

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1905 Session of
2017

INTRODUCED BY DIAMOND, COX AND DUSH, NOVEMBER 6, 2017

REFERRED TO COMMITTEE ON FINANCE, NOVEMBER 6, 2017

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in sales and use tax, further providing for
11 definitions, for imposition of tax and for computation of
12 tax, repealing provisions relating to exclusions from tax and
13 further providing for alternate imposition of tax and credits
14 and for transfers to Public Transportation Assistance Fund;
15 and, in special taxing authority, further providing for
16 special taxing authority.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 201(a), (b)(4), (c)(5) and last clause,
20 (d)(13), (f)(3) and last clause, (g)(1), (i)(4), (k)(4), (8) and
21 (10), (o)(4), (6) and (8), (p), (t)(2) and (3), (x), (y), (z),
22 (aa), (bb), (cc), (kk), (ll)(3), (nn), (pp)(10), (rr), (yy) and
23 (ccc) of the act of March 4, 1971 (P.L.6, No.2), known as the
24 Tax Reform Code of 1971, amended or added July 13, 2016
25 (P.L.526, No.84), are amended to read:

1 Section 201. Definitions.--The following words, terms and
2 phrases when used in this Article II shall have the meaning
3 ascribed to them in this section, except where the context
4 clearly indicates a different meaning:

5 (a) "Soft drinks." All nonalcoholic beverages, whether
6 carbonated or not, such as soda water, ginger ale, coca cola,
7 lime cola, pepsi cola, Dr. Pepper, fruit juice when plain or
8 carbonated water, flavoring or syrup is added, carbonated water,
9 orangeade, lemonade, root beer or any and all preparations,
10 commonly referred to as "soft drinks," of whatsoever kind, and
11 are further described as including any and all beverages,
12 commonly referred to as "soft drinks," which are made with or
13 without the use of any syrup. [The term "soft drinks" shall not
14 include natural fruit or vegetable juices or their concentrates,
15 or non-carbonated fruit juice drinks containing not less than
16 twenty-five per cent by volume of natural fruit juices or of
17 fruit juice which has been reconstituted to its original state,
18 or natural concentrated fruit or vegetable juices reconstituted
19 to their original state, whether any of the foregoing natural
20 juices are frozen or unfrozen, sweetened or unsweetened,
21 seasoned with salt or spice or unseasoned, nor shall the term
22 "soft drinks" include coffee, coffee substitutes, tea, cocoa,
23 natural fluid milk or non-carbonated drinks made from milk
24 derivatives.]

25 (b) "Maintaining a place of business in this Commonwealth."

26 * * *

27 [(4) The term "maintaining a place of business in this
28 Commonwealth" shall not include:

29 (i) Owning or leasing of tangible or intangible property by
30 a person who has contracted with an unaffiliated commercial

1 printer for printing, provided that:

2 (A) the property is for use by the commercial printer; and

3 (B) the property is located at the Pennsylvania premises of
4 the commercial printer.

5 (ii) Visits by a person's employes or agents to the premises
6 in this Commonwealth of an unaffiliated commercial printer with
7 whom the person has contracted for printing in connection with
8 said contract.]

9 (c) "Manufacture." The performance of manufacturing,
10 fabricating, compounding, processing or other operations,
11 engaged in as a business, which place any tangible personal
12 property in a form, composition or character different from that
13 in which it is acquired whether for sale or use by the
14 manufacturer, and shall include, but not be limited to--

15 * * *

16 (5) Research having as its objective the production of a new
17 or an improved (i) product or utility service, or (ii) method of
18 producing a product or utility service[, but in either case not
19 including market research or research having as its objective
20 the improvement of administrative efficiency].

21 * * *

22 [The term "manufacture" shall not include constructing,
23 altering, servicing, repairing or improving real estate or
24 repairing, servicing or installing tangible personal property,
25 nor the producing of a commercial motion picture, nor the
26 cooking, freezing or baking of fruits, vegetables, mushrooms,
27 fish, seafood, meats, poultry or bakery products.]

28 * * *

29 (d) "Processing." The performance of the following
30 activities when engaged in as a business enterprise:

1 * * *

2 (13) The cooking or baking of bread, pastries, cakes,
3 cookies, muffins and donuts when the person engaged in such
4 activity sells such items at retail at locations that do not
5 constitute an establishment from which ready-to-eat food and
6 beverages are sold. [For purposes of this clause, a bakery, a
7 pastry shop and a donut shop shall not be considered an
8 establishment from which ready-to-eat food and beverages are
9 sold.]

10 * * *

11 (f) "Purchase at retail."

12 * * *

13 (3) The obtaining for a consideration of those services
14 described in subclauses (2), (3) and (4) of clause (k) of this
15 section [other than for resale].

16 * * *

17 The term "purchase at retail" with respect to "liquor" and
18 "malt or brewed beverages" shall include the purchase of
19 "liquor" from any "Pennsylvania Liquor Store" by any person for
20 any purpose, and the purchase of "malt or brewed beverages" from
21 a "manufacturer of malt or brewed beverages," "distributor" or
22 "importing distributor" by any person for any purpose, except
23 purchases from a "manufacturer of malt or brewed beverages" by a
24 "distributor" or "importing distributor" or purchases from an
25 "importing distributor" by a "distributor" within the meaning of
26 the "Liquor Code." The term ["purchase at retail" shall not
27 include any purchase of "malt or brewed beverages" from a
28 "retail dispenser" or any purchase of "liquor" or "malt or
29 brewed beverages" from a person holding a "retail liquor
30 license" within the meaning of and pursuant to the provisions of

1 the "Liquor Code," but] shall include any purchase or
2 acquisition of "liquor" or "malt or brewed beverages" other than
3 pursuant to the provisions of the "Liquor Code."

4 (g) "Purchase price."

5 (1) The total value of anything paid or delivered, or
6 promised to be paid or delivered, whether it be money or
7 otherwise, in complete performance of a sale at retail or
8 purchase at retail, as herein defined, without any deduction on
9 account of the cost or value of the property sold, cost or value
10 of transportation, cost or value of labor or service, interest
11 or discount paid or allowed after the sale is consummated, any
12 other taxes imposed by the Commonwealth of Pennsylvania or any
13 other expense [except that there shall be excluded any gratuity
14 or separately stated deposit charge for returnable containers].

15 * * *

16 (i) "Resale."

17 * * *

18 [(4) The term "resale" shall not include any sale of "malt
19 or brewed beverages" by a "retail dispenser," or any sale of
20 "liquor" or "malt or brewed beverages" by a person holding a
21 "retail liquor license" within the meaning of the "Liquor
22 Code."]

23 * * *

24 (k) "Sale at retail."

25 * * *

26 (4) The rendition for a consideration of the service of
27 repairing, altering, mending, pressing, fitting, dyeing,
28 laundering, drycleaning or cleaning tangible personal property
29 other than wearing apparel or shoes, or applying or installing
30 tangible personal property as a repair or replacement part of

1 other tangible personal property except wearing apparel or shoes
2 for a consideration, whether or not the services are performed
3 directly or by any means other than by coin-operated self-
4 service laundry equipment for wearing apparel or household goods
5 and whether or not any tangible personal property is transferred
6 in conjunction therewith[, except such services as are rendered
7 in the construction, reconstruction, remodeling, repair or
8 maintenance of real estate: Provided, however, That this
9 subclause shall not be deemed to impose tax upon such services
10 in the preparation for sale of new items which are excluded from
11 the tax under clause (26) of section 204, or upon diaper
12 service].

13 * * *

14 (8) Any retention of possession, custody or a license to use
15 or consume tangible personal property or any further obtaining
16 of services described in subclauses (2), (3) and (4) of this
17 clause pursuant to a rental or service contract or other
18 arrangement (other than as security).

19 [The term "sale at retail" shall not include (i) any such
20 transfer of tangible personal property or rendition of services
21 for the purpose of resale, or (ii) such rendition of services or
22 the transfer of tangible personal property including, but not
23 limited to, machinery and equipment and parts therefor and
24 supplies to be used or consumed by the purchaser directly in the
25 operations of--

26 (A) The manufacture of tangible personal property.

