reduced by one per cent, which shall 55
be certified directly to the credit of the local sales tax 56
administrative fund, which is hereby created in the state 57
treasury. For the purpose of determining the amount to be 58
returned to a county and transit authority in which the rate of 59
tax imposed by the transit authority has been reduced under 60
section 5739.028 of the Revised Code, the tax commissioner shall 61
use the respective rates of tax imposed by the county or transit 62
authority that results from the change in the rates authorized 63
under that section. 64

(D) The director of budget and management shall transfer, 65
from the same funds and in the same proportions specified in 66
division (A) of this section, to the permissive tax distribution 67
fund created by division (B) (1) of section 4301.423 of the 68
Revised Code and to the local sales tax administrative fund, the 69
amounts certified by the tax commissioner. The tax commissioner 70
shall then, on or before the twentieth day of the month in which 71
such certification is made, provide for payment of such 72
respective amounts to the county treasurer and to the fiscal 73
officer of the transit authority levying the tax or taxes. The 74
amount transferred to the local sales tax administrative fund is 75
for use by the tax commissioner in defraying costs incurred in 76
administering such taxes levied by a county or transit 77
authority. 78

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| <u>(E) As used in division (E) of this section:</u> | 79 |
| <u>(1) "Firearm" means a portable firearm, including a rifle,</u> | 80 |
| <u>shotgun, pistol, or revolver, that is designed to be carried and</u> | 81 |
| <u>operated by a single person.</u> | 82 |
| <u>(2) "Ammunition" means ammunition designed for use in a</u> | 83 |
| <u>firearm.</u> | 84 |
| <u>(3) Revenue from the tax levied under section 5739.02 of</u> | 85 |
| <u>the Revised Code collected from the sale of firearms and</u> | 86 |
| <u>ammunition, and related penalties and interest, shall be</u> | 87 |
| <u>credited as follows:</u> | 88 |
| <u>(a) Fifty per cent to the firearm violence reparations</u> | 89 |
| <u>fund, which is hereby created in the state treasury. Moneys in</u> | 90 |
| <u>the fund shall be used by the attorney general in the same</u> | 91 |
| <u>manner as described in division (A)(1)(a) of section 2743.191 of</u> | 92 |
| <u>the Revised Code for moneys in the reparations fund created</u> | 93 |
| <u>under that section, except that funds from the firearms violence</u> | 94 |
| <u>reparations fund shall solely be used for the payment of awards</u> | 95 |
| <u>of reparations to survivors of firearm violence and families of</u> | 96 |
| <u>victims of firearm violence.</u> | 97 |
| <u>(b) Thirty per cent to the firearm violence protection</u> | 98 |
| <u>fund, which is hereby created in the state treasury. On or</u> | 99 |
| <u>before the first day of each month, the director of budget and</u> | 100 |
| <u>management shall transfer money in the fund to each board of</u> | 101 |
| <u>alcohol, drug addiction, and mental health services established</u> | 102 |
| <u>under Chapter 340. of the Revised Code. The amount allocated to</u> | 103 |
| <u>each board shall be proportional to the population served by</u> | 104 |
| <u>such board compared to the total population served by all such</u> | 105 |
| <u>boards. A board shall use any such money solely to fund mental</u> | 106 |
| <u>health and firearm violence prevention programming and services.</u> | 107 |

(c) Twenty per cent to the sales tax law enforcement fund, 108
which is hereby created in the state treasury. The fund shall be 109
administered by the attorney general, who shall use the moneys 110
in the fund exclusively to award grants for the purpose of 111
improving community relations to state and local law enforcement 112
agencies that employ peace officers, as that term is defined in 113
section 109.71 of the Revised Code. The attorney general may 114
adopt any rules pursuant to Chapter 119. of the Revised Code as 115
are necessary to administer the grant program. 116

Sec. 5741.02. (A) (1) For the purpose of providing revenue 117
with which to meet the needs of the state and for the use of the 118
general revenue fund of the state, an excise tax is hereby 119
levied on the storage, use, or other consumption in this state 120
of tangible personal property or the benefit realized in this 121
state of any service provided. The tax shall be collected as 122
provided in section 5739.025 of the Revised Code. The rate of 123
the tax shall be five and three-fourths per cent. 124

