

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**S. B. No. 82**

**Senators Reynolds, Ingram  
Cosponsors: Senators Cirino, Romanchuk, Antonio**



**A BILL**

To amend sections 5739.12 and 5739.99 and to enact 1  
section 5739.28 of the Revised Code to allow 2  
certain tax-exempt retailers to retain a portion 3  
of state sales taxes to fund employment 4  
services. 5

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

**Section 1.** That sections 5739.12 and 5739.99 be amended 6  
and section 5739.28 of the Revised Code be enacted to read as 7  
follows: 8

**Sec. 5739.12.** (A) (1) Each person who has or is required to 9  
have a vendor's license, on or before the twenty-third day of 10  
each month, shall make and file a return for the preceding month 11  
in the form prescribed by the tax commissioner, and shall pay 12  
the tax shown on the return to be due. The return shall be filed 13  
electronically using the Ohio business gateway, as defined in 14  
section 718.01 of the Revised Code, the Ohio telefile system, or 15  
any other electronic means prescribed by the commissioner. 16  
Payment of the tax shown on the return to be due shall be made 17  
electronically in a manner approved by the commissioner. The 18

commissioner may require a vendor that operates from multiple 19  
locations or has multiple vendor's licenses to report all tax 20  
liabilities on one consolidated return. The return shall show 21  
the amount of tax due from the vendor to the state for the 22  
period covered by the return and such other information as the 23  
commissioner deems necessary for the proper administration of 24  
this chapter. The commissioner may extend the time for making 25  
and filing returns and paying the tax, and may require that the 26  
return for the last month of any annual or semiannual period, as 27  
determined by the commissioner, be a reconciliation return 28  
detailing the vendor's sales activity for the preceding annual 29  
or semiannual period. The reconciliation return shall be filed 30  
by the last day of the month following the last month of the 31  
annual or semiannual period. The commissioner may remit all or 32  
any part of amounts or penalties that may become due under this 33  
chapter and may adopt rules relating thereto. Such return shall 34  
be filed electronically as directed by the tax commissioner, and 35  
payment of the amount of tax shown to be due thereon, after 36  
deduction of any discount provided for under this section, shall 37  
be made electronically in a manner approved by the tax 38  
commissioner. 39

(2) Any person required to file returns and make payments 40  
electronically under division (A)(1) of this section may apply 41  
to the tax commissioner on a form prescribed by the commissioner 42  
to be excused from that requirement. For good cause shown, the 43  
commissioner may excuse the person from that requirement and may 44  
permit the person to file the returns and make the payments 45  
required by this section by nonelectronic means. 46

(B)(1) If the return is filed and the amount of tax shown 47  
thereon to be due is paid on or before the date such return is 48  
required to be filed, the vendor shall be entitled to a discount 49

of three-fourths of one per cent of the amount shown to be due 50  
on the return. 51

(2) A vendor that has selected a certified service 52  
provider as its agent shall not be entitled to the discount if 53  
the certified service provider receives a monetary allowance 54  
pursuant to section 5739.06 of the Revised Code for performing 55  
the vendor's sales and use tax functions in this state. Amounts 56  
paid to the clerk of courts pursuant to section 4505.06 of the 57  
Revised Code shall be subject to the applicable discount. The 58  
discount shall be in consideration for prompt payment to the 59  
clerk of courts and for other services performed by the vendor 60  
in the collection of the tax. 61

(C) (1) Upon application to the tax commissioner, a vendor 62  
who is required to file monthly returns may be relieved of the 63  
requirement to report and pay the actual tax due, provided that 64  
the vendor agrees to remit to the commissioner payment of not 65  
less than an amount determined by the commissioner to be the 66  
average monthly tax liability of the vendor, based upon a review 67  
of the returns or other information pertaining to such vendor 68  
for a period of not less than six months nor more than two years 69  
immediately preceding the filing of the application. Vendors who 70  
agree to the above conditions shall make and file an annual or 71  
semiannual reconciliation return, as prescribed by the 72  
commissioner. The reconciliation return shall be filed 73  
electronically as directed by the tax commissioner, and payment 74  
of the amount of tax shown to be due thereon, after deduction of 75  
any discount provided in this section, shall be made 76  
electronically in a manner approved by the commissioner. Failure 77  
of a vendor to comply with any of the above conditions may 78  
result in immediate reinstatement of the requirement of 79  
reporting and paying the actual tax liability on each monthly 80

return, and the commissioner may at the commissioner's 81  
discretion deny the vendor the right to report and pay based 82  
upon the average monthly liability for a period not to exceed 83  
two years. The amount ascertained by the commissioner to be the 84  
average monthly tax liability of a vendor may be adjusted, based 85  
upon a review of the returns or other information pertaining to 86  
the vendor for a period of not less than six months nor more 87  
than two years preceding such adjustment. 88

