1	н. в. 2835
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3	(By Delegate Overington (By Request))
4	[Introduced March 6, 2013; referred to the
5	Committee on Health and Human Resources then the Judiciary.]
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10	A BILL to amend the Code of West Virginia, 1931, as amended, by
11	adding thereto a new article, designated $\$16-45-1$ and $\$16-45-$
12	2, all relating to federal health care legislation; invalidity
13	of federal health care legislation in this state; violations
14	and criminal penalties; and providing a private right of
15	action.
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 article, designated $\$16-45-1$ and $\$16-45-2$ ,
19	all to read as follows:
20	ARTICLE 45. FEDERAL HEALTH CARE LEGISLATION.
21	§16-45-1. Legislative findings.
22	The Legislature finds that:
23	(1) The people of the several states comprising the United

- 1 States of America created the Federal Government to be their agent
- 2 for certain enumerated purposes and nothing more.
- 3 (2) The Tenth Amendment to the United States Constitution
- 4 defines the total scope of federal power as being that which has
- 5 been delegated by the people of the several states to the Federal
- 6 Government and all power not delegated to the Federal Government in
- 7 the Constitution of the United States is reserved to the states
- 8 respectively or to the people themselves. Furthermore, as stated
- 9 in the Ninth Amendment, "the enumeration in the Constitution, of
- 10 certain rights, shall not be construed to deny or disparage others
- 11 retained by the people."
- 12 (3) The assumption that the Federal Government has made by
- 13 enacting the Patient Protection and Affordable Care Act (P.L. 111-
- 14 148) and the Health Care and Education Reconciliation Act of 2010
- 15 (P.L. 111-152) is nowhere expressly granted by the United States
- 16 Constitution and interferes with the right of the people of this
- 17 state to regulate health care as they see fit.
- 18 <u>§16-45-2</u>. General Provisions.
- 19 (a) This state declares that the Patient Protection and
- 20 Affordable Care Act (P.L. 111-148) and the Health Care and
- 21 Education Reconciliation Act of 2010 (P.L. 111-152) are not
- 22 authorized by the Constitution of the United States and violates
- 23 its true meaning and intent as given by the founders and ratifiers.
- 24 (b) It is the duty of the Legislature of this state to adopt

- 1 and enact any and all measures as may be necessary to prevent the
- 2 enforcement of the Patient Protection and Affordable Care Act (P.L.
- 3 <u>111-148</u>) and the Health Care and Education Reconciliation Act of
- 4 2010 (P.L. 111-152) in the state.
- 5 (c) An official, agent or employee of the United States
- 6 Government or an employee of a corporation providing services to
- 7 the United States Government who enforces or attempts to enforce an
- 8 act, order, law, statute, rule or regulation of the United States
- 9 Government in violation of this section is quilty of a felony and,
- 10 upon conviction thereof, shall be fined not more than \$1,000 or
- 11 imprisoned in a state correctional facility not less than one year,
- 12 or both fined and imprisoned.
- 13 (d) A public officer or employee of this state who enforces or
- 14 attempts to enforce an order, law, statute, rule or regulation of
- 15 the United States Government in violation of this section is guilty
- 16 of a misdemeanor and, upon conviction thereof, shall be fined not
- 17 more than \$500 or confined in jail not more than one year, or both
- 18 fined and confined.
- 19 (e) An aggrieved party has a private right of action against
- 20 a person who violates subsection (c) or (d) of this article.

NOTE: The purpose of this bill is to invalidate recent federal health care legislation, identify violations, establish criminal penalties and provide for a private cause of action.

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