(2) In the case of the lease or rental, with a fixed term 125
of more than thirty days or an indefinite term with a minimum 126
period of more than thirty days, of any motor vehicles designed 127
by the manufacturer to carry a load of not more than one ton, 128
watercraft, outboard motor, or aircraft, or of any tangible 129
personal property, other than motor vehicles designed by the 130
manufacturer to carry a load of more than one ton, to be used by 131
the lessee or renter primarily for business purposes, the tax 132
shall be collected by the seller at the time the lease or rental 133
is consummated and shall be calculated by the seller on the 134
basis of the total amount to be paid by the lessee or renter 135
under the lease or rental agreement. If the total amount of the 136
consideration for the lease or rental includes amounts that are 137
not calculated at the time the lease or rental is executed, the 138

tax shall be calculated and collected by the seller at the time 139
such amounts are billed to the lessee or renter. In the case of 140
an open-end lease or rental, the tax shall be calculated by the 141
seller on the basis of the total amount to be paid during the 142
initial fixed term of the lease or rental, and for each 143
subsequent renewal period as it comes due. As used in this 144
division, "motor vehicle" has the same meaning as in section 145
4501.01 of the Revised Code, and "watercraft" includes an 146
outdrive unit attached to the watercraft. 147

(3) Except as provided in division (A) (2) of this section, 148
in the case of a transaction, the price of which consists in 149
whole or part of the lease or rental of tangible personal 150
property, the tax shall be measured by the installments of those 151
leases or rentals. 152

(B) Each consumer, storing, using, or otherwise consuming 153
in this state tangible personal property or realizing in this 154
state the benefit of any service provided, shall be liable for 155
the tax, and such liability shall not be extinguished until the 156
tax has been paid to this state; provided, that the consumer 157
shall be relieved from further liability for the tax if the tax 158
has been paid to a seller in accordance with section 5741.04 of 159
the Revised Code or prepaid by the seller in accordance with 160
section 5741.06 of the Revised Code. 161

(C) The tax does not apply to the storage, use, or 162
consumption in this state of the following described tangible 163
personal property or services, nor to the storage, use, or 164
consumption or benefit in this state of tangible personal 165
property or services purchased under the following described 166
circumstances: 167

(1) When the sale of property or service in this state is 168

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| subject to the excise tax imposed by sections 5739.01 to 5739.31 | 169 |
| of the Revised Code, provided said tax has been paid; | 170 |
| (2) Except as provided in division (D) of this section, | 171 |
| tangible personal property or services, the acquisition of | 172 |
| which, if made in Ohio, would be a sale not subject to the tax | 173 |
| imposed by sections 5739.01 to 5739.31 of the Revised Code; | 174 |
| (3) Property or services, the storage, use, or other | 175 |
| consumption of or benefit from which this state is prohibited | 176 |
| from taxing by the Constitution of the United States, laws of | 177 |
| the United States, or the Constitution of this state. This | 178 |
| exemption shall not exempt from the application of the tax | 179 |
| imposed by this section the storage, use, or consumption of | 180 |
| tangible personal property that was purchased in interstate | 181 |
| commerce, but that has come to rest in this state, provided that | 182 |
| fuel to be used or transported in carrying on interstate | 183 |
| commerce that is stopped within this state pending transfer from | 184 |
| one conveyance to another is exempt from the excise tax imposed | 185 |
| by this section and section 5739.02 of the Revised Code; | 186 |
| (4) Transient use of tangible personal property in this | 187 |
| state by a nonresident tourist or vacationer, or a nonbusiness | 188 |
| use within this state by a nonresident of this state, if the | 189 |
| property so used was purchased outside this state for use | 190 |
| outside this state and is not required to be registered or | 191 |
| licensed under the laws of this state; | 192 |
| (5) Tangible personal property or services rendered, upon | 193 |
| which taxes have been paid to another jurisdiction to the extent | 194 |
| of the amount of the tax paid to such other jurisdiction. Where | 195 |
| the amount of the tax imposed by this section and imposed | 196 |
| pursuant to section 5741.021, 5741.022, or 5741.023 of the | 197 |
| Revised Code exceeds the amount paid to another jurisdiction, | 198 |

the difference shall be allocated between the tax imposed by 199
this section and any tax imposed by a county or a transit 200
authority pursuant to section 5741.021, 5741.022, or 5741.023 of 201
the Revised Code, in proportion to the respective rates of such 202
taxes. 203

As used in this subdivision, "taxes paid to another 204
jurisdiction" means the total amount of retail sales or use tax 205
or similar tax based upon the sale, purchase, or use of tangible 206
personal property or services rendered legally, levied by and 207
paid to another state or political subdivision thereof, or to 208
the District of Columbia, where the payment of such tax does not 209
entitle the taxpayer to any refund or credit for such payment. 210

(6) The transfer of a used manufactured home or used 211
mobile home, as defined by section 5739.0210 of the Revised 212
Code, made on or after January 1, 2000; 213

(7) Drugs that are or are intended to be distributed free 214
of charge to a practitioner licensed to prescribe, dispense, and 215
administer drugs to a human being in the course of a 216
professional practice and that by law may be dispensed only by 217
or upon the order of such a practitioner; 218

