

Date of Hearing: June 23, 2026

ASSEMBLY COMMITTEE ON HEALTH
Mia Bonta, Chair
SB 1314 (Menjivar) – As Amended May 14, 2026

SENATE VOTE: 30-2

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

SUMMARY: Enacts the Youth Over Smoke Act, which, effective July 1, 2027, prohibits the retail location for a smoke shop, as defined, from being located within a 600-foot radius of a school or daycare center. Prohibits a smoke shop from operation between 10:00 p.m. and 6:00 a.m., and prohibits a smoke shop from possessing, storing, owning, or selling nitrous oxide or paraphernalia relating to the consumption of nitrous oxide. Specifically, **this bill:**

- 1) Prohibits, effective July 1, 2027, the retail location for a smoke shop from being located within a 600-foot radius of a school or daycare center unless the local jurisdiction specifies a radius greater than 600 feet. Requires the distance to be measured in the same manner as provided in existing law with respect to cannabis dispensaries.
- 2) Allows a smoke shop to only engage in the retail sale of tobacco products directly to the public between the hours of 6:00 a.m. and 10:00 p.m.
- 3) Prohibits a smoke shop from possessing, storing, owning, or selling nitrous oxide, including products derived from or containing nitrous oxide, or paraphernalia related to the consumption of nitrous oxide.
- 4) Specifies that the provisions described in 1) through 3) set forth minimum state restrictions with respect to the operation of smoke shops and do not preempt or otherwise prohibit the adoption of a local standard that imposes more restrictive requirements on the operation of smoke shops. Requires a local standard that imposes more restrictive requirements on the operation of smoke shops to control in the event of any inconsistency between this bill and a local standard.
- 5) Defines the following for purposes of this bill:
 - a) “Cigar” to mean any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than three pounds per thousand;
 - b) “Cigar lounge” to mean any retailer whose retail location has 70% or more of its net floor area devoted to the sale or onsite consumption of cigars;
 - c) “Daycare center” to mean a facility, other than a family daycare home, serving infant, toddler, preschool, or school age children licensed by the State Department of Social Services;
 - d) “License” to have the same meaning as described in 1) of Existing Law, below;

- e) “Net floor area” to mean the sales area or customer area of a retailer, including register areas, bar areas, waiting areas, and display areas that may not be directly accessible to customers, but not including hallways, offices, restrooms, courtyards, break areas, the forecourt of a service station, or a kiosk of a service station;
 - f) “Nitrous oxide” to have the same meaning as described in 4) of Existing Law, below;
 - g) “School” to mean, as evidenced by the State Department of Education’s school directory, either of the following:
 - i) A public school instructing children in kindergarten or any of grades 1 to 12, inclusive, as authorized by the State Department of Education; or,
 - ii) A private school instructing children in kindergarten or any of grades 1 to 12, inclusive, that has filed a verification of private school affidavit with the State Department of Education pursuant to Section 33190 of the Education Code, excluding any private school in which education is primarily conducted in a private home; and,
 - h) “Smoke shop” to mean any retailer whose retail location has 20% 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, including, but not limited to, pipes, vaporizing devices, or other smoking or inhaling paraphernalia. Specifies that a smoke shop does not include a cigar lounge.
- 6) Makes the provision of this bill severable. Requires, if any provision of this act or its application is held invalid, that invalidity to not affect other provisions or applications that can be given effect without the invalid provision or application.

EXISTING LAW:

Tobacco Products Licensing and Regulation

- 1) Establishes the Cigarette and Tobacco Products Licensing Act of 2003, which requires tobacco retailers to be licensed by submitting an application to the California Department of Tax and Fee Administration (CDTFA) to sell tobacco products, and to conspicuously display the license in the retail location in a manner visible to the public. Imposes a \$500 penalty for any retailer who fails to display a license. [Business and Professions Code (BPC) § 22972 and § 22974.5]
- 2) Requires every wholesaler and distributor annually to obtain and maintain a license to engage in the sale of tobacco products, and to maintain accurate and complete records relating to the sale of those products, including, but not limited to, receipts, invoices, and other records as may be required by CDTFA. [BPC § 22975(a) and § 22978.5(a)]
- 3) Authorizes any peace officer, or CDTFA employee granted limited peace officer status, upon presenting appropriate credentials to conduct inspections and assess penalties. [BPC § 22980, *et seq.*]

