

1 **ENROLLED**

2 **H. B. 2971**

3
4 (By Delegates White and T. Campbell)

5
6 [Passed March 9, 2011; in effect from passage.]
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10 AN ACT to amend and reenact §11-15-3a and §11-15-9i of the Code of
11 West Virginia, 1931, as amended, all relating to the consumers
12 sales and service tax, generally; reducing the consumers sales
13 and service tax on sales, purchases and uses of food and food
14 ingredients intended for human consumption on a date certain;
15 and defining the term "durable medical equipment".

16 *Be it enacted by the Legislature of West Virginia:*

17 That §11-15-3a and §11-15-9i of the Code of West Virginia,
18 1931, as amended, be amended and reenacted, all to read as follows:

19 **ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

20 **§11-15-3a. Rate of tax on food and food ingredients intended for**
21 **human consumption; reductions of tax beginning July**
22 **1, 2008 and January 1, 2012.**

23 (a) *Rate of tax on food and food ingredients. --*

24 Notwithstanding any provision of this article or article fifteen-a

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

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

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

1 children (WIC) program, or application of any other exemption from
2 tax set forth in this article or article fifteen-a of this chapter.

3 **§11-15-9i. Exempt drugs, durable medical equipment, mobility**
4 **enhancing equipment and prosthetic devices.**

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

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

1 (c) The term "durable medical goods" as used in this article
2 means "durable medical equipment" as defined in section two,
3 article fifteen-b of this chapter.