(8) Computer equipment and related software leased from a 219
lessor located outside this state and initially received in this 220
state on behalf of the consumer by a third party that will 221
retain possession of such property for not more than ninety days 222
and that will, within that ninety-day period, deliver such 223
property to the consumer at a location outside this state. 224
Division (C) (8) of this section does not provide exemption from 225
taxation for any otherwise taxable charges associated with such 226
property while it is in this state or for any subsequent 227
storage, use, or consumption of such property in this state by 228

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| or on behalf of the consumer. | 229 |
| (9) Tangible personal property held for sale by a person | 230 |
| but not for that person's own use and donated by that person, | 231 |
| without charge or other compensation, to either of the | 232 |
| following: | 233 |
| (a) A nonprofit organization operated exclusively for | 234 |
| charitable purposes in this state, no part of the net income of | 235 |
| which inures to the benefit of any private shareholder or | 236 |
| individual and no substantial part of the activities of which | 237 |
| consists of carrying on propaganda or otherwise attempting to | 238 |
| influence legislation; or | 239 |
| (b) This state or any political subdivision of this state, | 240 |
| but only if donated for exclusively public purposes. | 241 |
| For the purposes of division (C) (9) of this section, | 242 |
| "charitable purposes" has the same meaning as in division (B) | 243 |
| (12) of section 5739.02 of the Revised Code. | 244 |
| (10) Equipment stored, used, or otherwise consumed in this | 245 |
| state by an out-of-state disaster business during a disaster | 246 |
| response period during which the business conducts disaster work | 247 |
| pursuant to a qualifying solicitation received by the business, | 248 |
| provided the equipment is removed from the state before the last | 249 |
| day of that period. All terms used in division (C) (10) of this | 250 |
| section have the same meanings as in section 5703.94 of the | 251 |
| Revised Code. | 252 |
| (D) The tax applies to the storage, use, or other | 253 |
| consumption in this state of tangible personal property or | 254 |
| services, the acquisition of which at the time of sale was | 255 |
| excepted under division (E) of section 5739.01 of the Revised | 256 |
| Code from the tax imposed by section 5739.02 of the Revised | 257 |

Code, but which has subsequently been temporarily or permanently 258
stored, used, or otherwise consumed in a taxable manner. 259

(E) (1) (a) If any transaction is claimed to be exempt under 260
division (E) of section 5739.01 of the Revised Code or under 261
section 5739.02 of the Revised Code, with the exception of 262
divisions (B) (1) to (11) or (28) of section 5739.02 of the 263
Revised Code, the consumer shall provide to the seller, and the 264
seller shall obtain from the consumer, a certificate specifying 265
the reason that the transaction is not subject to the tax. The 266
certificate shall be in such form, and shall be provided either 267
in a hard copy form or electronic form, as the tax commissioner 268
prescribes. 269

(b) A seller that obtains a fully completed exemption 270
certificate from a consumer is relieved of liability for 271
collecting and remitting tax on any sale covered by that 272
certificate. If it is determined the exemption was improperly 273
claimed, the consumer shall be liable for any tax due on that 274
sale under this chapter. Relief under this division from 275
liability does not apply to any of the following: 276

(i) A seller that fraudulently fails to collect tax; 277

(ii) A seller that solicits consumers to participate in 278
the unlawful claim of an exemption; 279

(iii) A seller that accepts an exemption certificate from 280
a consumer that claims an exemption based on who purchases or 281
who sells property or a service, when the subject of the 282
transaction sought to be covered by the exemption certificate is 283
actually received by the consumer at a location operated by the 284
seller in this state, and this state has posted to its web site 285
an exemption certificate form that clearly and affirmatively 286

indicates that the claimed exemption is not available in this 287
state; 288

(iv) A seller that accepts an exemption certificate from a 289
consumer who claims a multiple points of use exemption under 290
division (D) of section 5739.033 of the Revised Code, if the 291
item purchased is tangible personal property, other than 292
prewritten computer software. 293

(2) The seller shall maintain records, including exemption 294
certificates, of all sales on which a consumer has claimed an 295
exemption, and provide them to the tax commissioner on request. 296

(3) If no certificate is provided or obtained within 297
ninety days after the date on which the transaction is 298
consummated, it shall be presumed that the tax applies. Failure 299
to have so provided or obtained a certificate shall not preclude 300
a seller, within one hundred twenty days after the tax 301
commissioner gives written notice of intent to levy an 302
assessment, from either establishing that the transaction is not 303
subject to the tax, or obtaining, in good faith, a fully 304
completed exemption certificate. 305