Nitrous oxide (N2O)

- 4) Makes every person who sells, furnishes, administers, distributes, gives away, or offers to sell, furnish, administer, distribute, or give away a device, canister, tank, or receptacle either exclusively containing N2O, or exclusively containing a chemical compound mixed with N2O, to a person under 18 years of age guilty of a misdemeanor. [Penal Code Section § 381(d)]

Tobacco Use Prevention and Cessation

- 5) Requires the State Department of Public Health (DPH) to establish and develop a program to reduce the availability of tobacco products to persons under 21 years of age through authorized enforcement activities pursuant to the Stop Tobacco Access to Kids Enforcement Act (STAKE Act). [BPC § 22950, *et seq.*]
- 6) Requires retailers of tobacco products, as part of the STAKE Act, to conspicuously post a notice that states that: selling tobacco products to anyone under 21 years of age is illegal and subject to penalties; checking the identification of a purchaser is required of those selling tobacco products; and, reporting unlawful sales of tobacco products to any person under 21 can be done through a toll-free telephone number. [BPC § 22952(b)]
- 7) Requires DPH, in carrying out its enforcement responsibilities under the STAKE Act, to conduct random, onsite sting inspections at retail sites with the assistance of persons under 21 years of age. Permits DPH to conduct these inspections in response to public complaints or at retail sites where violations have previously occurred, and to investigate illegal sales of tobacco products to any person under 21 years of age by telephone, mail, or the internet. A person under 21 years of age who participates in these enforcement activities is immune from prosecution under any law prohibiting the purchase of these products by a person under 21 years of age. [BPC § 22952(c)]
- 8) Permits an “enforcing agency” to assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under 21 years of age, except for military personnel 18 or older, any tobacco product, instrument, or paraphernalia that is designed for the smoking or ingestion of tobacco products ranging from \$1,000 to \$20,000 for a first, second, third, fourth, or fifth violation within a five-year period. [BPC § 22958(a)]
- 9) Defines “enforcing agency” in the STAKE Act as DPH; another state agency, including, but not limited to, the office of the Attorney General; or a local law enforcement agency, including, but not limited to, a city attorney, district attorney, or county counsel. [BPC § 22950.5(b)]
- 10) Requires DPH, in addition to civil penalties, and within 60 days of the final administrative adjudication on the parties or payment of the civil penalty for an uncontested violation, to notify CDTFA of the violation. CDTFA is then required to assess a civil penalty of \$250 and suspend the license of those cited for a third or fourth violation at the same location within five years for 45 or 90 days, or revoke the license for a fifth violation at the same location within five years. [BPC § 22958(b)]

FISCAL EFFECT: 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). CDTFA 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.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** 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 author states 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. The author concludes that this bill 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.
- 2) **BACKGROUND.** The most recent National Youth Tobacco Survey (NYTS) on youth tobacco use in the Center for Disease Control and Prevention Morbidity and Mortality Weekly Report, “*Tobacco Product Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2024*,” found, that in 2024, 2.25 million middle and high school students reported current use (use on one or more days during the past 30 days) of any tobacco product, compared to 2.80 million in 2023. This decline was largely attributable to the significant drop in the number of students who reported current e-cigarette use (2.13 million youth in 2023 compared to 1.63 million youth in 2024). Within the past year, a significant decline also occurred in current hookah use (290,000 in 2023 compared to 190,000 in 2024). Cigarette smoking reached the lowest level ever recorded by the survey, with only 1.4% of students reporting current use in 2024. The findings showed current e-cigarette use decreased from 2.13 million (7.7%) youth in 2023 to 1.63 million (5.9%) youth in 2024. Furthermore, youth nicotine pouch use did not show a statistically significant change from 2023 (1.5% in 2023 and 1.8% in 2024). The most commonly used tobacco products were: e-cigarettes (5.9%), nicotine pouches (1.8%), cigarettes (1.4%), cigars (1.2%), smokeless tobacco (1.2%), other oral nicotine products (1.2%), heated tobacco products (0.8%), hookahs (0.7%), and pipe tobacco (0.5%).
 - a) **Retailer violation rates for tobacco sales to youth.** The California Synar Tobacco Purchase Survey (STPS) assesses tobacco retailer licensees violation rate for tobacco sales to youth and young adults under 21 years of age. In their most recent 2025 survey, they found the following data:

- i) The statewide retailer violation rate was 14.2%;
 - ii) Drug stores/pharmacies and supermarket/large grocery stores had the lowest violation rates (4.7% and 6.7% respectively); and,
 - iii) Tobacco stores/smoke shops (28.5%) and liquor stores (18.7%) had higher violation rates than the statewide average.
- b) **Placement of Smoke Shops.** According to a 2020 research study conducted by Stanford University School of Medicine, across 30 major U.S. cities, an average of 63% of public schools are located within 1,000 feet — about two city blocks — of a store selling tobacco and e-cigarette products. Findings include:
- i) **Tobacco retailers are located near schools.** In eight of the cities surveyed, at least 80% of public schools are within 1,000 feet of a tobacco retailer: Baltimore (87%), Boston (87.5%), Miami (90%), New York City (94%), Philadelphia (90%), Providence (80%), San Francisco (81.5%) and Washington, D.C. (82%).
 - ii) **Tobacco retailers are concentrated in low-income areas.** On average, there are nearly five times more tobacco retailers per square mile in the lowest-income neighborhoods than in the highest-income neighborhoods, as defined by data from the U.S. Census.
- c) **Teen and Young Adult Abuse of N2O Increasing.** According to a 2025 report in JAMA Network Open, “*Teen and Young Adult Abuse of N2O Increasing*,” nitrous oxide deaths in the United States spiked by more than 500% between 2010 and 2023. When abused, nitrous oxide produces short-lived euphoric high and mild dissociative effects, which can make it appealing for recreational use. Abuse can lead to neuropathy, memory loss, and motor dysfunction. When used without adequate oxygen, nitrous oxide can cause oxygen deprivation (hypoxia), which can result in dizziness, unconsciousness, cognitive impairment, paranoia, or even death in severe cases. The drug can also cause nausea and vomiting, which may lead to choking if the user is lying down. One surprising side effect is frostbite; directly inhaling the gas from the canister can cause cold burns. Dependence, cravings, and compulsive use of nitrous oxide may result from regular use of the drug.
- d) **Federal Food and Drug Administration (FDA) N2O advice.** As last updated on June 26, 2025, the FDA has a webpage advising consumers not to inhale N2O products from any size canisters, tanks, or chargers. These products are marketed as both unflavored and flavored N2O canisters and are sold as a food processing propellant for whipped cream and culinary food use. The FDA states intentional misuse or inhalation of contents can lead to serious adverse health events, including death. The FDA further notes these products are being sold online and at retailers, including Amazon.com, eBay, Costco, Walmart, and at smoke/vape shops and gas stations.
- 3) **SUPPORT.** This bill is sponsored by Eric Guerra, Mayor Pro Tem of the City of Sacramento, who states in support that this bill places common sense guardrails on the operations of smoke shops to ensure the state protects the health and safety of minors. While the State of California has made considerable strides in curbing youth smoking by

banning flavored tobacco products, there is still a pressing need for stronger restriction on the sale of tobacco to and around minors. The sponsor notes that in the City of Sacramento, a buffer zone of 1,000 feet between tobacco retailers currently exists and staff is working to identify new buffers between schools and childcare facilities. Even with these buffers in place, they are still seeing a rise of young kids partaking in tobacco and Delta 9 THC vape consumption and selling these products to their classmates. The sponsor argues that it is also important to address the dangers of nitrous oxide before it becomes an epidemic among our young children. Nitrous oxide comes in all manners of flavors and is advertised for cooking purposes; however, it is being sold in tobacco stores with attachments making it easier to ingest and become intoxicated. While nitrous oxide is used in cooking it does not need to be sold by tobacco retailers, with such ease of access. The sponsor concludes that by requiring a statewide 600-foot buffer, the risk of children engaging with these retailers and their advertising decreases.

