

THIRD READING

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Bill No: SB 1314  
Author: Menjivar (D), et al.  
Amended: 5/14/26  
Vote: 21

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SENATE REVENUE AND TAXATION COMMITTEE: 4-0, 4/8/26  
AYES: McNerney, Ashby, Becker, Grayson  
NO VOTE RECORDED: Alvarado-Gil

SENATE HEALTH COMMITTEE: 8-0, 4/22/26  
AYES: Weber Pierson, Caballero, Durazo, Menjivar, Padilla, Pérez, Rubio,  
Smallwood-Cuevas  
NO VOTE RECORDED: Valladares, Gonzalez, Grove

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/14/26  
AYES: Cervantes, Cabaldon, Dahle, Grayson, Richardson, Wahab  
NO VOTE RECORDED: Seyarto

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**SUBJECT:** Smoke shops: locations, hours of operation, and sale of nitrous oxide

**SOURCE:** Author

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**DIGEST:** This bill enacts the Youth Over Smoke Act, which limits the location and operation of smoke shops, as defined.

**ANALYSIS:**

- 1) Allows cities and counties to “make and enforce within [their] limits all local police, sanitary, and other ordinances and regulations not in conflict with general laws” (California Constitution, Article XI, Section Seven).
- 2) Prohibits a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical marijuana from being located within a 600-foot radius of a school, while permitting a local agency to further restrict the location or establishment of a

medical marijuana cooperative (AB 2650, Buchanan, Chapter 63, Statutes of 2010).

- 3) Enacts the Stop Tobacco Access to Kids Enforcement Act (STAKE Act) to reduce the availability of tobacco to those under the age of 21.
- 4) Allows an enforcing agency, including the California Department of Public Health (CDPH), the Attorney General, and local law enforcement agencies, to assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes a tobacco product to another person who is under 21.
- 5) Imposes civil penalties for violations of the STAKE Act between \$1,000 to \$10,000 for a first, second, third, fourth, or fifth violation within a five-year period.
- 6) Deposits civil penalties in the State Treasury to the credit of the Sale of Tobacco to Minors Control Account.
- 7) Enacts the Cigarette and Tobacco Products Licensing Act, which required the Board of Equalization (BOE) to license manufacturers, distributors, wholesalers, importers, and retailers of cigarette or tobacco products who are engaged in business in California.
- 8) Transfers duties, powers, and responsibilities related to the administration of taxes and fees from BOE to the California Department of Tax and Fee Administration (CDTFA).
- 9) Directs CDTFA to administer the Cigarette and Tobacco Products Tax Law.
- 10) Requires retailers, distributors, manufacturers, wholesalers, and importers to have and maintain a license.
- 11) Creates two kinds of licenses for retailers: one for those who sell tobacco products subject to the Cigarette and Tobacco Products Tax, and one for those whose products are not subject to that tax, such as retailers of electronic delivery devices not containing or sold with nicotine and certain accessories, such as zero-nicotine vaporized liquids.
- 12) Provides that licenses are valid for one year and must be renewed annually.
- 13) Sets license fees on both sets of tobacco retailers at \$450, for new or renewed licenses applied for on or after July 1, 2026, while permitting CDTFA to further increase the license fee by regulation to an amount necessary to

maintain the Compliance Fund at a level that is no more than necessary to cover its reasonable costs, not to exceed \$600 (AB 573, Rogers, Chapter 269, Statutes of 2025).

- 14) Provides that CDTFA may suspend a retailer's license under the Licensing Act or the Cigarette and Tobacco Products Tax Law for a first or subsequent license violation, so long as a licensee is provided at least ten days' written notice of a pending suspension or revocation and an opportunity to appeal.
- 15) Prohibits CDTFA from issuing a retail license if:
  - a) A retailer has previously had a license suspended or revoked for a violation of the Licensing Act.
  - b) The application for a license is for a location where a previous license has been suspended or revoked, unless five years have passed or the person applying for the license provides the board with documentation showing that they acquired the premises or location in an arm's length transaction.
  - c) The retailer or any person controlling the retailer is convicted of a felony.
  - d) The retailer does not possess all required permits and licenses issued under the Revenue & Taxation Code.
- 16) Requires CDTFA to either suspend or revoke a tobacco license upon a third, fourth, or fifth violation of the STAKE Act within 60 days of notification by the enforcing agency's final adjudication:
  - a) 45 days for a third violation at the same location within a five-year period.
  - b) 90 days for a fourth violation at the same location within a five-year period.
  - c) Revocation of the license for a fifth violation at the same location within a five-year period.
- 17) Directs CDTFA to also impose a \$250 civil penalty when notified of a violation by a STAKE Act enforcement agency that triggers license suspension or revocation.
- 18) Makes possession of nitrous oxide with the intent to ingest, for the purposes of intoxication, a misdemeanor, and also provides that intentionally being under the influence of nitrous oxide is a misdemeanor, except pursuant to legitimate medical or dental use.
- 19) Provides that the sale or furnishing of nitrous oxide to a minor is a misdemeanor for the suspension of the business license of a person who has been convicted of this crime for a second time for up to one year, unless the

business license owner demonstrates good faith efforts to prevent sales of nitrous oxide to minors by the business license owner's employee.