27 (B) Farming, dairying, agriculture, timbering, horticulture
28 or floriculture when engaged in as a business enterprise. The
29 term "farming" shall include the propagation and raising of
30 ranch raised fur-bearing animals and the propagation of game

1 birds for commercial purposes by holders of propagation permits
2 issued under 34 Pa.C.S. (relating to game) and the propagation
3 and raising of horses to be used exclusively for commercial
4 racing activities. The term "timbering" shall include:

5 (1) The business of producing or harvesting trees from
6 forests, woodlots or tree farms for the purpose of the
7 commercial production of wood, paper or energy products derived
8 from wood by a company primarily engaged in the business of
9 harvesting trees.

10 (2) All operations prior to the transport of the harvested
11 product necessary for the removal of timber or forest products
12 from the site, in-field processing of trees into logs or chips,
13 complying with environmental protection and safety requirements
14 applicable to the harvesting of forest products, loading of
15 forest products onto highway vehicles for transport to storage
16 or processing facilities and postharvesting site reclamation,
17 including those activities necessary to improve timber growth or
18 ensure natural or direct reforestation of the site. The term
19 shall not include the harvesting of trees for clearing land for
20 access roads.

21 (C) The producing, delivering or rendering of a public
22 utility service, or in constructing, reconstructing, remodeling,
23 repairing or maintaining the facilities which are directly used
24 in producing, delivering or rendering such service.

25 (D) Processing as defined in clause (d) of this section.

26 The exclusions provided in paragraphs (A), (B), (C) and (D)
27 shall not apply to any vehicle required to be registered under
28 The Vehicle Code, except those vehicles used directly by a
29 public utility engaged in business as a common carrier; to
30 maintenance facilities; or to materials, supplies or equipment

1 to be used or consumed in the construction, reconstruction,
2 remodeling, repair or maintenance of real estate other than
3 directly used machinery, equipment, parts or foundations
4 therefor that may be affixed to such real estate.

5 The exclusions provided in paragraphs (A), (B), (C) and (D)
6 shall not apply to tangible personal property or services to be
7 used or consumed in managerial sales or other nonoperational
8 activities, nor to the purchase or use of tangible personal
9 property or services by any person other than the person
10 directly using the same in the operations described in
11 paragraphs (A), (B), (C) and (D) herein.

12 The exclusion provided in paragraph (C) shall not apply to
13 (i) construction materials, supplies or equipment used to
14 construct, reconstruct, remodel, repair or maintain facilities
15 not used directly by the purchaser in the production, delivering
16 or rendition of public utility service, (ii) construction
17 materials, supplies or equipment used to construct, reconstruct,
18 remodel, repair or maintain a building, road or similar
19 structure, or (iii) tools and equipment used but not installed
20 in the maintenance of facilities used directly in the
21 production, delivering or rendition of a public utility service.

22 The exclusions provided in paragraphs (A), (B), (C) and (D)
23 shall not apply to the services enumerated in clauses (k)(11)
24 through (18) and (w) through (kk), except that the exclusion
25 provided in this subclause for farming, dairying and agriculture
26 shall apply to the service enumerated in clause (z).]

27 * * *

28 (10) The term "sale at retail" with respect to "liquor" and
29 "malt or brewed beverages" shall include the sale of "liquor" by
30 any "Pennsylvania liquor store" to any person for any purpose,

1 and the sale of "malt or brewed beverages" by a "manufacturer of
2 malt or brewed beverages," "distributor" or "importing
3 distributor" to any person for any purpose, except sales by a
4 "manufacturer of malt or brewed beverages" to a "distributor" or
5 "importing distributor" or sales by an "importing distributor"
6 to a "distributor" within the meaning of the "Liquor Code." [The
7 term "sale at retail" shall not include any sale of "malt or
8 brewed beverages" by a "retail dispenser" or any sale of
9 "liquor" or "malt or brewed beverages" by a person holding a
10 "retail liquor license" within the meaning of and pursuant to
11 the provisions of the "Liquor Code," but shall include any sale
12 of "liquor" or "malt or brewed beverages" other than pursuant to
13 the provisions of the "Liquor Code."]

14 * * *

15 (o) "Use."

16 * * *

17 (4) The obtaining by a purchaser of the service of
18 repairing, altering, mending, pressing, fitting, dyeing,
19 laundering, drycleaning or cleaning tangible personal property
20 other than wearing apparel or shoes or applying or installing
21 tangible personal property as a repair or replacement part of
22 other tangible personal property other than wearing apparel or
23 shoes, whether or not the services are performed directly or by
24 any means other than by means of coin-operated self-service
25 laundry equipment for wearing apparel or household goods, and
26 whether or not any tangible personal property is transferred to
27 the purchaser in conjunction therewith, except such services as
28 are obtained in the construction, reconstruction, remodeling,
29 repair or maintenance of real estate[: Provided, however, That
30 this subclause shall not be deemed to impose tax upon such

1 services in the preparation for sale of new items which are
2 excluded from the tax under clause (26) of section 204, or upon
3 diaper service: And provided further, That the term "use" shall
4 not include--

5 (A) Any tangible personal property acquired and kept,
6 retained or over which power is exercised within this
7 Commonwealth on which the taxing of the storage, use or other
8 consumption thereof is expressly prohibited by the Constitution
9 of the United States or which is excluded from tax under other
10 provisions of this article.

11 (B) The use or consumption of tangible personal property,
12 including but not limited to machinery and equipment and parts
13 therefor, and supplies or the obtaining of the services
14 described in subclauses (2), (3) and (4) of this clause directly
15 in the operations of--

16 (i) The manufacture of tangible personal property.

17 (ii) Farming, dairying, agriculture, timbering, horticulture
18 or floriculture when engaged in as a business enterprise. The
19 term "farming" shall include the propagation and raising of
20 ranch-raised furbearing animals and the propagation of game
21 birds for commercial purposes by holders of propagation permits
22 issued under 34 Pa.C.S. (relating to game) and the propagation
23 and raising of horses to be used exclusively for commercial
24 racing activities. The term "timbering" shall include:

25 (1) The business of producing or harvesting trees from
26 forests, woodlots or tree farms for the purpose of the
27 commercial production of wood, paper or energy products derived
28 from wood by a company primarily engaged in the business of
29 harvesting trees.

30 (2) All operations prior to the transport of the harvested

1 product necessary for the removal of timber or forest products
2 from the site, in-field processing of trees into logs or chips,
3 complying with environmental protection and safety requirements
4 applicable to the harvesting of forest products, loading of
5 forest products onto highway vehicles for transport to storage
6 or processing facilities and postharvesting site reclamation,
7 including those activities necessary to improve timber growth or
8 ensure natural or direct reforestation of the site. The term
9 shall not include the harvesting of trees for clearing land for
10 access roads.

11 (iii) The producing, delivering or rendering of a public
12 utility service, or in constructing, reconstructing, remodeling,
13 repairing or maintaining the facilities which are directly used
14 in producing, delivering or rendering such service.

15 (iv) Processing as defined in subclause (d) of this section.

16 The exclusions provided in subparagraphs (i), (ii), (iii) and
17 (iv) shall not apply to any vehicle required to be registered
18 under The Vehicle Code except those vehicles directly used by a
19 public utility engaged in the business as a common carrier; to
20 maintenance facilities; or to materials, supplies or equipment
21 to be used or consumed in the construction, reconstruction,
22 remodeling, repair or maintenance of real estate other than
23 directly used machinery, equipment, parts or foundations
24 therefor that may be affixed to such real estate. The exclusions
25 provided in subparagraphs (i), (ii), (iii) and (iv) shall not
26 apply to tangible personal property or services to be used or
27 consumed in managerial sales or other nonoperational activities,
28 nor to the purchase or use of tangible personal property or
29 services by any person other than the person directly using the
30 same in the operations described in subparagraphs (i), (ii),

1 (iii) and (iv).

