WEST VIRGINIA CODE: §61-10-33

§61-10-33. Prohibition against selling a pure caffeine product.

(a) "Pure caffeine product" means a product that is comprised of ninety percent or more caffeine and is manufactured into a crystalline, liquid, or powdered form. "Pure caffeine product" does not include any of the following that contains caffeine and is formulated, manufactured, and labeled in accordance with the laws and regulations enforced by the United States Food and Drug Administration:

(1) Coffee, tea, soft drink, energy drink, or any other caffeine-containing beverage;

(2) Any energy product.

(b) Except as provided in subsection (c), no person shall knowingly possess, sell or offer for sale a pure caffeine product.

(c) Subsection (b) does not prohibit a person from possessing, selling or offering for sale any product manufactured in a unit-dose form such as a pill, tablet, or caplet, but only if each unit dose of the product contains not more than two hundred fifty milligrams of caffeine.

(d) Nothing in this section prohibits either of the following:

(1) Possession of a product described in subsection (c);

(2) Possession of a pure caffeine product by any of the following:

(A) A food processing establishment;

(B) A manufacturer of a drug that is available without a prescription;

(C) A laboratory that is licensed by the Board of Pharmacy;

(D) A laboratory of any agency or department of this state that performs testing, analysis, and other laboratory services on behalf of the state; and

(E) A postal or delivery service that transports or delivers a pure caffeine product to an entity specified in subsections (A) to (D) of this section.

(e) A person who violates subsection (b) is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100.

WV Legislature