

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 474**

4 (By Senators Kessler (Acting President), Prezioso, Beach,
5 Williams, Edgell, Palumbo, Plymale, Wills, D. Facemire, Klempa
6 and Yost)

7 _____
8 [Originating in the Committee on the Judiciary;
9 reported February 18, 2011.]
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13 A BILL to amend the Code of West Virginia, 1931, as amended, by
14 adding thereto a new section, designated §55-8-16, relating to
15 choice of law products' liability claims that are based upon
16 prescription drug manufacturer's alleged failure to warn.

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

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

21 **ARTICLE 8. ACTIONS ON CONTRACTS.**

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

24 (a) It is public policy of this state that, in determining the
25 law applicable to a product liability claim brought by a
26 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.

(NOTE: This section is new; therefore, strike-throughs and
underscoring have been omitted.)