2 The exclusion provided in subparagraph (iii) shall not apply
3 to (A) construction materials, supplies or equipment used to
4 construct, reconstruct, remodel, repair or maintain facilities
5 not used directly by the purchaser in the production, delivering
6 or rendition of public utility service or (B) tools and
7 equipment used but not installed in the maintenance of
8 facilities used directly in the production, delivering or
9 rendition of a public utility service.

10 The exclusion provided in subparagraphs (i), (ii), (iii) and
11 (iv) shall not apply to the services enumerated in clauses (o)
12 (9) through (16) and (w) through (kk), except that the exclusion
13 provided in subparagraph (ii) for farming, dairying and
14 agriculture shall apply to the service enumerated in clause
15 (z)].

16 * * *

17 (6) The term "use" with respect to "liquor" and "malt or
18 brewed beverages" shall include the purchase of "liquor" from
19 any "Pennsylvania liquor store" by any person for any purpose
20 and the purchase of "malt or brewed beverages" from a
21 "manufacturer of malt or brewed beverages," "distributor" or
22 "importing distributor" by any person for any purpose, [except
23 purchases from a "manufacturer of malt or brewed beverages" by a
24 "distributor" or "importing distributor," or purchases from an
25 "importing distributor" by a "distributor" within the meaning of
26 the "Liquor Code." The term "use" shall not include any purchase
27 of "malt or brewed beverages" from a "retail dispenser" or any
28 purchase of "liquor" or "malt or brewed beverages" from a person
29 holding a "retail liquor license" within the meaning of and
30 pursuant to the provisions of the "Liquor Code,"] but shall

1 include the exercise of any right or power incidental to the
2 ownership, custody or possession of "liquor" or "malt or brewed
3 beverages" obtained by the person exercising such right or power
4 in any manner other than pursuant to the provisions of the
5 "Liquor Code."

6 * * *

7 [(8) The term "use" shall not include the providing of a
8 motor vehicle to a nonprofit private or public school to be used
9 by such a school for the sole purpose of driver education.]

10 * * *

11 (p) "Vendor." Any person maintaining a place of business in
12 this Commonwealth, selling or leasing tangible personal
13 property, or rendering services, the sale or use of which is
14 subject to the tax imposed by this article [but not including
15 any employe who in the ordinary scope of employment renders
16 services to his employer in exchange for wages and salaries].

17 * * *

18 (t) "Transient vendor."

19 * * *

20 [(2) The term shall not include a person who delivers
21 tangible personal property within the Commonwealth pursuant to
22 orders for such property which were solicited or placed by mail
23 or other means.

24 (3) The term shall not include a person who handcrafts items
25 for sale at special events, including, but not limited to,
26 fairs, carnivals, art and craft shows and other festivals and
27 celebrations within this Commonwealth.]

28 * * *

29 (x) "Adjustment services, collection services or credit
30 reporting services." Providing collection or adjustments of

1 accounts receivable or mercantile or consumer credit reporting,
2 including, but not limited to, services of the type provided by
3 adjustment bureaus or collection agencies, consumer or
4 mercantile credit reporting bureaus, credit bureaus or agencies,
5 credit clearinghouses or credit investigation services. [Such
6 services do not include providing credit card service with
7 collection by a central agency, providing debt counseling or
8 adjustment services to individuals or billing or collection
9 services provided by local exchange telephone companies.]

10 (y) "Secretarial or editing services." Providing services
11 which include, but are not limited to, editing, letter writing,
12 proofreading, resume writing, typing or word processing. [Such
13 services shall not include court reporting and stenographic
14 services.]

15 (z) "Disinfecting or pest control services." Providing
16 disinfecting, termite control, insect control, rodent control or
17 other pest control services. Such services include, but are not
18 limited to, deodorant servicing of rest rooms, washroom
19 sanitation service, rest room cleaning service, extermination
20 service or fumigating service. [As used in this clause, the term
21 "fumigating service" shall not include the fumigation of
22 agricultural commodities or containers used for agricultural
23 commodities. As used in this clause, the term "insect control"
24 shall not include the spraying of trees which are harvested for
25 commercial purposes for gypsy moth control.]

26 (aa) "Building maintenance or cleaning services." Providing
27 services which include, but are not limited to, janitorial, maid
28 or housekeeping service, office or interior building cleaning or
29 maintenance service, window cleaning service, floor waxing
30 service, lighting maintenance service such as bulb replacement,

1 cleaning, chimney cleaning service, acoustical tile cleaning
2 service, venetian blind cleaning, cleaning and maintenance of
3 telephone booths or cleaning and degreasing of service stations.
4 [This term shall not include repairs on buildings and other
5 structures; nor shall this term include the maintenance or
6 repair of boilers, furnaces and residential air conditioning
7 equipment or parts thereof; the painting, wallpapering or
8 applying other like coverings to interior walls, ceilings or
9 floors; or the exterior painting of buildings.]

10 (bb) "Employment agency services." Providing employment
11 services to a prospective employer or employe [other than
12 employment services provided by theatrical employment agencies
13 and motion picture casting bureaus]. Such services shall
14 include, but are not limited to, services of the type provided
15 by employment agencies, executive placing services and labor
16 contractor employment agencies other than farm labor.

17 (cc) "Help supply services." Providing temporary or
18 continuing help where the help supplied is on the payroll of the
19 supplying person or entity, but is under the supervision of the
20 individual or business to which help is furnished. Such services
21 include, but are not limited to, service of a type provided by
22 labor and manpower pools, employe leasing services, office help
23 supply services, temporary help services, usher services,
24 modeling services or fashion show model supply services. [Such
25 services shall not include providing farm labor services. The
26 term shall not include human health-related services, including
27 nursing, home health care and personal care.] As used in this
28 clause, "personal care" shall include providing at least one of
29 the following types of assistance to persons with limited
30 ability for self-care:

- 1 (1) dressing, bathing or feeding;
- 2 (2) supervising self-administered medication;
- 3 (3) transferring a person to or from a bed or wheelchair; or
- 4 (4) routine housekeeping chores when provided in conjunction
- 5 with and supplied by the same provider of the assistance listed
- 6 in subclause (1), (2) or (3).

7 * * *

8 (kk) "Self-storage service." Providing a building, a room
9 in a building or a secured area within a building with separate
10 access provided for each purchaser of self-storage service,
11 primarily for the purpose of storing personal property. [The
12 term excludes providing:

- 13 (1) safe deposit boxes by financial institutions;
- 14 (2) storage in refrigerator or freezer units;
- 15 (3) storage in commercial warehouses;
- 16 (4) facilities for goods distribution; and
- 17 (5) lockers in airports, bus stations, museums and other
- 18 public places.]

19 (ll) "Premium cable or premium video programming service."
20 That portion of cable television services, video programming
21 services, community antenna television services or any other
22 distribution of television, video, audio or radio services which
23 meets all of the following criteria:

24 * * *

25 (3) does not constitute a component of a basic service tier
26 provided by a cable television system or a cable programming
27 service tier provided by a cable television system. A basic
28 service tier shall include all signals of domestic television
29 broadcast stations, any public, educational, governmental or
30 religious programming and any additional video programming

1 signals or service added to the basic service tier by the cable
2 operator. The basic service tier shall also include a single
3 additional lower-priced package of broadcast channels and access
4 information channels which is a subset of the basic service tier
5 as set forth above. A cable programming service tier includes
6 any video programming other than: (i) the basic service tier;
7 (ii) video programming offered on a pay-per-channel or pay-per-
8 view basis; or (iii) a combination of multiple channels of pay-
9 per-channel or pay-per-view programming offered as a package.
10 If a purchaser receives or agrees to receive premium cable or
11 premium video programming service, then the following charges
12 are included in the purchase price: charges for installation or
13 repair of any premium cable or premium video programming
14 service, upgrade to include additional premium cable or premium
15 video programming service, downgrade to exclude all or some
16 premium cable or premium video programming service, additional
17 premium cable outlets in excess of ten or any other charge or
18 fee related to premium cable or premium video programming
19 services. [The term shall not apply to transmissions by public
20 television, public radio services or official Federal, State or
21 local government cable services. Nor shall the term apply to
22 local origination programming which provides a variety of public
23 service programs unique to the community, programming which
24 provides coverage of public affairs issues which are presented
25 without commentary or analysis, including United States
26 Congressional proceedings, or programming which is substantially
27 related to religious subjects. Nor shall the term "premium cable
28 or premium video programming service" apply to subscriber
29 charges for access to a video dial tone system or charges by a
30 common carrier to a video programmer for the transport of video

1 programming.]