(2) The commissioner may authorize vendors whose tax 89  
liability is not such as to merit monthly returns, as 90  
ascertained by the commissioner upon the basis of administrative 91  
costs to the state, to make and file returns at less frequent 92  
intervals. When returns are filed at less frequent intervals in 93  
accordance with such authorization, the vendor shall be allowed 94  
the discount provided in this section in consideration for 95  
prompt payment with the return, provided the return is filed and 96  
payment is made of the amount of tax shown to be due thereon, at 97  
the time specified by the commissioner, but a vendor that has 98  
selected a certified service provider as its agent shall not be 99  
entitled to the discount. 100

(D) Any vendor who fails to file a return or, except as 101  
authorized under section 5739.28 of the Revised Code, to pay the 102  
full amount of the tax shown on the return to be due in the 103  
manner prescribed under this section and the rules of the 104  
commissioner may, for each such return, be required to forfeit 105  
and pay into the state treasury an additional charge not 106  
exceeding fifty dollars or ten per cent of the tax required to 107  
be paid for the reporting period, whichever is greater, as 108  
revenue arising from the tax imposed by this chapter, and such 109  
sum may be collected by assessment in the manner provided in 110  
section 5739.13 of the Revised Code. The commissioner may remit 111

all or a portion of the additional charge and may adopt rules 112  
relating to the imposition and remission of the additional 113  
charge. 114

(E) If the amount required to be collected by a vendor 115  
from consumers is in excess of the applicable percentage of the 116  
vendor's receipts from sales that are taxable under section 117  
5739.02 of the Revised Code, or in the case of sales subject to 118  
a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 119  
of the Revised Code, in excess of the percentage equal to the 120  
aggregate rate of such taxes and the tax levied by section 121  
5739.02 of the Revised Code, such excess shall be remitted along 122  
with the remittance of the amount of tax due under section 123  
5739.10 of the Revised Code. 124

(F) The commissioner, if the commissioner deems it 125  
necessary in order to insure the payment of the tax imposed by 126  
this chapter, may require returns and payments to be made for 127  
other than monthly periods. 128

(G) Any vendor required to file a return and pay the tax 129  
under this section whose total payment for a year equals or 130  
exceeds the amount shown in division (A) of section 5739.122 of 131  
the Revised Code is subject to the accelerated tax payment 132  
requirements in divisions (B) and (C) of that section. For a 133  
vendor that operates from multiple locations or has multiple 134  
vendor's licenses, in determining whether the vendor's total 135  
payment equals or exceeds the amount shown in division (A) of 136  
that section, the vendor's total payment amount shall be the 137  
amount of the vendor's total tax liability for the previous 138  
calendar year for all of the vendor's locations or licenses. 139

**Sec. 5739.28.** (A) As used in this section: 140

(1) "Qualifying retailer" means a vendor that is an 141  
organization exempt from federal income taxation under section 142  
501(a) of the Internal Revenue Code, as described in section 143  
501(c)(3) of the Internal Revenue Code, that has been certified 144  
by the director of development under division (B) of this 145  
section as satisfying both of the following conditions: 146

(a) Operates one or more retail stores that routinely sell 147  
tangible personal property donated to the vendor; 148

(b) Has experience in providing and uses a portion of its 149  
revenue to provide job training and placement services and 150  
employment to individuals with workplace disadvantages. 151

(2) "Workplace disadvantages" means disabilities and other 152  
barriers to employment including mental health issues, criminal 153  
history, veteran status, and homelessness. 154

(B) A vendor may apply to the director of development to 155  
be certified as a qualifying retailer on a form and in the 156  
manner that the director shall prescribe. The vendor shall 157  
include with the application records of the number of 158  
individuals trained and employed through workforce development 159  
programs offered by the vendor and any other information the 160  
director may require to determine whether the vendor qualifies 161  
as a qualifying retailer. The director shall issue a 162  
determination to the vendor within thirty days after receiving 163  
an application. If the application is approved, the director 164  
shall certify the determination to the tax commissioner and 165  
issue a certificate to the vendor. If the application is denied, 166  
the director shall inform the vendor of the reason for the 167  
denial. 168

(C) Except as provided in division (D) of this section, a 169

qualifying retailer may retain up to twenty-five per cent of the 170  
revenue the vendor receives from collecting the tax levied under 171  
section 5739.02 of the Revised Code from consumers on the sale 172  
of tangible personal property donated to the vendor. A 173  
qualifying retailer shall report the amount retained for each 174  
applicable time period on the vendor's return filed under 175  
section 5739.12 of the Revised Code. 176

