WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011

ENROLLED

House Bill No. 2971
(By Delegates White and T. Campbell)
[By Request of the Division of Tax]

Passed March 9, 2011
In Effect From Passage
AN ACT to amend and reenact §11-15-3a and §11-15-9i of the
Code of West Virginia, 1931, as amended, all relating to the
consumers sales and service tax, generally; reducing the
consumers sales and service tax on sales, purchases and uses of
food and food ingredients intended for human consumption on
a date certain; and defining the term “durable medical
equipment”.

Be it enacted by the Legislature of West Virginia:

That §11-15-3a and §11-15-9i of the Code of West Virginia,
1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-3a. Rate of tax on food and food ingredients intended
for human consumption; reductions of tax
beginning July 1, 2008 and January 1, 2012.
(a) Rate of tax on food and food ingredients. -- Notwithstanding any provision of this article or article fifteen-a of this chapter to the contrary, the rate of tax on sales, purchases and uses of food and food ingredients intended for human consumption after June 30, 2008, shall be three percent of its sales price, as defined in section two, article fifteen-b of this chapter: Provided, That the rate of tax on sales, purchases and uses of food and food ingredients as defined in said section that is intended for human consumption after December 31, 2011, shall be two percent of its sales price, as defined in said section.

(b) Calculation of tax on fractional parts of a dollar. -- The tax computation under this section shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The seller may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

(c) Federal food stamp and women, infants and children programs, other exemptions. -- Nothing in this section shall affect application of the exemption from tax provided in section nine of this article for food purchased by an eligible person using food stamps, electronic benefits transfer cards or vouchers issued by or pursuant to authorization of the United States Department of Agriculture to individuals participating in the federal food stamp program, by whatever name called, or the women, infants and children (WIC) program, or application of any other exemption from tax set forth in this article or article fifteen-a of this chapter.

§11-15-9i. Exempt drugs, durable medical equipment, mobility enhancing equipment and prosthetic devices.
(a) Notwithstanding any provision of this article, article fifteen-a or article fifteen-b of this chapter, the purchase by a health care provider of drugs, durable medical equipment, mobility enhancing equipment and prosthetic devices, all as defined in section two, article fifteen-b of this chapter, to be dispensed upon prescription and intended for use in the diagnosis, cure, mitigation, treatment or prevention of injury or disease are exempt from the tax imposed by this article.

(b) For purposes of this exemption, "health care provider" means any person licensed to prescribe drugs, durable medical equipment, mobility enhancing equipment and prosthetic devices intended for use in the diagnosis, cure, mitigation, treatment or prevention of injury or disease. For purposes of this section, the term "health care provider" includes any hospital, medical clinic, nursing home or provider of inpatient hospital services and any provider of outpatient hospital services, physician services, nursing services, ambulance services, surgical services or veterinary services: Provided, That the amendment to this subsection enacted during the 2009 regular legislative session shall be effective on or after July 1, 2009.

(c) The term "durable medical goods" as used in this article means "durable medical equipment" as defined in section two, article fifteen-b of this chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

Acting President of the Senate

The within was approved this the 21st day of March, 2011.
PRESENTED TO THE GOVERNOR

MAR 16 2011

Time 2:55pm