- 20) Makes a misdemeanor any person dispensing or distributing nitrous oxide to a person, if it is known or should have been known that it will be ingested or inhaled by the person for the purposes of causing intoxication, and that person proximately causes great bodily injury or death to themselves, or any other person.

This bill:

- 1) Enacts the Youth Over Smoke Act, which limits the location and operation of smoke shops.
- 2) Prohibits a smoke shop from being located within a 600-foot radius of a school or day care center, unless the local jurisdiction specifies a radius greater than 600 feet.
- 3) Directs that the radius be measured in a manner similar to the existing prohibition on medical cannabis facilities.
- 4) Restricts the hours a smoke shop may sell tobacco products directly to the public to between 6 am to 10 pm.
- 5) Bars a smoke shop from possessing, storing, owning or selling nitrous oxide, including products derived from nitrous oxide, or paraphernalia related to the consumption of nitrous oxide.
- 6) Prohibits CDTFA from issuing a license to a tobacco retailer located within a 600-foot radius of a school or day care center, or the greater radius specified by the local jurisdiction.
- 7) Directs a STAKE Act enforcement agency to assess penalties that apply to current violations of the bill's restrictions on smoke shops upon notice to the person, firm, or corporation in violation of the bill.
- 8) Requires CDTFA to issue civil penalties under the STAKE Act that apply upon a third, fourth, or fifth violation, and suspend or revoke the tobacco retailer's license.

- 9) Defines several terms, many by reference to the Cigarette and Tobacco Products Licensing Act or other provisions of existing law, including:
- a) “Smoke shop” as any retailer whose retail location has 20 percent or more of its net floor area devoted to the sale of tobacco products, substances intended for smoking or inhaling, or smoking or inhaling accessories, but not licensed cigar lounges or cannabis retailers.
  - b) “School” as evidenced by the State Department of Education’s school directory, either a public or private school instructing children in kindergarten or any of grades 1 to 12, inclusive, as authorized by the State Department of Education. Private schools must have filed a verification of private school affidavit with the State Department of Education. A school does not include a private school in which education is primarily conducted in a private home.
- 10) Replaces references to BOE with CDTFA.
- 11) Includes a severability clause.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- CDTFA indicates that it would incur annual administrative costs of up to \$250,000 to implement the provisions of the bill. Cost drivers would include (1) administrative workload related to license suspensions and revocations, (2) performing inspections, (3) issuing citations, and (4) seizing a licensee’s cigarette and tobacco products (Cigarette and Tobacco Products Compliance Fund).
- The department anticipates that the bill would result in reduced licensing fee revenues of an unknown amount. Specifically, the number of licenses that would be suspended under the bill’s requirements or revoked for violations of the Licensing Act’s suspension provisions is unknown (Cigarette and Tobacco Products Compliance Fund). Additionally, CDTFA anticipates a potential loss of sales and use tax revenues of an unknown amount, resulting from limiting the sale of nitrous oxide (General Fund and local funds).
- The bill could result in increased penalty revenue; the magnitude is unknown.

**SUPPORT:** (Verified 5/14/26)

Eric Guerra, Sacramento City Councilmember, District 6  
Jessie Lopez, Santa Ana City Councilmember, Ward 3  
Todd Spitzer, District Attorney, Orange County  
American Academy of Pediatrics, California  
California Cannabis Operators Association  
California District Attorneys Association  
California LGBTQ Health and Human Services Network  
California Narcotic Officers' Association  
California State Association of Counties  
California Youth Karate Club  
City of Bellflower  
City of Stanton  
CleanEarth4Kids.org  
County of Orange  
Latino Caucus of California Counties  
League of California Cities  
Los Angeles Unified School District

**OPPOSITION:** (Verified 5/14/26)

None received

**ARGUMENTS IN SUPPORT:** According to the author, “As a state, we are confronting a growing youth drug crisis—from the surge in vaping among teens to the recent rise of nitrous oxide use, commonly known as ‘whippets.’ In 2024 alone, 156 minors died from nitrous oxide use. The time to act is now. We must ensure that as a state, we are protecting our children by creating healthy and safe neighborhoods around our schools. It is unacceptable that there are schools across the state with smoke shops that are closer than the community centers, libraries, and public parks. We must do better. SB 1314 takes a common-sense approach to protecting the health and safety of minors by establishing reasonable guardrails on how and where these smoke shops operate to ensure that our kids’ environments are not plagued with harmful vices.”

Prepared by: Colin Grinnell / REV. & TAX. / (916) 651-4117  
5/18/26 15:28:49

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