Retained revenue shall be used by a qualifying retailer 177  
exclusively to fund job training and placement services for 178  
individuals with workplace disadvantages. Not later than the 179  
thirty-first day of January of each year, a qualifying retailer 180  
shall file a report with the department of development 181  
accounting for the use of funds retained in the preceding year 182  
and listing the number of individuals served by the retailer's 183  
workforce programs in that year. The department shall review 184  
each report to ensure compliance with this division and notify 185  
the tax commissioner of any noncompliance. The department shall 186  
not conduct such a review more than four years after the last 187  
day of the year covered by the report. 188

The tax commissioner may make an assessment under section 189  
5739.13 of the Revised Code to recover any taxes retained under 190  
this section that a qualifying retailer did not use for purposes 191  
authorized under this section. 192

(D) A qualifying retailer shall not retain more than one 193  
million dollars in revenue under this section in any calendar 194  
year. The retention of revenue in excess of this limitation by a 195  
qualifying retailer shall be treated as a failure to pay the 196  
full amount of tax under division (D) of section 5739.12 of the 197  
Revised Code. 198

**Sec. 5739.99.** (A) Whoever violates section 5739.26 or 199

5739.29 of the Revised Code shall be fined not less than twenty- 200  
five nor more than one hundred dollars for a first offense; for 201  
each subsequent offense such person shall, if a corporation, be 202  
fined not less than one hundred nor more than five hundred 203  
dollars, or if an individual, or a member of a partnership, 204  
firm, or association, be fined not less than twenty-five nor 205  
more than one hundred dollars, or imprisoned not more than sixty 206  
days, or both. 207

(B) Whoever violates division (A) of section 5739.30 of 208  
the Revised Code shall be fined not less than one hundred nor 209  
more than one thousand dollars, or imprisoned not more than 210  
sixty days, or both. 211

(C) (1) Whoever violates division (A) (1) of section 5739.31 212  
of the Revised Code shall be fined not less than twenty-five nor 213  
more than one hundred dollars. If the offender previously has 214  
been convicted of a violation of division (A) (1) of section 215  
5739.31 of the Revised Code, the offender is guilty of a felony 216  
of the fourth degree. 217

(2) Whoever violates division (A) (2) of section 5739.31 of 218  
the Revised Code shall be fined not less than one hundred 219  
dollars nor more than five hundred dollars, or imprisoned for 220  
not more than ten days, or both, for the first offense; for each 221  
subsequent offense, each such person shall be fined not less 222  
than one thousand dollars nor more than twenty-five hundred 223  
dollars, or imprisoned not more than thirty days, or both. The 224  
motor vehicles and goods of any person charged with violating 225  
division (A) (2) of section 5739.31 of the Revised Code may be 226  
impounded and held pending the disposition of the charge, and 227  
may be sold at auction by the county sheriff in the manner 228  
prescribed by law to satisfy any fine imposed by this division. 229



(3) Whoever violates division (B) of section 5739.31 of the Revised Code is guilty of a felony of the fourth degree. Each day that business is conducted while a vendor's license is suspended constitutes a separate offense.

(D) Except as otherwise provided in this section, whoever violates sections 5739.01 to 5739.31 of the Revised Code, or any lawful rule promulgated by the department of taxation under authority of such sections, shall be fined not less than twenty-five nor more than one hundred dollars.

(E) Whoever violates section 5739.12 of the Revised Code by failing to remit to the state the tax collected under section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code, except as authorized under section 5739.28 of the Revised Code, is guilty of a felony of the fourth degree and shall suffer the loss of the person's vendor's license as required by section 5739.17 of the Revised Code. A person shall not be eligible for a vendor's license for two years following conviction.

(F) Whoever violates division (E) of section 5739.17 of the Revised Code is guilty of failure to display a transient vendor's license, a minor misdemeanor. A sheriff or police officer in a municipal corporation may enforce this division. The prosecuting attorney of a county shall inform the tax commissioner of any instance when a complaint is brought against a transient vendor pursuant to this division.

(G) Whoever violates section 5739.103 of the Revised Code shall be fined not less than twenty-five nor more than one hundred dollars. If the offender previously has been convicted of violating that section, the offender is guilty of a felony of the fourth degree.

(H) The penalties provided in this section are in addition 259  
to any penalties imposed by the tax commissioner under section 260  
5739.133 of the Revised Code. 261

**Section 2.** That existing sections 5739.12 and 5739.99 of 262  
the Revised Code are hereby repealed. 263

**Section 3.** Section 5739.99 of the Revised Code is 264  
presented in this act as a composite of the section as amended 265  
by both S.B. 143 and S.B. 200 of the 124th General Assembly. The 266  
General Assembly, applying the principle stated in division (B) 267  
of section 1.52 of the Revised Code that amendments are to be 268  
harmonized if reasonably capable of simultaneous operation, 269  
finds that the composite is the resulting version of the section 270  
in effect prior to the effective date of the section as 271  
presented in this act. 272