

H. B. 2509

(By Delegates Faircloth, McGeehan, Moffatt, Kessinger,
J. Nelson and Ihle)

[Introduced January 29, 2015; 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. WEST VIRGINIA HEALTHCARE PROVISIONAL CLAUSE.

§16-46-1. Findings.

The Legislature finds that:

(1) 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.

(2) The Tenth Amendment to the United States Constitution defines the total scope of federal power as being that which has been delegated by the people of the several states to the federal

1 government and all power not delegated to the federal government in the Constitution of the United
2 States is reserved to the several states respectively or to the people themselves. Further, as stated
3 in the Ninth Amendment,"the enumeration in the Constitution, of certain rights, shall not be
4 construed to deny or disparage others retained by the people."

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

12 (4) Consequently, it is the duty of the Legislature of this state to enact measures to prevent
13 the enforcement of those acts in this state.

14 **§16-46-2. General Provisions; criminal penalties.**

15 (a) Any official, agent or employee of the United States Government or an employee of any
16 corporation or other entity providing services to the United States Government, who enforces or
17 attempts to enforce an act, order, law, statute, rule or regulation, pursuant to either the Patient
18 Protection and Affordable Care Act (P.L. 111-148) or the Health Care and Education Reconciliation
19 Act of 2010 (P.L. 111-152) is guilty of a felony and, upon conviction thereof, shall be fined not less
20 than \$1,000 nor more than \$2,500 or imprisoned in a state correctional facility not less than one year,
21 or both fined and imprisoned.

22 (b) An official, agent or employee of this state who enforces or attempts to enforce an act,

1 order, law, statute, rule or regulation, pursuant to either the Patient Protection and Affordable Care
2 Act (P.L. 111-148) or the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) is
3 guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000 or
4 confined in jail not more than one year, or both 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.

§16-46-1 and §16-46-2 are new; therefore, they have been completely underscored.