

XX.XX.270. – Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at [_____]. Provisions of the Supplemental Definitions that are amended, deleted, or added prior to or after the effective date of the latest amendment to this chapter shall be applicable for purposes of this chapter on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

ALASKA REMOTE SELLER SALES TAX CODE
SUPPLEMENTAL DEFINITIONS

“Advertising” means services rendered to promote a product, service, idea, concept, issue, or the image of a person, including services rendered to design and produce advertising materials prior to the acceptance of the advertising materials for reproduction or publication, including research; design; layout; preliminary and final art preparation; creative consultation, coordination, direction, and supervision; script and copywriting; editing; and account management services.

“Aircraft charter service” means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

“Alcoholic beverages” means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

“Arts and crafts” mean articles produced individually by artistic or craft skill such as painting, sculpture, pottery, jewelry or similar articles.

“ATV” or **“off-highway vehicle”** means a vehicle designed or adapted for cross-country operation over unimproved terrain, ice or snow, and which has been declared by its owner at the time of registration and determined by the department to be unsuitable for general highway use, although the vehicle may make incidental use of a highway as provided in this title; it does not include implements of husbandry and special mobile equipment.

“Authentic Native artwork” means any product which is Alaska Native handcrafted and is not made by machine. **“Alaska Native handcrafted”** means the skillful and expert use of the hands in making products solely by Alaska Natives within the United States, including the use of findings, hand tools and equipment for buffing, polishing, grinding, drilling or sewing. **“Made by machine”** means the producing or reproducing of a product in mass production by mechanically stamping, casting, blanking or weaving.

“Bank services” or **“financial services”** means deposit account services, loan transaction fees, transactions relating to the sale or exchange of currency or securities, transactions for conversion of negotiable instruments, safe deposit services, escrow collection services, late fees, overdraft fees, and interest charged on past due accounts.

“Boat” means a vessel used or capable of being used as a means of transportation on the water.

“Child care” means a regular service of care and education provided for compensation for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children.

“Church” means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

“Clothing and related products” means all human wearing apparel suitable for general use. Clothing includes: aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; children and adult diapers, including disposable; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed boots; underwear; uniforms, athletic and nonathletic; and wedding apparel.

“Commercial airline tickets” means any card, pass, certificate, or paper, electronic or otherwise, providing or intending to provide for the carriage or transportation of any person or persons upon any airline.

“Common carrier” means an individual or a company, which is in the regular business of transporting freight for hire. This is distinguished from a private carrier which transports its own goods and equipment and makes deliveries of goods sold to its customers.

“Construction materials” means an item of tangible personal property that is used to construct or renovate a building, a structure, or an improvement on land and that typically loses its separate identity as personal property once incorporated into the real property. “Construction material” includes building materials, building systems equipment, landscaping materials, and supplies.

“Construction services” means all labor and services provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

Commodities – crop production [inputs that go into producing the crop.

“Disabled veteran” means any individual defined by a taxing jurisdiction as qualifying for an exemption from sales tax based on military service and injury sustained.

“Drug” means a compound, substance or preparation, and any component of a compound, substance or preparation, other than “food and food ingredients,” “dietary supplements” or “alcoholic beverages:”

- A. Recognized in the official United State Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them; or
- B. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or
- C. Intended to affect the structure or any function of the body.

“Drugs for animal use” means:

- A. a drug for animal use recognized in the official United States Pharmacopoeia or National Formulary of the United States;
- B. a drug intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals;
- C. a drug, other than feed, medicated feed, or a growth promoting implant intended to affect the structure or function of the body of an animal; or
- D. a drug intended for use as a component of a drug in clause A., B., or C.

“Dues, Membership and Subscription” means monies paid for the purpose of membership, or qualifying or becoming eligible for goods or services, or discounts to goods or services.

“Durable medical equipment” means equipment including repair and replacement parts for same, but does not include “mobility enhancing equipment,” which:

- A. Can withstand repeated use; and
- B. Is primarily and customarily used to serve a medical purpose; and
- C. Generally is not useful to a person in the absence of illness or injury; and
- D. Is not worn in or on the body.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Farming supplies” means animal food, seed, plants, fertilizers and other consumables used in an agriculture or mariculture business that sells its harvested grains, produce, meats, animal products or other farm production.

