

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 474**

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

7 _____
8 [Passed March 12, 2011; top take effect July 1, 2011.]
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12 AN ACT to amend the Code of West Virginia, 1931, as amended, by
13 adding thereto a new section, designated §55-8-16, relating to
14 choice of law products' liability claims that are based upon
15 prescription drug manufacturer's alleged failure to warn.

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

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

20 **ARTICLE 8. ACTIONS ON CONTRACTS.**

21 **§55-8-16. Choice of Law in Pharmaceutical Product Liability**
22 **Actions.**

23 (a) It is public policy of this state that, in determining the
24 law applicable to a product liability claim brought by a
25 nonresident of this state against the manufacturer or distributor

1 of a prescription drug for failure to warn, the duty to warn shall
2 be governed solely by the product liability law of the place of
3 injury ("lex loci delicti").

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