2 (nn) "Construction contract." A written or oral contract or
3 agreement for the construction, reconstruction, remodeling,
4 renovation or repair of real estate or a real estate structure.
5 [The term shall not apply to services which are taxable under
6 clauses (k)(14) and (17) and (o)(12) and (15).]

7 * * *

8 (pp) "Building machinery and equipment." Generation
9 equipment, storage equipment, conditioning equipment,
10 distribution equipment and termination equipment, which shall be
11 limited to the following:

12 * * *

13 (10) furniture, cabinetry and kitchen equipment.

14 The term shall include boilers, chillers, air cleaners,
15 humidifiers, fans, switchgear, pumps, telephones, speakers,
16 horns, motion detectors, dampers, actuators, grills, registers,
17 traffic signals, sensors, card access devices, guardrails,
18 medial devices, floor troughs and grates and laundry equipment,
19 together with integral coverings and enclosures, whether or not
20 the item constitutes a fixture or is otherwise affixed to the
21 real estate, whether or not damage would be done to the item or
22 its surroundings upon removal or whether or not the item is
23 physically located within a real estate structure. [The term
24 "building machinery and equipment" shall not include guardrail
25 posts, pipes, fittings, pipe supports and hangers, valves,
26 underground tanks, wire, conduit, receptacle and junction boxes,
27 insulation, ductwork and coverings thereof.]

28 * * *

29 (rr) "Telecommunications service." Any one-way transmission
30 or any two-way, interactive transmission of sounds, signals or

1 other intelligence converted to like form which effects or is
2 intended to effect meaningful communications by electronic or
3 electromagnetic means via wire, cable, satellite, light waves,
4 microwaves, radio waves or other transmission media. The term
5 includes all types of telecommunication transmissions, such as
6 local, toll, wide-area or any other type of telephone service;
7 private line service; telegraph service; radio repeater service;
8 wireless communication service; personal communications system
9 service; cellular telecommunication service; specialized mobile
10 radio service; stationary two-way radio service; and paging
11 service. [The term does not include any of the following:

12 (1) Subscriber charges for access to a video dial tone
13 system.

14 (2) Charges to video programmers for the transport of video
15 programming.

16 (3) Charges for access to the Internet. Access to the
17 Internet does not include any of the following:

18 (A) The transport over the Internet or any proprietary
19 network using the Internet protocol of telephone calls,
20 facsimile transmissions or other telecommunications traffic to
21 or from end users on the public switched telephone network if
22 the signal sent from or received by an end user is not in an
23 Internet protocol.

24 (B) Telecommunication services purchased by an Internet
25 service provider to deliver access to the Internet to its
26 customers.

27 (4) Mobile telecommunications services.]

28 * * *

29 (yy) "Prebuilt housing sale." A sale of prebuilt housing to
30 a prebuilt housing purchaser, including a sale to a landlord,

1 without regard to whether the person making the sale is
2 responsible for installing the prebuilt housing or whether the
3 prebuilt housing becomes a real estate structure upon
4 installation. [Temporary installation by a prebuilt housing
5 builder for display purposes of a unit held for resale shall not
6 be considered occupancy for residential purposes.]

7 * * *

8 (ccc) "Prepaid mobile telecommunications service." Mobile
9 telecommunications service which is paid for in advance and
10 which enables the origination of calls using an access number,
11 authorization code or both, whether manually or electronically
12 dialed, if the remaining amount of units of the prepaid mobile
13 telecommunications service is known by the service provider of
14 the prepaid mobile telecommunications service on a continuous
15 basis. [The term does not include the advance purchase of mobile
16 telecommunications service if the purchase is pursuant to a
17 service contract between the service provider and customer and
18 if the service contract requires the customer to make periodic
19 payments to maintain the mobile telecommunications service.]

20 Section 2. Sections 202 and 203 of the act are amended to
21 read:

22 Section 202. Imposition of Tax.--(a) There is hereby
23 imposed upon each separate sale at retail of tangible personal
24 property or services, as defined herein, within this
25 Commonwealth a tax of [six] one and nine-tenths per cent of the
26 purchase price, which tax shall be collected by the vendor from
27 the purchaser, and shall be paid over to the Commonwealth as
28 herein provided.

29 (b) There is hereby imposed upon the use, on and after the
30 effective date of this article, within this Commonwealth of

1 tangible personal property purchased at retail on or after the
2 effective date of this article, and on those services described
3 herein purchased at retail on and after the effective date of
4 this article, a tax of [six] one and nine-tenths per cent of the
5 purchase price, which tax shall be paid to the Commonwealth by
6 the person who makes such use as herein provided, except that
7 such tax shall not be paid to the Commonwealth by such person
8 where he has paid the tax imposed by subsection (a) of this
9 section or has paid the tax imposed by this subsection (b) to
10 the vendor with respect to such use. The tax at the rate of
11 [six] one and nine-tenths per cent imposed by this subsection
12 shall not be deemed applicable where the tax has been incurred
13 under the provisions of the "Tax Act of 1963 for Education."

14 (c) Notwithstanding any other provisions of this article,
15 the tax with respect to telecommunications service within the
16 meaning of clause (m) of section 201 of this article shall,
17 except for telegrams paid for in cash at telegraph offices, be
18 computed at the rate of [six] one and nine-tenths per cent upon
19 the total amount charged to customers for such services,
20 irrespective of whether such charge is based upon a flat rate or
21 upon a message unit charge[, but in no event shall charges for
22 telephone calls paid for by inserting money into a telephone
23 accepting direct deposits of money to operate be subject to this
24 tax]. A telecommunications service provider shall have no
25 responsibility or liability to the Commonwealth for billing,
26 collecting or remitting taxes that apply to services, products
27 or other commerce sold over telecommunications lines by third-
28 party vendors. To prevent actual multistate taxation of
29 interstate telecommunications service, any taxpayer, upon proof
30 that the taxpayer has paid a similar tax to another state on the

1 same interstate telecommunications service, shall be allowed a
2 credit against the tax imposed by this section on the same
3 interstate telecommunications service to the extent of the
4 amount of such tax properly due and paid to such other state.

5 (d) Notwithstanding any other provisions of this article,
6 the sale or use of food and beverages dispensed by means of coin
7 operated vending machines shall be taxed at the rate of [six]
8 two per cent of the receipts collected from any such machine
9 which dispenses food and beverages heretofore taxable.

10 (e) (1) Notwithstanding any provisions of this article, the
11 sale or use of prepaid telecommunications evidenced by the
12 transfer of tangible personal property shall be subject to the
13 tax imposed by subsections (a) and (b).

14 (2) The sale or use of prepaid telecommunications not
15 evidenced by the transfer of tangible personal property shall be
16 subject to the tax imposed by subsections (a) and (b) and shall
17 be deemed to occur at the purchaser's billing address.

18 (3) Notwithstanding clause (2), the sale or use of prepaid
19 telecommunications service not evidenced by the transfer of
20 tangible personal property shall be taxed at the rate of [six]
21 two per cent of the receipts collected on each sale if the
22 service provider elects to collect the tax imposed by this
23 article on receipts of each sale. The service provider shall
24 notify the department of its election and shall collect the tax
25 on receipts of each sale until the service provider notifies the
26 department otherwise.

