

Senate Bill No. 441

(By Senators Beach, Unger, Jenkins, Klempa and Yost)

[Introduced January 27, 2012; referred to the Committee on
Transportation and Infrastructure; and then to the Committee on
Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-15-9i of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §17A-3-4a, all relating to special equipment installed in a motor vehicle for the use of a person with physical disabilities; and excluding the equipment from the sales and use tax and its value when determining the value of the vehicle for imposition of the tax on the privilege of effecting the certification of the title of the vehicle.

Be it enacted by the Legislature of West Virginia:

That §11-15-9i of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §17A-3-4a, all to read as follows:

1 **CHAPTER 11. TAXATION.**

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

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

1 shall be effective on or after July 1, 2009.

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

5 (d) Notwithstanding any provision of this article to the
6 contrary, the sale and installation of mobility-enhancing equipment
7 installed in a motor vehicle for the use of a person with physical
8 disabilities and repair or replacement parts for that equipment,
9 whether the repair or replacement parts are purchased separately or
10 in conjunction with the equipment, and whether the parts continue
11 the original function or enhance the functionality of the
12 equipment, are exempt from the taxes imposed by this article.

13 **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,**
14 **CERTIFICATE OF TITLE, AND ANTITHEFT**
15 **PROVISIONS.**

16 **ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF**
17 **CERTIFICATES OF TITLE.**

18 **§17A-3-4a. Exclusion from tax for equipment installed in a motor**
19 **vehicle for the use of a person with physical**
20 **disabilities.**

21 In determining the amount of tax to be imposed under section
22 four of this article, the Division of Motor Vehicles shall exclude

1 the value of special equipment installed in a motor vehicle for the
2 use of a person with physical disabilities to enable the person to
3 operate the motor vehicle.

NOTE: The purpose of this bill is to exempt from the sales and use tax special equipment installed in a motor vehicle for the use of a person with physical disabilities and to exclude the value of the equipment when determining the value of the vehicle for imposition of the tax on the privilege of effecting the certification of the title of the vehicle.

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

§17A-3-4a is new; therefore, strike-throughs and underscoring have been omitted.