

H. B. 2977

(By Delegates Overington, Carmichael, Border, Ellem, Gearheart, Householder, Lane, Cowles, Azinger and Walters)

[Introduced February 1, 2011; referred to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-15-3a of the Code of West Virginia, 1931, as amended, relating to eliminating the sales tax on food effective July 1, 2011.

Be it enacted by the Legislature of West Virginia:

That §11-15-3a of the Code of West Virginia, 1931, as amended, be amended and reenacted 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 ~~January 1, 2006, July 1, 2007 and July 1, 2009;~~ elimination of tax on July 1, 2011.

(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

1 consumption after December 31, 2005, shall be five percent of its
2 sales price, as defined in section two, article fifteen-b of this
3 chapter: ~~Provided, That~~ ~~Provided, That~~ the rate of tax on sales,
4 purchases and uses of food and food ingredients, as defined in said
5 section, that is intended for human consumption after June 30, two
6 thousand seven shall be four percent of its sales price, as defined
7 in said section: ~~Provided, however, That~~ ~~Provided, however, That~~
8 the rate of tax on sales, purchases and uses of food and food
9 ingredients as defined in said section that is intended for human
10 consumption after the thirtieth day of June, two thousand eight,
11 after June 30, 2009, shall be three percent of its sales price, as
12 defined in ~~said section:~~ section two, article fifteen-b of this
13 chapter. The tax on sales, purchases and uses of food and food
14 ingredients, as defined in said section, that is intended for human
15 consumption after June 30, 2011, shall be eliminated.

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

24 (c) *Federal food stamp and women, infants and children*

1 *programs, other exemptions.* -- Nothing in this section ~~shall affect~~
2 affects application of the exemption from tax provided in section
3 nine of this article for food purchased by an eligible person using
4 food stamps, electronic benefits transfer cards or vouchers issued
5 by or pursuant to authorization of the United States Department of
6 Agriculture to individuals participating in the federal food stamp
7 program, by whatever name called, or the Women, Infants and
8 Children (WIC) Program, or application of any other exemption from
9 tax set forth in this article or article fifteen-a of this chapter.

NOTE: The purpose of this bill is to eliminate the sales tax on food beginning July 1, 2011.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.