27 (e.1) (1) Notwithstanding any other provision of this
28 article, the sale or use of prepaid mobile telecommunications
29 service evidenced by the transfer of tangible personal property
30 shall be subject to the tax imposed by subsections (a) and (b).

1 (2) The sale or use of prepaid mobile telecommunications
2 service not evidenced by the transfer of tangible personal
3 property shall be subject to the tax imposed by subsections (a)
4 and (b) and shall be deemed to occur at the purchaser's billing
5 address or the location associated with the mobile telephone
6 number or the point of sale, whichever is applicable.

7 (3) Notwithstanding clause (2), the sale or use of prepaid
8 mobile telecommunications service not evidenced by the transfer
9 of tangible personal property shall be taxed at the rate of
10 [six] one and nine-tenths per cent of the receipts collected on
11 each sale if the service provider elects to collect the tax
12 imposed by this article on receipts of each sale. The service
13 provider shall notify the department of its election and shall
14 collect the tax on receipts of each sale until the service
15 provider notifies the department otherwise.

16 (f) Notwithstanding any other provision of this article, tax
17 with respect to sales of prebuilt housing shall be imposed on
18 the prebuilt housing builder at the time of the prebuilt housing
19 sale within this Commonwealth and shall be paid and reported by
20 the prebuilt housing builder to the department in the time and
21 manner provided in this article: Provided, however, That a
22 manufacturer of prebuilt housing may, at its option, precollect
23 the tax from the prebuilt housing builder at the time of sale to
24 the prebuilt housing builder. In any case where prebuilt housing
25 is purchased and the tax is not paid by the prebuilt housing
26 builder or precollected by the manufacturer, the prebuilt
27 housing purchaser shall remit tax directly to the department if
28 the prebuilt housing is used in this Commonwealth without regard
29 to whether the prebuilt housing becomes a real estate structure.

30 (g) Notwithstanding any other provisions of this article and

1 in accordance with the Mobile Telecommunications Sourcing Act (4
2 U.S.C. § 116), the sale or use of mobile telecommunications
3 services which are deemed to be provided to a customer by a home
4 service provider under section 117(a) and (b) of the Mobile
5 Telecommunications Sourcing Act shall be subject to the tax of
6 [six] one and nine-tenths per cent of the purchase price, which
7 tax shall be collected by the home service provider from the
8 customer, and shall be paid over to the Commonwealth as herein
9 provided if the customer's place of primary use is located
10 within this Commonwealth, regardless of where the mobile
11 telecommunications services originate, terminate or pass
12 through. For purposes of this subsection, words and phrases used
13 in this subsection shall have the same meanings given to them in
14 the Mobile Telecommunications Sourcing Act.

15 Section 203. Computation of Tax.--The amount of tax imposed
16 by section 202 of this article shall be computed [as follows:

17 (a) If the purchase price is ten cents (10¢) or less, no tax
18 shall be collected.

19 (b) If the purchase price is eleven cents (11¢) or more but
20 less than eighteen cents (18¢), one cent (1¢) shall be
21 collected.

22 (c) If the purchase price is eighteen cents (18¢) or more
23 but less than thirty-five cents (35¢), two cents (2¢) shall be
24 collected.

25 (d) If the purchase price is thirty-five cents (35¢) or more
26 but less than fifty-one cents (51¢), three cents (3¢) shall be
27 collected.

28 (e) If the purchase price is fifty-one cents (51¢) or more
29 but less than sixty-eight cents (68¢), four cents (4¢) shall be
30 collected.

1 (f) If the purchase price is sixty-eight cents (68¢) or more
2 but less than eighty-five cents (85¢), five cents (5¢) shall be
3 collected.

4 (g) If the purchase price is eighty-five cents (85¢) or more
5 but less than one dollar and one cent (\$1.01), six cents (6¢)
6 shall be collected.

7 (h) If the purchase price is more than one dollar (\$1.00),
8 six per centum of each dollar of purchase price plus the above
9 bracket charges upon any fractional part of a dollar in excess
10 of even dollars shall be collected.] by the department. The
11 department shall publish the computation in the Pennsylvania
12 Bulletin.

13 Section 3. Section 204 of the act is repealed:

14 [Section 204. Exclusions from Tax.--The tax imposed by
15 section 202 shall not be imposed upon any of the following:

16 (1) The sale at retail or use of tangible personal property
17 (other than motor vehicles, trailers, semi-trailers, motor
18 boats, aircraft or other similar tangible personal property
19 required under either Federal law or laws of this Commonwealth
20 to be registered or licensed) or services sold by or purchased
21 from a person not a vendor in an isolated transaction or sold by
22 or purchased from a person who is a vendor but is not a vendor
23 with respect to the tangible personal property or services sold
24 or purchased in such transaction: Provided, That inventory and
25 stock in trade so sold or purchased, shall not be excluded from
26 the tax by the provisions of this subsection.

27 (2) The use of tangible personal property purchased by a
28 nonresident person outside of, and brought into this
29 Commonwealth for use therein for a period not to exceed seven
30 days, or for any period of time when such nonresident is a

1 tourist or vacationer and, in either case not consumed within
2 the Commonwealth.

3 (3) The use of tangible personal property purchased outside
4 this Commonwealth for use outside this Commonwealth by a then
5 nonresident natural person or a business entity not actually
6 doing business within this Commonwealth, who later brings such
7 tangible personal property into this Commonwealth in connection
8 with his establishment of a permanent business or residence in
9 this Commonwealth: Provided, That such property was purchased
10 more than six months prior to the date it was first brought into
11 this Commonwealth or prior to the establishment of such business
12 or residence, whichever first occurs. This exclusion shall not
13 apply to tangible personal property temporarily brought into
14 Pennsylvania for the performance of contracts for the
15 construction, reconstruction, remodeling, repairing and
16 maintenance of real estate.

17 (4) The sale at retail or use of disposable diapers; pre-
18 moistened wipes; incontinence products; colostomy deodorants;
19 toilet paper; sanitary napkins, tampons or similar items used
20 for feminine hygiene; or toothpaste, toothbrushes or dental
21 floss.

22 (5) The sale at retail or use of steam, natural and
23 manufactured and bottled gas, fuel oil, electricity or
24 intrastate subscriber line charges, basic local telephone
25 service or telegraph service when purchased directly by the user
26 thereof solely for his own residential use and charges for
27 telephone calls paid for by inserting money into a telephone
28 accepting direct deposits of money to operate.

29 (10) The sale at retail to or use by (i) any charitable
30 organization, volunteer firemen's organization, volunteer

1 firefighters' relief association as defined in 35 Pa.C.S. § 7412
2 (relating to definitions) or nonprofit educational institution,
3 or (ii) a religious organization for religious purposes of
4 tangible personal property or services other than pursuant to a
5 construction contract: Provided, however, That the exclusion of
6 this clause shall not apply with respect to any tangible
7 personal property or services used in any unrelated trade or
8 business carried on by such organization or institution or with
9 respect to any materials, supplies and equipment used and
10 transferred to such organization or institution in the
11 construction, reconstruction, remodeling, renovation, repairs
12 and maintenance of any real estate structure, other than
13 building machinery and equipment, except materials and supplies
14 when purchased by such organizations or institutions for routine
15 maintenance and repairs. If the department has issued sales tax-
16 exempt status to a volunteer firefighters' organization or a
17 volunteer firefighters' relief association, the sales tax-exempt
18 status may not expire unless the activities of the organization
19 or association change so that the organization or association
20 does not qualify as an institution of purely public charity in
21 which case the organization or association shall immediately
22 notify the department of the change. If the department
23 ascertains that an organization or association no longer
24 qualifies as an institution of purely public charity, the
25 department may revoke the sales tax-exempt status of the
26 organization or association.

27 (11) The sale at retail, or use of gasoline and other motor
28 fuels, the sales of which are otherwise subject to excise taxes
29 under the act of May 21, 1931 (P.L.194), known as the "Liquid
30 Fuels Tax Act," and the act of January 14, 1952 (P.L.1965),

1 known as the "Fuel Use Tax Act."

