

H. B. 4505

(By Delegates Householder, Kump, Faircloth,  
Folk and Butler)

[Introduced February 13, 2014; referred to the  
Committee on Health and Human Resources then the  
Judiciary.]

**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new article, designated §16-46-1 and  
§16-46-2, all relating to federal health care legislation;  
legislative findings; invalidity in this state; violations and  
providing criminal penalties.

*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 article, designated §16-46-1 and §16-46-2,  
all to read as follows:

**ARTICLE 46. FEDERAL HEALTH CARE LEGISLATION.**

**§16-46-1. Findings.**

The Legislature finds that:

(a) The several states comprising the United States of America  
created the federal government to be their agent for certain  
limited purposes enumerated in the United States Constitution.

1       (b) The Tenth Amendment to the United States Constitution  
2 defines the total scope of federal power as being that which has  
3 been delegated by the people of the several states to the federal  
4 government and all power not delegated to the federal government in  
5 the Constitution of the United States is reserved to the several  
6 states respectively or to the people themselves. Further, as  
7 stated in the Ninth Amendment, "the enumeration in the  
8 Constitution, of certain rights, shall not be construed to deny or  
9 disparage others retained by the people."

10       (c) This state declares that the assumption of powers that the  
11 federal government has made by enacting the Patient Protection and  
12 Affordable Care Act (P.L. 111-148) and the Health Care and  
13 Education Reconciliation Act of 2010 (P.L. 111-152) is an  
14 assumption nowhere expressly granted by the Constitution of the  
15 United States. Those acts are, therefore, not authorized by the  
16 Constitution of the United States, violate the true meaning and  
17 intent of that document as given by its founders and ratifiers and  
18 interferes with the right of the citizens of this state to regulate  
19 health care as they best see fit.

20       (d) Consequently, it is the duty of the Legislature of this  
21 state to enact measures to prevent the enforcement of those acts  
22 in this state.

23 **§16-46-2. General Provisions; criminal penalties.**

24       (a) Any official, agent or employee of the United States

1 Government or an employee of any corporation or other entity  
2 providing services to the United States Government, who enforces or  
3 attempt to enforce an act, order, law, statute, rule or regulation,  
4 pursuant to either the Patient Protection and Affordable Care Act  
5 (P.L. 111-148) or the Health Care and Education Reconciliation Act  
6 of 2010 (P.L. 111-152) is guilty of a felony and upon conviction  
7 thereof, shall be fined not less than \$1,000 nor more than \$2,500  
8 or imprisoned in a state correctional facility not less than one  
9 year or, both fined and imprisoned.

10 (b) An official, agent or employee of this state who enforces  
11 or attempt to enforce an act, order, law, statute, rule or  
12 regulation, pursuant to either the Patient Protection and  
13 Affordable Care Act (P.L. 111-148) or the Health Care and Education  
14 Reconciliation Act of 2010 (P.L. 111-152) is guilty of a  
15 misdemeanor and upon conviction thereof, shall be fined not more  
16 than \$5,000 or confined in jail not more than one year, or both  
17 fined and confined.

NOTE: The purpose of this bill is to create a new article relating to federal health care legislation. It determines that the federal legislation is invalid in this state. The bill defines acts that are violations of state law and provides criminal penalties.

This article is new; therefore, it has been completely underscored.