

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4314**

BY DELEGATES ROHRBACH, STANSBURY, BATES,  
ELLINGTON, HOUSEHOLDER, MILLER, PERDUE, WAXMAN  
AND B. WHITE

[Introduced January 27, 2016; Referred  
to Committee on Health and Human Resources then  
the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §60-6-27; and to amend said code by adding thereto a new section,  
 3 designated §61-10-33, all relating to prohibiting the sale of powdered or crystalline alcohol;  
 4 defining terms; prohibiting the sale of pure caffeine products; providing exclusions and  
 5 creating criminal penalties.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §60-6-27; and that said code be amended by adding thereto a new section,  
 3 designated §61-10-33, all to read as follows:

**CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

**ARTICLE 6. MISCELLANEOUS PROVISIONS.**

**§60-6-27. Prohibition against powdered alcohol.**

1 (a) No person shall sell or offer for sale powdered or crystalline alcohol for human  
 2 consumption. Powdered or crystalline alcohol may be sold at wholesale only for scientific,  
 3 industrial, manufacturing or other purposes identified by the Alcohol Beverage Commission under  
 4 terms and conditions the commission considers appropriate to safeguard against the misuse of  
 5 powdered or crystalline alcohol. This prohibition does not apply to any substance regulated by  
 6 the Food and Drug Administration in the United States Department of Health and Human Services  
 7 that is not either of the following:

8 (1) Beer or intoxicating liquor;

9 (2) A compound that could be converted into beer or intoxicating liquor;

10 (3) A medication that requires a prescription; or

11 (4) An over-the-counter medication.

12 (b) As used in this section:

13 (1) "Powdered or crystalline alcohol" means a product that is manufactured into a

14 powdered or crystalline form and that contains any amount of alcohol;

15 (2) "Prescription" has the same meaning as provided in section four, article five, chapter  
16 thirty;

17 (3) "Nonprescription drug" has the same meaning as provided in section four, article five,  
18 chapter thirty.

**CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

**ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.**

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

1 (a) "Pure caffeine product" means a product that consists solely or primarily of caffeine  
2 and is manufactured into a crystalline, liquid, or powdered form. "Pure caffeine product" does not  
3 include any of the following that contains caffeine and is formulated, manufactured, and labeled  
4 in accordance with the laws and regulations enforced by the United States Food and Drug  
5 Administration:

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

7 (2) Any energy product.

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

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

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

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

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

16 (A) A food processing establishment;

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

- 18           (C) A laboratory that is licensed by the Board of Pharmacy;  
19           (D) A laboratory of any agency or department of this state that performs testing, analysis,  
20 and other laboratory services on behalf of the state; and  
21           (E) A postal or delivery service that transports or delivers a pure caffeine product to an  
22 entity specified in subsections (A) to (D) of this section.  
23           (e) A person who violates subsection (b) is guilty of a misdemeanor and, upon conviction  
24 thereof, shall be fined not more than \$100.

NOTE: The purpose of this bill is to prohibit the sale of pure caffeine products and to prohibit the sale of powdered or crystalline alcohol for human consumption.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.