2 (12) The sale at retail to, or use by the United States,
3 this Commonwealth or its instrumentalities or political
4 subdivisions of tangible personal property or services.

5 (13) The sale at retail, or use of wrapping paper, wrapping
6 twine, bags, cartons, tape, rope, labels, nonreturnable
7 containers and all other wrapping supplies, when such use is
8 incidental to the delivery of any personal property, except that
9 any charge for wrapping or packaging shall be subject to tax at
10 the rate imposed by section 202, unless the property wrapped or
11 packaged will be resold by the purchaser of the wrapping or
12 packaging service. As used in this paragraph, the term "cartons"
13 includes corrugated boxes used by a person engaged in the
14 manufacture of snack food products to deliver the manufactured
15 product, whether or not the boxes are returnable for potential
16 reuse.

17 (14) Sale at retail or use of vessels designed for
18 commercial use of registered tonnage of fifty tons or more when
19 produced by the builders thereof upon special order of the
20 purchaser.

21 (15) Sale at retail of tangible personal property or
22 services used or consumed in building, rebuilding, repairing and
23 making additions to or replacements in and upon vessels designed
24 for commercial use of registered tonnage of fifty tons or more
25 upon special order of the purchaser, or when rebuilt, repaired
26 or enlarged, or when replacements are made upon order of or for
27 the account of the owner.

28 (16) The sale at retail or use of tangible personal property
29 or services to be used or consumed for ship cleaning or
30 maintenance or as fuel, supplies, ships' equipment, ships'

1 stores or sea stores on vessels designed for commercial use of
2 registered tonnage of fifty tons or more to be operated
3 principally outside the limits of the Commonwealth.

4 (17) The sale at retail or use of prescription or non-
5 prescription medicines, drugs or medical supplies, crutches and
6 wheelchairs for the use of cripples and invalids, artificial
7 limbs, artificial eyes and artificial hearing devices when
8 designed to be worn on the person of the purchaser or user,
9 false teeth and materials used by a dentist in dental treatment,
10 eyeglasses when especially designed or prescribed by an
11 ophthalmologist, oculist or optometrist for the personal use of
12 the owner or purchaser and artificial braces and supports
13 designed solely for the use of crippled persons or any other
14 therapeutic, prosthetic or artificial device designed for the
15 use of a particular individual to correct or alleviate a
16 physical incapacity, including but not limited to hospital beds,
17 iron lungs, and kidney machines.

18 (18) The sale at retail or use of coal.

19 (24) The sale at retail or use of motor vehicles, trailers
20 and semi-trailers, or bodies attached to the chassis thereof,
21 sold to a nonresident of Pennsylvania to be used outside of
22 Pennsylvania and which are registered in a state other than
23 Pennsylvania within twenty days after delivery to the vendee.

24 (25) The sale at retail or use of water.

25 (26) The sale at retail or use of all vesture, wearing
26 apparel, raiments, garments, footwear and other articles of
27 clothing, including clothing patterns and items that are to be a
28 component part of clothing, worn or carried on or about the
29 human body but all accessories, ornamental wear, formal day or
30 evening apparel, and articles made of fur on the hide or pelt or

1 any material imitative of fur and articles of which such fur,
2 real, imitation or synthetic, is the component material of chief
3 value, but only if such value is more than three times the value
4 of the next most valuable component material, and sporting goods
5 and clothing not normally used or worn when not engaged in
6 sports shall not be excluded from the tax.

7 (28) The sale at retail or use of religious publications
8 sold by religious groups and Bibles and religious articles.

9 (29) The sale at retail or use of food and beverages for
10 human consumption, except that this exclusion shall not apply
11 with respect to--

12 (i) Soft drinks;

13 (ii) Malt and brewed beverages and spirituous and vinous
14 liquors;

15 (iii) Food or beverages, whether sold for consumption on or
16 off the premises or on a "take-out" or "to go" basis or
17 delivered to the purchaser or consumer, when purchased (A) from
18 persons engaged in the business of catering; or (B) from persons
19 engaged in the business of operating establishments from which
20 ready-to-eat food and beverages are sold, including, but not
21 limited to, restaurants, cafes, lunch counters, private and
22 social clubs, taverns, dining cars, hotels, night clubs, fast
23 food operations, pizzerias, fairs, carnivals, lunch carts, ice
24 cream stands, snack bars, cafeterias, employe cafeterias,
25 theaters, stadiums, arenas, amusement parks, carryout shops,
26 coffee shops and other establishments whether mobile or
27 immobile. For purposes of this clause, a bakery, a pastry shop,
28 a donut shop, a delicatessen, a grocery store, a supermarket, a
29 farmer's market, a convenience store or a vending machine shall
30 not be considered an establishment from which food or beverages

1 ready to eat are sold except for the sale of meals, sandwiches,
2 food from salad bars, hand-dipped or hand-served iced based
3 products including ice cream and yogurt, hot soup, hot pizza and
4 other hot food items, brewed coffee and hot beverages. For
5 purposes of this subclause, beverages shall not include malt and
6 brewed beverages and spirituous and vinous liquors but shall
7 include soft drinks. The sale at retail of food and beverages at
8 or from a school or church in the ordinary course of the
9 activities of such organization is not subject to tax.

10 (30) The sale at retail or use of newspapers. For purposes
11 of this section, the term "newspaper" shall mean a "legal
12 newspaper" or a publication containing matters of general
13 interest and reports of current events which qualifies as a
14 "newspaper of general circulation" qualified to carry a "legal
15 advertisement" as those terms are defined in 45 Pa.C.S. § 101
16 (relating to definitions), not including magazines. This
17 exclusion shall also include any printed advertising materials
18 circulated with such newspaper regardless of where or by whom
19 such printed advertising material was produced.

20 (31) The sale at retail or use of caskets and burial vaults
21 for human remains and markers and tombstones for human graves.

22 (32) The sale at retail or use of flags of the United States
23 of America and the Commonwealth of Pennsylvania.

24 (33) The sale at retail or use of textbooks for use in
25 schools, colleges and universities, either public or private
26 when purchased in behalf of or through such schools, colleges or
27 universities provided such institutions of learning are
28 recognized by the Department of Education.

29 (34) The sale at retail, or use of motion picture film
30 rented or licensed from a distributor for the purpose of

1 commercial exhibition.

2 (35) The sale at retail or use of mail order catalogs and
3 direct mail advertising literature or materials, including
4 electoral literature or materials, such as envelopes, address
5 labels and a one-time license to use a list of names and mailing
6 addresses for each delivery of direct mail advertising
7 literature or materials, including electoral literature or
8 materials, through the United States Postal Service.

9 (36) The sale at retail or use of rail transportation
10 equipment used in the movement of personalty.

11 (37) The sale at retail of buses to be used under contract
12 with school districts that are replacements for buses destroyed
13 or lost in the flood of 1977 for a period ending December 31,
14 1977 in the counties of Armstrong, Bedford, Cambria, Indiana,
15 Jefferson, Somerset and Westmoreland, or the use of such buses.

16 (38) The sale at retail of horses, if at the time of
17 purchase, the seller is directed to ship or deliver the horse to
18 an out-of-State location, whether or not the charges for
19 shipment are paid for by the seller or the purchaser; the seller
20 shall obtain a bill of lading, either from the carrier or from
21 the purchaser, who, in turn has obtained the bill of lading from
22 the carrier, reflecting delivery to the out-of-State address to
23 which the horse has been shipped. The seller shall execute a
24 "Certificate of Delivery to Destination Outside of the
25 Commonwealth" for each bill of lading reflecting out-of-State
26 delivery. The seller shall be required to retain the certificate
27 of delivery form to justify the noncollection of sales tax with
28 respect to the transaction to which the form relates.