“Food” means any food or food product for home consumption except alcoholic beverages, tobacco, and prepared food. Food or food products includes property, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

“Food stamps” means obligations of the United States government issued or transferred by means of food coupons or food stamps to enable the purchase of food for the eligible household.

“Funeral fees” means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

“Gaming” means any game defined in AS 05.15.690, as amended or renumbered.

“Gasoline, heating fuels and other consumable fuels” means refined petroleum and petroleum-based products used for internal combustion engines and as the primary source for residential heating or domestic hot water. This may also include other types of fossil fuels as well as fuel sources that are renewable.

“Government” means the federal government and any agency or instrumentality thereof; any State and any agency or instrumentality thereof; any local government within a State, and any unit, agency, or instrumentality of such local government; any tribal government; any other governmental instrumentality.

“Handling,” “crating,” or “packing” means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser including, but not limited to, transportation, shipping, postage, handling, crating, and packing.”

“Insurance” means a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

“Internet service” means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

“Loan” means an extension of credit resulting from direct or indirect negotiations between a lender and a debtor.

“Lobbying” means the practice of promoting or opposing the introduction or enactment of legislation before the legislature or legislators and the practice of promoting or opposing official action of any public official or the legislature.

“Long-term vehicle lease” means a lease of a motor vehicle, as defined in this Section, for a period of 24 months or longer.

“Manufacturing components” means sales of personal property as raw material to a person engaged in manufacturing for sale, where the property sold is consumed in the manufacturing process of or becomes an ingredient or component part of a product manufactured for sale by the manufacturer.

“Marijuana accessories” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body;

“Medical equipment and supplies, and prescriptions” means all medicines, medical goods or equipment prescribed by a health care provider licensed to practice in Alaska or any other state in the United States.

“Medical services” means those professional services rendered by persons duly licensed under the laws of this state to practice medicine, surgery, chiropractic, podiatry, dentistry, and other professional services rendered by a licensed midwife, certified registered nurse practitioners, and psychiatric and mental health nurse clinical specialists, and appliances, drugs, medicines, supplies, and nursing care necessary in connection with the services, or the expense indemnity for the services, appliances, drugs, medicines, supplies, and care, as may be specified in any nonprofit medical service plan. “Medical services” include hospital services.

“Mobility enhancing equipment” means equipment including repair and replacement parts to same, but does not include “durable medical equipment,” which:

- A. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; and
- B. Is not generally used by persons with normal mobility; and
- C. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

“Motor vehicle” means a motor vehicle, as defined in AS 28.90.990(17), that is either required to be registered under AS 28.10.011, or is exempted from registration under AS 28.10.011(6) and (11). However, “motor vehicle” does not include either an “off-highway vehicle” as defined in 13 AAC 40.010(a)(30) or a “snowmobile” as defined in 13 AAC 40.010(a)(49). “Motor vehicle” includes parts for a motor vehicle.

“Newspaper” means a publication of general circulation bearing a title, issued regularly at stated intervals at a minimum of not more than two weeks, and formed of printed paper sheets without substantial binding. It must be of general interest, containing information of current events. The word does not include publications devoted solely to a specialized field. It shall include school newspapers, regardless of the frequency of the publication, where such newspapers are distributed regularly to a paid subscription list.

“Nonprofit organization” means a business that has been granted tax-exempt status by the Internal Revenue Service (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

“Over the counter drug” means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The “over-the-counter-drug” label includes:

- A. A “Drug Facts” panel; or
- B. A statement of the “active ingredient(s)” with a list of those ingredients contained in the compound, substance or preparation.

“Periodical” means any bound publication other than a newspaper that appears at stated intervals, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and sufficiently similar in style and format to make it evident that it is one of a series.

“Precious gems and metals” means any mineral, including but not limited to gold, silver, platinum and palladium, and any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphire, opals, pearls or any other such precious gems or stones that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content (such as an ingot or bar) and not its form (such as jewelry or artwork).

“Prepared food” means:

- A. Food sold in a heated state or heated by the seller;
- B. Two or more food ingredients mixed or combined by the seller for sale as a single item; or
- C. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

“Prepared food” in Subsection B. does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code so as to prevent food borne illnesses.

