

FILED

2011 APR -4 PM 2:46

**WEST VIRGINIA LEGISLATURE**  
**EIGHTIETH LEGISLATURE**  
**REGULAR SESSION, 2011**

—●—  
**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 474**

(SENATORS KESSLER (ACTING PRESIDENT), PREZIOSO,  
BEACH, WILLIAMS, EDGELL, PALUMBO, PLYMALE,  
WILLS, D. FACEMIRE, KLEMPA AND YOST, ORIGINAL SPONSORS)

[PASSED MARCH 12, 2011; TO TAKE EFFECT JULY 1, 2011.]

SB 474

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OFFICE OF THE CLERK  
WEST VIRGINIA  
SECRETARY OF STATE

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COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 474**

(SENATORS KESSLER (ACTING PRESIDENT), PREZIOSO,  
BEACH, WILLIAMS, EDGEELL, PALUMBO, PLYMALE,  
WILLS, D. FACEMIRE, KLEMPA AND YOST, *original sponsors*)

[Passed March 12, 2011; to take effect July 1, 2011.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-8-16, relating to choice of law products' liability claims that are based upon prescription drug manufacturer's alleged failure to warn.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §55-8-16, to read as follows:

**ARTICLE 8. ACTIONS ON CONTRACTS.**

**§55-8-16. Choice of Law in Pharmaceutical Product Liability Actions.**

- 1 (a) It is public policy of this state that, in determining the
- 2 law applicable to a product liability claim brought by a

3 nonresident of this state against the manufacturer or distrib-  
4 utor of a prescription drug for failure to warn, the duty to  
5 warn shall be governed solely by the product liability law of  
6 the place of injury (“lex loci delicti”)

7 (b) This section shall be applicable prospectively to all civil  
8 actions commenced on or after July 1, 2011.

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

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect July 1, 2011.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
Acting President of the Senate

*[Signature]*  
.....  
Speaker of the House of Delegates

The within *is* approved this the *4<sup>th</sup>*  
Day of *April*, 2011.

*[Signature]*  
.....  
Governor

2011 APR -4 PM 2:46  
SECRETARY OF STATE  
GINA

PRESENTED TO THE GOVERNOR

MAR 4 4 2011

Time 10:10am