29 In transactions where a horse is sold by the seller and
30 delivered to a domiciled person, agent or corporation prior to

1 its being delivered to an out-of-State location, the
2 "Certificate of Delivery to Destination Outside of the
3 Commonwealth" form must have attached to it bills of lading both
4 for the transfer to the domiciled person, agent or corporation
5 and from the aforementioned to the out-of-State location.

6 (39) The sale at retail or use of fish feed purchased by or
7 on behalf of sportsmen's clubs, fish cooperatives or nurseries
8 approved by the Pennsylvania Fish Commission.

9 (40) The sale at retail of supplies and materials to tourist
10 promotion agencies, which receive grants from the Commonwealth,
11 for distribution to the public as promotional material or the
12 use of such supplies and materials by said agencies for said
13 purposes.

14 (41) The sale at retail of supplies and materials to tourist
15 promotion agencies, which receive grants from the Commonwealth,
16 for distribution to the public as promotional material or the
17 use of such supplies and materials by said agencies for said
18 purposes.

19 (42) The sale or use of brook trout (*salvelinus fontinalis*),
20 brown trout (*Salmo trutta*) or rainbow trout (*Salmo gairdneri*).

21 (43) The sale at retail or use of buses to be used
22 exclusively for the transportation of children for school
23 purposes.

24 (44) The sale at retail or use of firewood. For the purpose
25 of this clause, firewood shall mean the product of trees when
26 severed from the land and cut into proper lengths for burning
27 and pellets made from pure wood sawdust if used for fuel for
28 cooking, hot water production or to heat residential dwellings.

29 (45) The sale at retail or use of materials used in the
30 construction and erection of objects purchased by not-for-profit

1 organizations for purposes of commemoration and memorialization
2 of historical events, provided that the object is erected upon
3 publicly owned property or property to be conveyed to a public
4 entity upon the commemoration or memorialization of the
5 historical event.

6 (46) The sale at retail or use of tangible personal property
7 purchased in accordance with the Food Stamp Act of 1977, as
8 amended (Public Law 95-113, 7 U.S.C. §§ 2011-2029).

9 (49) The sale at retail or use of food and beverages by
10 nonprofit associations which support sports programs. For
11 purposes of this clause, the phrases:

12 (i) "nonprofit association" means an entity which is
13 organized as a nonprofit corporation or nonprofit unincorporated
14 association under the laws of this Commonwealth or the United
15 States or any entity which is authorized to do business in this
16 Commonwealth as a nonprofit corporation or unincorporated
17 association under the laws of this Commonwealth, including, but
18 not limited to, youth or athletic associations, volunteer fire,
19 ambulance, religious, charitable, fraternal, veterans, civic, or
20 any separately chartered auxiliary of the foregoing, if
21 organized and operated on a nonprofit basis;

22 (iv) "sports program" means baseball (including softball),
23 football, basketball, soccer and any other competitive sport
24 formally recognized as a sport by the United States Olympic
25 Committee as specified by and under the jurisdiction of the
26 Amateur Sports Act of 1978 (Public Law 95-606, 36 U.S.C. § 371
27 et seq.), the Amateur Athletic Union or the National Collegiate
28 Athletic Association. The term shall be limited to a program or
29 that portion of a program that is organized for recreational
30 purposes and whose activities are substantially for such

1 purposes and which is primarily for participants who are 18
2 years of age or younger or whose 19th birthday occurs during the
3 year of participation or the competitive season, whichever is
4 longer. There shall, however, be no age limitation for programs
5 operated for persons with physical handicaps or persons with
6 mental retardation;

7 (v) "support" means the funds raised from sales are used to
8 pay the expenses of a sports program or the nonprofit
9 association sells the food and beverages at a location where a
10 sports program is being conducted under this act.

11 (50) The sale at retail or use of subscriptions for
12 magazines. The term "magazine" refers to a periodical published
13 at regular intervals not exceeding three months and which are
14 circulated among the general public, containing matters of
15 general interest and reports of current events published for the
16 purpose of disseminating information of a public character or
17 devoted to literature, the sciences, art or some special
18 industry. This exclusion shall also include any printed
19 advertising material circulated with the periodical or
20 publication regardless of where or by whom the printed
21 advertising material was produced.

22 (51) The sale at retail or use of interior office building
23 cleaning services but only as relates to the costs of the
24 supplied employe, which costs are wages, salaries, bonuses and
25 commissions, employment benefits, expense reimbursements, and
26 payroll and withholding taxes, to the extent that these costs
27 are specifically itemized or that these costs in aggregate are
28 stated in billings from the vender or supplying entity.

29 (53) The sale at retail or use of candy or gum regardless of
30 the location from which the candy or gum is sold.

1 (55) The sale at retail or use of horses to be used
2 exclusively for commercial racing activities and the sale at
3 retail and use of feed, bedding, grooming supplies, riding tack,
4 farrier services, portable stalls and sulkies for horses used
5 exclusively for commercial racing activities.

6 (56) The sale at retail or use of tangible personal property
7 or services used, transferred or consumed in installing or
8 repairing equipment or devices designed to assist persons in
9 ascending or descending a stairway when:

10 (i) The equipment or devices are used by a person who, by
11 virtue of a physical disability, is unable to ascend or descend
12 stairs without the aid of such equipment or device.

13 (ii) The equipment or device is installed or used in such
14 person's place of residence.

15 (iii) A physician has certified the physical disability of
16 the person in whose residence the equipment or device is
17 installed or used.

18 (57) The sale at retail to or use by a construction
19 contractor of building machinery and equipment and services
20 thereto that are:

21 (i) transferred pursuant to a construction contract for any
22 charitable organization, volunteer firemen's organization,
23 volunteer firefighters' relief association, nonprofit
24 educational institution or religious organization for religious
25 purposes, provided that the building machinery and equipment and
26 services thereto are not used in any unrelated trade or
27 business; or

28 (ii) transferred to the United States or the Commonwealth or
29 its instrumentalities or political subdivisions; or

30 (58) The sale at retail or use of a personal computer, a

1 peripheral device or an Internet access device, or a service
2 contract or single-user licensed software purchased in
3 conjunction with a personal computer, peripheral device or
4 Internet access device, during the exclusion period by an
5 individual purchaser for nonbusiness use. The exclusion does not
6 include a sale at retail or use of, leasing, rental or repair of
7 a personal computer, peripheral device or Internet access
8 device; mainframe computers; network servers; local area network
9 hubs; routers and network cabling; network operating systems;
10 multiple-user licensed software; minicomputers; hand-held
11 computers; personal digital assistants without Internet access;
12 hardware word processors; graphical calculators; video game
13 consoles; telephones; digital cameras; pagers; compact discs
14 encoded with music or movies; and digital versatile discs
15 encoded with music or movies. For purposes of this clause, the
16 phrase "exclusion period" means the period of time from August
17 5, 2001, to and including August 12, 2001, and from February 17,
18 2002, to and including February 24, 2002. For purposes of this
19 clause, "purchaser" means an individual who places an order and
20 pays the purchase price by cash or credit during the exclusion
21 period even if delivery takes place after the exclusion period.

22 (59) The sale at retail or use of molds and related mold
23 equipment used directly and predominantly in the manufacture of
24 products, regardless of whether the person that holds title to
25 the equipment manufactures a product.

26 (60) The sale or use of used prebuilt housing.

27 (61) The sale at retail to or use of food and nonalcoholic
28 beverages by an airline which will transfer the food or
29 nonalcoholic beverages to passengers in connection with the
30 rendering of the airline service.

1 (62) The sale at retail or use of tangible personal property
2 or services which are directly used in farming, dairying or
3 agriculture when engaged in as a business enterprise whether or
4 not the sale is made to the person directly engaged in the
5 business enterprise or to a person contracting with the person
6 directly engaged in the business enterprise for the production
7 of food.

8 (63) The sale at retail or use of separately stated fees
9 paid pursuant to 13 Pa.C.S. § 9525 (relating to fees).

