

**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

# ENROLLED

## H. B. 2971

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(BY DELEGATES WHITE AND T. CAMPBELL)  
[BY REQUEST OF THE DIVISION OF TAX]

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[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.**

1       (a) *Rate of tax on food and food ingredients.* --  
2 Notwithstanding any provision of this article or article  
3 fifteen-a of this chapter to the contrary, the rate of tax on  
4 sales, purchases and uses of food and food ingredients  
5 intended for human consumption after June 30, 2008, shall be  
6 three percent of its sales price, as defined in section two,  
7 article fifteen-b of this chapter: *Provided*, That the rate of tax  
8 on sales, purchases and uses of food and food ingredients as  
9 defined in said section that is intended for human  
10 consumption after December 31, 2011, shall be two percent  
11 of its sales price, as defined in said section.

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

21       (c) *Federal food stamp and women, infants and children*  
22 *programs, other exemptions.* -- Nothing in this section shall  
23 affect application of the exemption from tax provided in  
24 section nine of this article for food purchased by an eligible  
25 person using food stamps, electronic benefits transfer cards  
26 or vouchers issued by or pursuant to authorization of the  
27 United States Department of Agriculture to individuals  
28 participating in the federal food stamp program, by whatever  
29 name called, or the women, infants and children (WIC)  
30 program, or application of any other exemption from tax set  
31 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.**

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

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

22 (c) The term “durable medical goods” as used in this  
23 article means “durable medical equipment” as defined in  
24 section two, article fifteen-b of this chapter.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

To take effect from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
*Governor*