“Prewritten computer software” means “computer software,” including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more “prewritten computer software” programs or prewritten portions thereof does not cause the combination to be other than “prewritten computer software.” “Prewritten computer software” includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. Where a person modifies or enhances “computer software” of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person’s modifications or enhancements. “Prewritten computer software” or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains “prewritten computer software;” provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute “prewritten computer software.”

“Printing services” means those activities relating to the work of the printing, publishing or graphic arts industries and shall include any mechanical process whereby ink is transferred to paper or other materials.

“Professional services” means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations that require a professional license under Alaska Statute.

“Prosthetic Device” means replacement, corrective, or supportive device including repair and

replacement parts for same worn on or in the body to:

- A. Artificially replace a missing portion of the body;
- B. Prevent or correct physical deformity or malfunction; or
- C. Support a weak or deformed portion of the body.

“Raw Seafood” means uncooked marine and estuarine fauna or flora used as food or of a kind suitable for food and specifically includes, but is not limited to, shrimp taken for bait.

“Retail car rental” means renting a rental car to a consumer. “Rental car” means a passenger car, that is used solely by a rental car business for rental to others, without a driver provided by the rental car business, for periods of not more than thirty consecutive days. “Rental car” does not include:

- A. Vehicles rented or loaned to customers by automotive repair businesses while the customer's vehicle is under repair;
- B. Vehicles licensed and operated as taxicabs.

“Sales-Type Lease” means at lease commencement, (1) the lease transfers ownership of the underlying property, goods, or services to the lessee by the end of the lease term; (2) the lease grants the lessee an option to purchase the underlying property, goods, or services that the lessee is reasonably certain to exercise; (3) the lease term is for the major part of the remaining economic life of the underlying property, goods, or services. However, if the commencement date falls at or near the end of the economic life of the underlying property, goods, or services, this criterion shall not be used for purposes of classifying the lease; (4) the present value of the sum of the lease payments and any residual value guaranteed by the lessee that is not already reflected in the lease payments equals or exceeds substantially all of the fair value of the underlying property, goods, or services; (5) the underlying property, goods, or services is of such a specialized nature that it is expected to have no alternative use to the lessor at the end of the lease term.

“School materials” means items commonly used by a student in a course of study. “School materials” includes the following items: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets. “School materials” does not include any item purchased for use in a trade or business.

“School meals” includes breakfasts, lunches, or the serving of foods or beverages, or both, or any combination thereof, served by a school cafeteria or a school lunchroom.

“School transportation” means transportation of students to and from schools in motor or other vehicles.

“Seller” means: a person making sales of property, products or services, or a marketplace

facilitator acting on behalf of a seller

“Senior citizen” means any individual defined by a taxing jurisdiction as qualifying for an age-based exemption from sales tax.

“Smoked fish” means a freshwater or saltwater finfish that is prepared by treating it with salt (sodium chloride) and subjecting it to the direct action of the smoke from burning wood, wood sawdust, or similar burning material or from liquid smoke flavoring applied to the surface in a gaseous, liquid, or vaporized state with or without heat.

“Snowmobile” means a motor vehicle designed to travel over ice or snow, and supported in part by skis, belts, cleats, or low-pressure tires.

“Software downloads” means software, applications, services and other digital programming for computers, tablets, smartphones and other electronic devices. This includes online subscriptions or purchases of news services, publications, audio books and other similar electronic versions of printed materials.

“Software maintenance contracts” means a contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software or both. A “mandatory computer software maintenance contract” is a computer software maintenance contract that the customer is obligated by contract to purchase as a condition to the retail sale of computer software. An “optional computer maintenance contract” is a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

“Specified digital products” means electronically transferred:

- (1) digital audio works;
- (2) digital audiovisual works; or
- (3) digital books.

“Streaming services” means digital content provided online for on-demand consumption rather than downloadable consumption. This typically includes, but is not limited to, video and audio files.

“Tax free days” means a duration of time in which persons who purchase goods or services are exempt from the Sales tax of the taxing jurisdiction.

“Telephone service” means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system.

“Ticket admission” means the paid right or privilege to enter into or use a place or location.

“Title insurance premium” means and includes premium, examination fees, settlement fees, closing fees, and every other charge, whether denominated premium or otherwise, made by a title insurance company, agent of a title insurance company or an approved attorney of a title insurance company, or any of them, to an insured or to an applicant for insurance, for any policy or contract for the issuance of, or an application for any class or kind of, title insurance.

“Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

“Transportation services” means the transportation of individuals for hire.

“Travel agency” means a person or organization who represents, directly or indirectly, that the person or organization is offering or undertaking by any means or method, to provide travel services for a fee, commission, or other valuable consideration, direct or indirect.

LEGISLATIVE DRAFTING EXCERPT—DEFINITIONS

1. Many bills contain sections that define the terms used in the bill. A definition section in a bill may define only one word or many words. A definition section can be useful in making a bill precise, but, if great care is not used in defining a word, the definition may cause confusion rather than eliminate it.
2. Substantive provisions of the law must not be hidden in definitions, and a word should not be given a strained and artificial definition that is out of keeping with customary usage or contrary to other law. A definition should be used to limit to one definite meaning a word that otherwise might be subject to several differing but equally valid interpretations.
3. Statutory Construction. If the word is clear and unmistakable without definition, it is superfluous and confusing to define it. A drafter must use good judgment in this regard, however. A word that is not defined in a statute will probably be given its common law meaning by a court construing the statute.
 - 3.1. See Hugo v. City of Fairbanks, 658 P.2d 155 (Alaska App. 1983), where "intent to deprive" was construed to mean "intent to permanently deprive" because of the common law meaning of "deprive."
 - 3.2. For a discussion of how a court approaches the interpretation of a statutory term, see Gibson v. State, 719 P.2d 687 (Alaska App. 1986).
4. Repetition. A definition is often useful to eliminate undesirable repetition, as in the following examples:
 - (A) "commissioner" means the commissioner of health and social services;
 - (B) "school board" means the school board of a borough or city school district or a regional educational attendance area;
5. Means vs. Includes.
6. A definition may be all-inclusive, as in the foregoing examples, in which the word "means" equates the terms on either side. The word "includes" may be used in a definition, but only as an alternative to the word "means." It is used when the bill drafter intends to show that a meaning that might otherwise be in doubt is intended, in addition to the clear meaning of the word. An example is:
 - 6.1. "oath" includes affirmation
 - 6.2. See generally, Dickerson, The Fundamentals of Legal Drafting, 2d ed. (1986), sec. 7.1 - 7.6.

- 6.3. For an interpretation of the use of "includes" in a statutory definition, see Brown v. Wood, 575 P.2d 760, 767 (Alaska 1978). This interpretation has been adopted by the legislature and is codified at AS 01.10.040(b), which provides:

When the words "includes" or "including" are used in a law, they shall be construed as though followed by the phrase "but not limited to."

7. Limited vs. Not Limited. Consequently, it is not necessary to say "but not limited to" when using "includes" or "including." If you wish to limit the defined term, use the form set out in the above example defining "school board."
8. Alaska Statutes. The first step a drafter must take when considering the use of a definition section in a bill or the addition of a definition to a section that already exists is to check to see if the term in question is already defined in the statutes. A definition of the term might already be in one of the following places:
- 8.1. AS 01.10.055, 01.10.060, or 01.10.065 (definitions for all Alaska Statutes);
 - 8.2. the end of the title being amended (usually in the chapter headed "General Provisions");
 - 8.3. the end of the chapter being amended (usually the last section); or
 - 8.4. the end of the article or group of sections being amended.
9. Location in Code. If a definition applies to only one section of a fairly long bill, it is preferable to put the definition at end of the section of the bill to which it applies. In all other cases, the placement of the definition section should be as described in (2) - (4) above. In rare cases involving widely adopted uniform acts with nationwide implications, definitions have been placed at the beginning of chapters, e.g., the Uniform Commercial Code, the Uniform Probate Code, and the Uniform Interstate Family Support Act.
10. Alphabetized. Within a newly enacted definition section, the terms defined must be alphabetized.
11. Cross References. If a drafter wants to use a defined term that is located elsewhere in the statutes (but not in the title the drafter is amending), the proper form is "---- has the meaning given in AS --.--.--." The drafter must realize, of course, that any future changes in the first definition will be incorporated in the second because of the cross-reference technique, so care must be taken to affirmatively decide that result would be desirable. If the two definitions should be independent, the drafter can simply define the new term with the same words used in the other location rather than use a cross-reference.