10 (64) The sale at retail to or use by a construction
11 contractor, employed by a public school district pursuant to a
12 construction contract, of any materials and building supplies
13 which, during construction or reconstruction, are made part of
14 any public school building utilized for instructional classroom
15 education within this Commonwealth, if the construction or
16 reconstruction:

17 (i) is necessitated by a disaster emergency, as defined in
18 35 Pa.C.S. § 7102 (relating to definitions); and

19 (ii) takes place during the period when there is a
20 declaration of disaster emergency under 35 Pa.C.S. § 7301(c)
21 (relating to general authority of Governor).

22 (65) The sale at retail or use of investment metal bullion
23 and investment coins. "Investment metal bullion" means any
24 elementary precious metal which has been put through a process
25 of smelting or refining, including, but not limited to, gold,
26 silver, platinum and palladium, and which is in such state or
27 condition that its value depends upon its content and not its
28 form. "Investment metal bullion" does not include precious metal
29 which has been assembled, fabricated, manufactured or processed
30 in one or more specific and customary industrial, professional,

1 aesthetic or artistic uses. "Investment coins" means numismatic
2 coins or other forms of money and legal tender manufactured of
3 gold, silver, platinum, palladium or other metal and of the
4 United States or any foreign nation with a fair market value
5 greater than any nominal value of such coins. "Investment coins"
6 does not include jewelry or works of art made of coins, nor does
7 it include commemorative medallions.

8 (66) The sale at retail or use of copies of an official
9 document sold by a government agency or a court. For the
10 purposes of this clause, the following terms or phrases shall
11 have the following meanings:

12 (i) "court" includes:

13 (A) an "appellate court" as defined in 42 Pa.C.S. § 102
14 (relating to definitions);

15 (B) a "court of common pleas" as defined in 42 Pa.C.S. §
16 102;

17 (C) the "minor judiciary" as defined in 42 Pa.C.S. § 102;

18 (ii) "government agency" means an "agency" as defined in
19 section 1 of the act of June 21, 1957 (P.L.390, No.212),
20 referred to as the "Right-to-Know Law";

21 (iii) "official document" means a "record" as defined in
22 section 1 of the "Right-to-Know Law." The term shall include
23 notes of court testimony, deposition transcripts, driving
24 records, accident reports, birth and death certificates, deeds,
25 divorce decrees and other similar documents.

26 (67) The sale at retail or use of repair or replacement
27 parts, including the installation of those parts, exclusively
28 for use in helicopters and similar rotorcraft or in overhauling
29 or rebuilding of helicopters and similar rotorcraft or
30 helicopters and similar rotorcraft components.

1 (68) The sale at retail or use of helicopters and similar
2 rotorcraft.

3 (69) The sale at retail or use of aircraft parts, services
4 to aircraft and aircraft components. For purposes of this
5 clause, the term "aircraft" shall include a fixed-wing aircraft,
6 powered aircraft, tilt-rotor or tilt-wing aircraft, glider or
7 unmanned aircraft.

8 (70) The sale at retail or use of services related to the
9 set up, tear down or maintenance of tangible personal property
10 rented by an authority to exhibitors at a convention center or a
11 public auditorium, established under 64 Pa.C.S. Ch. 60 (relating
12 to Pennsylvania Convention Center Authority), the act of July
13 28, 1953 (P.L.723, No.230), known as the Second Class County
14 Code, or the act of August 9, 1955 (P.L.323, No.130), known as
15 The County Code.]

16 Section 4. Sections 205, 281.2 and 201-B(b) of the act are
17 amended to read:

18 Section 205. Alternate Imposition of Tax; Credits.--(a) If
19 any person actively and principally engaged in the business of
20 selling new or used motor vehicles, trailers or semi-trailers,
21 and registered with the department in the "dealer's class,"
22 acquires a motor vehicle, trailer or semi-trailer for the
23 purpose of resale, and prior to such resale, uses the motor
24 vehicle, trailer or semi-trailer for a taxable use under this
25 act, the person may pay a tax equal to [six] one and nine-
26 tenths per cent of the fair rental value of the motor vehicle,
27 trailer or semi-trailer during such use. This section shall not
28 apply to the use of a vehicle as a wrecker, parts truck,
29 delivery truck or courtesy car.

30 (b) A commercial aircraft operator who acquires an aircraft

1 for the purpose of resale, or lease, or is entitled to claim
2 another valid exemption at the time of purchase, and subsequent
3 to such purchase, periodically uses the same aircraft for a
4 taxable use under this act, may elect to pay a tax equal to
5 [six] one and nine-tenths per cent of the fair rental value of
6 the aircraft during such use.

7 Section 281.2. Transfers to Public Transportation Assistance
8 Fund.--(a) All revenues received on or after July 1, 1992,
9 from the imposition of the tax on periodicals shall be
10 transferred to the Public Transportation Assistance Fund
11 according to the formula set forth in subsection (b).

12 (b) Within 30 days of the close of any calendar month, .44
13 per cent (.0044) of the taxes received in the previous month
14 under this article, less any amounts collected in that previous
15 calendar month under former 74 Pa.C.S. § 1314(d) (relating to
16 Public Assistance Transportation Fund), shall be transferred to
17 the Public Transportation Assistance Fund established under
18 Article XXIII.

19 (c) In fiscal year 1991-1992, the Secretary of Revenue will
20 ensure that ten million dollars (\$10,000,000) is deposited in
21 the Public Assistance Transportation Fund from the combination
22 of revenues received under former 74 Pa.C.S. § 1314(d) and
23 transfers of periodical taxes received under this article.

24 (d) Within 30 days of the close of any calendar month, .09
25 per cent (.0009) of the taxes received in the previous month
26 under this article shall be transferred to the Public
27 Transportation Assistance Fund established under Article XXIII.

28 (e) Within 30 days of the close of a calendar month, .417
29 per cent (.00417) of the taxes received in the previous month
30 under this article shall be transferred to the Public

1 Transportation Assistance Fund established under Article XXIII.]
2 Within 30 days of the close of a calendar month, .03 per cent
3 (.0003) of the taxes received in the previous month under this
4 article shall be transferred to the Public Transportation
5 Assistance Fund established under Article XXIII.

6 Section 201-B. Special taxing authority.

7 * * *

8 (b) Rate.--The tax authorized under subsection (a) shall be
9 imposed and collected at the rate of [1%] 0.32% and shall be
10 computed as set forth in section 503(e) (2) of the Pennsylvania
11 Intergovernmental Cooperation Authority Act for Cities of the
12 First Class.

13 * * *

14 Section 5. The Secretary of the Commonwealth shall submit to
15 the Legislative Reference Bureau a notice for publication in the
16 Pennsylvania Bulletin stating that the General Assembly has
17 enacted all of the following:

18 (1) An act that reduces the rate of tax imposed under
19 section 3152-B of the act of July 28, 1953 (P.L.723, No.230),
20 known as the Second Class County Code, in a manner that would
21 result in the revenue generated by the tax imposed under
22 section 3152-B of the Second Class County Code, being revenue
23 neutral, subject to the repeal of exclusions from the sales
24 and use tax in this act, in comparison to the amount
25 generated in the prior fiscal year.

26 (2) An act that reduces the rate of tax imposed under
27 section 503(a) and (b) of the act of June 5, 1991 (P.L.9,
28 No.6), known as the Pennsylvania Intergovernmental
29 Cooperation Authority Act for Cities of the First Class, in a
30 manner that would result in the revenue generated by the tax

1 imposed under section 503(a) and (b) of the Pennsylvania
2 Intergovernmental Cooperation Authority Act for Cities of the
3 First Class, being revenue neutral, subject to the repeal of
4 exclusions from the sales and use tax in this act, in
5 comparison to the amount generated in the prior fiscal year.

6 (3) An act that reduces the amount deposited into the
7 Public Transportation Trust Fund under 74 Pa.C.S. § 1506(c)
8 (1).

9 Section 6. This act shall take effect as follows:

10 (1) This section and section 5 of this act shall take
11 effect immediately.

12 (2) The remainder of this act shall take effect upon
13 publication of the notice under section 5 of this act.