- 4) **OPPOSE UNLESS AMENDED.** The Campaign for Tobacco-Free Kids, the American Cancer Society Cancer Action Network, and the American Lung Association are opposed to this bill unless it is amended. The opposition notes that this bill would define and regulate smoke shops, establish a new definition of “cigar,” and create a new definition of “cigar lounges” in state law where none has existed before. The opposition states that they recognize the author as a public health champion and applaud the intent to restrict smoke shop locations near schools and daycare centers and limit the hours of operation, they are deeply concerned that the bill, as currently written, would have the unintended consequence of expanding access and exposure to cigar smoking.

The opposition argues that a definition of "cigar" already exists in HSC § 104550, and it has served as the foundation for California's regulation of cigars for decades. This includes the state's landmark flavored tobacco law, SB 793 (Hill) Chapter 34, Statutes of 2020. Unlike the existing HSC § 104550 definition, which covers all cigar-like products regardless of size or weight, the definition in the bill adds a weight-based threshold of more than three pounds per thousand units. Little cigars and cigarillos, which have been shown time and again to be targeted towards youth, generally fall below that threshold. Introducing a conflicting definition of "cigar" that excludes these products by weight creates ambiguity that has the potential to undermine SB 793. The opponents further note that California law does not currently define or recognize “cigar lounges” as a distinct business category. These establishments have operated as a “private smoking lounge” (Labor Code § 6404.5) for decades. A new definition for cigar lounges would put the state’s formal stamp of approval on these enterprises. While the current bill would regulate where smoke shops operate, it would do nothing to restrict where cigar lounges may locate, what hours they may operate, or what products they may sell. In effect, it would create a new, lightly regulated category of tobacco retail establishment operating entirely outside the consumer protections this bill seeks to impose. The opponents conclude that they remain committed to working with the author towards a resolution that achieves meaningful smoke shop regulation without inadvertently creating a pathway for the proliferation of cigar lounges throughout California.

- 5) **RELATED LEGISLATION.** SB 1124 (Archuleta) would require DPH to develop signage for lung cancer screening by July 1, 2027, and mandates that retailers prominently display this signage in retail locations beginning January 1, 2028. Would create a \$500 penalty for failure to display the signage, enforceable by CDTFA. SB 1124 is pending a hearing in the Assembly Health Committee.

6) PREVIOUS LEGISLATION.

- a) AB 573 (Rogers), Chapter 269, Statutes of 2025, increases the fee for a license to sell tobacco products to provide additional resources for increased enforcement of tobacco law. Requires the Legislative Analyst's Office to report to the Legislature information about the state's enforcement activities and how they could be bolstered.
- b) SB 1230 (Rubio), Chapter 462, Statutes of 2024, enacts the Strengthen Tobacco Oversight Programs and Seize Illegal Tobacco Products Act, which increases civil penalties on retailers who violate the STAKE Act, and authorizes CDTFA to seize flavored tobacco products or tobacco product flavor enhancers that violate the flavored tobacco products ban.
- c) SB 793 prohibits a tobacco retailer, or any of the tobacco retailer's agents or employees, from selling, offering for sale, or possessing with the intent to sell or offer for sale a flavored tobacco product or a tobacco product flavor enhancer, as specified.
- d) AB 1735 (Hall), Chapter 458, Statutes of 2014, makes it a misdemeanor for any person to dispense or distribute N2O to a person, if it is known or should have been known that the N2O 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.
- e) SB 1927 (Hayden), Chapter 1009, Statutes of 1994 enacted the STAKE Act.

7) DOUBLE REFERRAL. This bill is double referred; upon passage of this committee, it will be referred to the Assembly Committee on Business and Professions.

8) AMENDMENTS. In order to address concerns raised by stakeholders regarding the potential inadvertent effects of creating a new definition of cigar and cigar lounge, the Committee may wish to amend this bill as follows:

- a) To strike the provisions of the bill that create new definitions for cigars, cigar lounges, and smoke shops;
- b) Extend the prohibition on a retailer within 600 feet of a school or daycare center to 1000 feet, and make it applicable only to new licensees; and,
- c) Remove the limitations on a retailers' hours of operation.

REGISTERED SUPPORT / OPPOSITION:**Support**

City of Sacramento Councilmember Eric Guerra (sponsor)
Association of California School Administrators
California State Association of Counties
City of El Cerrito
League of California Cities
Los Angeles County District Attorney's Office
Los Angeles Unified School District

Opposition

None on file

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