

THIRD READING

Bill No: SB 758
Author: Umberg (D)
Amended: 1/22/26
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 1/13/26

AYES: Arreguín, Seyarto, Caballero, Pérez, Wiener

NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 1/22/26

AYES: Caballero, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

SUBJECT: Public health: kratom and nitrous oxide

SOURCE: California Narcotics Officers Association
League of California Cities

DIGEST: This bill prohibits a tobacco retailer, as defined, from selling nitrous oxide at a retail location.

ANALYSIS:

Existing law:

- 1) Makes it a misdemeanor to sell, furnish, administer, distribute, give away, or offer to sell, furnish, administer, distribute, or give away a device, canister, tank, or receptacle containing nitrous oxide to a person under 18 years of age. (Penal (Pen.) Code, § 381c.)
- 2) Makes it a misdemeanor to dispense or distribute nitrous oxide to a person if the dispenser or distributor of the nitrous oxide knows or should know that the person is going to use the nitrous oxide for the purpose of intoxication, and that person proximately causes great bodily injury or death to himself, herself, or another person. (Pen. Code, § 381d.)

- 3) Requires that a person who dispenses or distributes nitrous oxide record each transaction in a written or electronic document. (Pen. Code, § 381e.)
- 4) Provides that the person dispensing or distributing the nitrous oxide require the purchaser to sign the document recording the transaction, provide a complete residential address, and present valid government-issued photo identification. Existing law also requires that the person dispensing or distributing the nitrous oxide sign and date the document and retain the document at the person's business address for one year from the date of the transaction for inspection. (Pen. Code, § 381e.)
- 5) Requires that the document signed by the purchaser include all of the following:
 - a) That inhalation of nitrous oxide outside of a clinical setting may have dangerous health effects.
 - b) That it is a violation of state law to possess nitrous oxide with the intent to breathe, inhale, or ingest it for the purpose of intoxication.
 - c) That it is a violation of state law to knowingly distribute or dispense nitrous oxide to a person who intends to breathe, inhale, or ingest it for the purpose of intoxication.(Pen. Code, § 381e.)
- 6) Defines "retailer," for purposes of the Cigarette and Tobacco Products Licensing Act of 2003, as a person who engages in this state in the sale of cigarettes or tobacco products directly to the public from a retail location. Provides that retailer includes a person who operates vending machines from which cigarettes or tobacco products are sold in this state. (Business and Professions (Bus. & Prof.) Code, § 29971, subd. (r).)
- 7) Defines "retail location" as both of the following: any building from which cigarettes or tobacco products are sold at retail; and vending machine. (Bus. & Prof. Code, § 29971, subd. (s).)
- 8) Defines "grocery department" to mean an area within a general retail merchandise store which is engaged primarily in the retail sale of packaged food, rather than food prepared for immediate consumption on or off the premises. (Civil (Civ.) Code, § 7100, subd. (c)(3).)

- 9) Defines “grocery store” to mean a store engaged primarily in the retail sale of packaged food, rather than food prepared for consumption on the premises. (Civ. Code, § 7100, subd. (c)(4).)

This bill:

- 1) Prohibits a retailer of tobacco products from selling nitrous oxide at a retail location.
- 2) Specifies that a retailer does not include a grocery store or a general retail merchandise store with a grocery department, as defined.

Background

Nitrous oxide is a colorless, odorless to sweet-smelling gas used to manage pain and anxiety in dentistry as well as other clinical settings. (American Dental Association, *Nitrous Oxide* <<https://www.ada.org/resources/ada-library/oral-health-topics/nitrous-oxide> .) In addition, it is used in food preparation and as an oxidizer in model rockets and motor vehicle racing.

Nitrous oxide is also misused as a recreational drug and produces short-lived euphoric and hallucinogenic effects. It is consumed in the form of whippets—balloons filled with the gas via small, pressurized canisters designed to be used in whipped cream dispensers. Nitrous oxide has become increasingly popular, particularly among teens and young adults, due to its low cost and availability online and in grocery and convenience stores, gas stations, and shops that sell vapes and other tobacco-related products. (Centers for Disease and Control, *Notes from the Field: Recreational Nitrous Oxide Misuse—Michigan, 2019-2023* (Apr. 10, 2025) <<https://www.cdc.gov/mmwr/volumes/74/wr/mm7412a3.htm> .) Short-term side effects include slurred speech, dizziness, and headaches. (American Addiction Centers, *Nitrous Oxide (Whippet) Abuse, Side Effects, & Treatment* (Dec. 31, 2024) <<https://americanaddictioncenters.org/inhalant-abuse/nitrous-oxide-whippets> .) Although nitrous oxide use is often perceived by those using it as safe or harmless, repeated use can cause severe neurologic, cardiovascular, and psychiatric effects, including hallucinations, delusions, organ damage, nerve damage, seizures, coma, and death. (*Id.*)

This bill prohibits a retailer of tobacco products from selling nitrous oxide at a retail location, and specifies that “retailer” does not include a grocery store or grocery department.

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

According to the Senate Appropriations Committee:

Unknown, potentially significant costs for the California Department of Public Health (CDPH) for staff positions to conduct inspections, ensure compliance, and conduct investigations.

SUPPORT: (Verified 1/22/26)

California Narcotic Officers' Association (co-source)

League of California Cities (co-source)

American Kratom Association

Arcadia Police Officers' Association

Botanicals for Better Health and Wellness

Brea Police Association

Burbank Police Officers' Association

California Association of School Police Chiefs

California Coalition of School Safety Professionals

California Reserve Peace Officers Association

City of Brea

City of Buena Park

City of Stanton

Claremont Police Officers Association

Corona Police Officers Association

County of Humboldt

County of Kern

County of Tulare

Culver City Police Officers' Association

Friends Committee on Legislation of California

Fullerton Police Officers' Association

Global Kratom Coalition

Los Angeles School Police Management Association

Los Angeles School Police Officers Association

Murrieta Police Officers' Association

Newport Beach Police Association

Palos Verdes Police Officers Association

Placer County Deputy Sheriffs' Association

Pomona Police Officers' Association

Riverside Police Officers Association

Riverside Sheriffs' Association

Rural County Representatives of California
San Bernardino County Sheriff's Department

OPPOSITION: (Verified 1/22/26)

7 Hope Alliance Foundation
7ohBlack
ACLU California Action
California Public Defenders Association
California Retail and Distribution Fairness Association
Californians United for a Responsible Budget
Consumer Action for a Strong Economy
Consumer Choice Center
Doctors for Drug Reform Policy
Drug Policy Alliance
Ella Baker Center for Human Rights
End It For Good
Holistic Alternative Recovery Trust
Initiate Justice
Moms for America Action
San Francisco Public Defender
Sister Warriors Freedom Coalition
Students for Sensible Drug Policy
Taxpayers Protection Alliance
Vera California
Over 40 individuals

Prepared by: Stephanie Jordan / PUB. S. /
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