(4) If a transaction is claimed to be exempt under 306
division (B) (13) of section 5739.02 of the Revised Code, the 307
contractor shall obtain certification of the claimed exemption 308
from the contractee. This certification shall be in addition to 309
an exemption certificate provided by the contractor to the 310
seller. A contractee that provides a certification under this 311
division shall be deemed to be the consumer of all items 312
purchased by the contractor under the claim of exemption, if it 313
is subsequently determined that the exemption is not properly 314
claimed. The certification shall be in such form as the tax 315
commissioner prescribes. 316

(F) A seller who files a petition for reassessment 317
contesting the assessment of tax on transactions for which the 318
seller obtained no valid exemption certificates, and for which 319
the seller failed to establish that the transactions were not 320
subject to the tax during the one-hundred-twenty-day period 321
allowed under division (E) of this section, may present to the 322
tax commissioner additional evidence to prove that the 323
transactions were exempt. The seller shall file such evidence 324
within ninety days of the receipt by the seller of the notice of 325
assessment, except that, upon application and for reasonable 326
cause, the tax commissioner may extend the period for submitting 327
such evidence thirty days. 328

(G) For the purpose of the proper administration of 329
sections 5741.01 to 5741.22 of the Revised Code, and to prevent 330
the evasion of the tax hereby levied, it shall be presumed that 331
any use, storage, or other consumption of tangible personal 332
property in this state is subject to the tax until the contrary 333
is established. 334

(H) The tax collected by the seller from the consumer 335
under this chapter is not part of the price, but is a tax 336
collection for the benefit of the state, and of counties levying 337
an additional use tax pursuant to section 5741.021 or 5741.023 338
of the Revised Code and of transit authorities levying an 339
additional use tax pursuant to section 5741.022 of the Revised 340
Code. Except for the discount authorized under section 5741.12 341
of the Revised Code and the effects of any rounding pursuant to 342
section 5703.055 of the Revised Code, no person other than the 343
state or such a county or transit authority shall derive any 344
benefit from the collection of such tax. 345

Sec. 5741.03. (A) One hundred per cent of all money 346

deposited into the state treasury under sections 5741.01 to 347
5741.22 of the Revised Code that is not required to be 348
distributed as provided in division (B) or (C) of this section 349
shall be credited to the general revenue fund. 350

(B) In any case where any county or transit authority has 351
levied a tax or taxes pursuant to section 5741.021, 5741.022, or 352
5741.023 of the Revised Code, the tax commissioner shall, within 353
forty-five days after the end of each month, determine and 354
certify to the director of budget and management the amount of 355
the proceeds of such tax or taxes from billings and assessments 356
received during that month, or shown on tax returns or reports 357
filed during that month, to be returned to the county or transit 358
authority levying the tax or taxes, which amounts shall be 359
determined in the manner provided in section 5739.21 of the 360
Revised Code. The director of budget and management shall 361
transfer, from the general revenue fund, to the permissive tax 362
distribution fund created by division (B) (1) of section 4301.423 363
of the Revised Code and to the local sales tax administrative 364
fund created by division (C) of section 5739.21 of the Revised 365
Code, the amounts certified by the tax commissioner. The tax 366
commissioner shall then, on or before the twentieth day of the 367
month in which such certification is made, provide for payment 368
of such respective amounts to the county treasurer or to the 369
fiscal officer of the transit authority levying the tax or 370
taxes. The amount transferred to the local sales tax 371
administrative fund is for use by the tax commissioner in 372
defraying costs the commissioner incurs in administering such 373
taxes levied by a county or transit authority. 374

(C) (1) As used in division (C) of this section, "firearm" 375
and "ammunition" have the same meanings as in division (E) of 376
section 5739.21 of the Revised Code. 377

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| <u>(2) Revenue from the tax levied under section 5741.02 of</u> | 378 |
| <u>the Revised Code collected from the storage, use, or other</u> | 379 |
| <u>consumption of firearms and ammunition, and related penalties</u> | 380 |
| <u>and interest, shall be credited as follows:</u> | 381 |
| <u>(a) Fifty per cent to the firearm violence reparations</u> | 382 |
| <u>fund created under section 5739.21 of the Revised Code;</u> | 383 |
| <u>(b) Thirty per cent to the firearm violence protection</u> | 384 |
| <u>fund created under section 5739.21 of the Revised Code;</u> | 385 |
| <u>(c) Twenty per cent to the sales tax law enforcement fund</u> | 386 |
| <u>created under section 5739.21 of the Revised Code.</u> | 387 |
| Section 2. That existing sections 5739.21, 5741.02, and | 388 |
| 5741.03 of the Revised Code are hereby repealed. | 389 |