

Date of Hearing: June 30, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

SB 758 (Umberg) – As Amended June 24, 2026

SUMMARY: Prohibits a retailer from selling nitrous oxide at a retail location. Specifically, **this bill:**

- 1) Prohibits a retailer from selling nitrous oxide, as defined, at a retail location.
- 2) Provides that a retailer does not include a grocery store or a general retail merchandise store with a grocery department, except that a retailer includes a convenience store.
- 3) Authorizes a city or county, or city and county, to adopt an ordinance imposing greater restrictions on the retail sale of nitrous oxide than those imposed by this section provided that the ordinance does not restrict legitimate uses, including, but not limited to, dentistry, food preparation, and automotive services.

EXISTING LAW:

- 1) Defines “nitrous oxide” to mean any of the following substances: N₂O, dinitrogen monoxide, dinitrogen oxide, nitrogen oxide, or laughing gas. (Pen. Code, § 381c, subd. (a).)
- 2) Provides that any person that possesses nitrous oxide or any substance containing nitrous oxide with the intent to breathe, inhale, ingest for the purposes of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses, or for the purposes of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or who knowingly with the intent to do so, is under the influence of nitrous oxide is a guilty of a misdemeanor punishable by imprisonment in a county jail by a term not to exceed six months, by a fine not to exceed \$1,000, or by both imprisonment and a fine. (Pen. Code, § 381b.)
- 3) States that every person who sells, furnishes, administers, distributes, or gives away, or offers to sell, furnish, distribute, or give away a device, canister, tank, or receptacle either exclusively containing nitrous oxide, or exclusively containing a chemical compound containing nitrous oxide to a person under 18 years of age is guilty of a misdemeanor punishable by imprisonment in a county jail by a term not to exceed six months, by a fine not to exceed \$1,000, or by both imprisonment and a fine. The court shall consider ordering community service as a condition of probation. (Pen. Code, § 381c, subd. (b).)
- 4) Provides that it is a defense to the crime of selling nitrous to a minor if the defendant honestly and reasonably believed that the minor involved in the offense was at least 18 years of age. The defendant bears the burden of establishing this defense by a preponderance of the evidence. (Pen. Code, § 381c, subd. (c)(1) & (2).)

- 5) Makes it a misdemeanor punishable by a term of imprisonment not to exceed six months, by a fine not to exceed \$1,000, or both, for any person to dispense or distribute nitrous oxide to a person knowing or having reason to believe that the nitrous oxide will be ingested or inhaled by the person for the purposes of causing intoxication, euphoria, dizziness, or stupefaction and that person proximately cause great bodily injury or death to himself, herself, or any other person. (Pen. Code, § 381d.)
- 6) Requires a person that distributes or dispenses nitrous to record each transaction involving nitrous oxide in a physical written document. The person dispensing or distribution the nitrous oxide shall require the purchaser to sign the document and provide a residential address and present a valid government issued photo identification card. The person dispensing or distributing the nitrous oxide shall sign and date the document and retain the document at the business address for one year from the date of the transaction, and shall make transaction records available during normal business hours for inspection and copying by officers and employees of the California State Board of Pharmacy, or of other law enforcement agencies of this state or of the United States upon presentation of a duly authorized search warrant. (Pen. Code, § 381e, subd. (a).)
- 7) Requires that the document used to record each nitrous oxide transaction shall inform the purchaser of all of the following:
 - a) The inhalation of nitrous oxide may be hazardous to your health;
 - b) That it is a violation of state law to possess nitrous oxide or any substance containing 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 or any substance containing nitrous oxide, to a person who intends to breathe, ingest, or inhale it for the purpose of intoxication.
 - d) States that these requirements shall not apply to any person that administers nitrous oxide for the purpose of providing medical or dental care if administered by a medical or dental provider licensed by this state or at the direction or under the supervision of a practitioner licensed in this state; and,
 - e) Provides that these requirements shall not apply to the sale of nitrous oxide contained in food products for use as a propellant. (Pen. Code, § 381e, subd. (b).)
- 8) Requires, commencing June 30, 2004, a retailer have in place and maintain a license to engage in the sale of cigarettes or tobacco products. A retailer that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application for those licenses. (Bus. & Prof. § 22972, subd. (a).)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Sponsors:** California Narcotic Officers' Association, League of California Cities, and Rural County Representatives of California.
- 2) **Author's Statement:** According to the author, "SB 758 aims to address growing public health concerns by regulating a drug that is readily available at gas stations, liquor stores, and tobacco shops. Nitrous oxide has legitimate purposes in medicine, dental, and food preparation, such as for canned whipped cream. However, it is also inhaled recreationally by some users, causing long-term neurological effects, paralysis, or death. Allowing any retailer to sell nitrous oxide makes the drug dangerously available to recreational users. Cities have already begun passing ordinances to reel in Nitrous Oxide use, but comprehensive legislation at the state level is needed to ensure the safety of all California residents."
- 3) **Nitrous Oxide:** Nitrous oxide is a colorless, odorless to sweet-smelling gas used to manage pain and anxiety in dentistry as well as other clinical settings.¹ 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.² Short-term side effects include slurred speech, dizziness, and headaches.³ 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.⁴

In addition to the harmful physical effects that nitrous oxide misuse can have on users, the discarded canisters containing nitrous oxide have presented challenges for waste management and recycling companies.

- 4) **Prohibition on Sale of Nitrous Oxide:** Existing law prohibits possessing nitrous oxide with the intent to inhale the gas for the purpose of causing a condition of intoxication, or who knowingly and with the intent to use nitrous oxide illegally and is under the influence of nitrous oxide or any material containing nitrous oxide is guilty of a misdemeanor. (Pen. Code, § 381b.) Penal Code section 381c prohibits any person from selling or furnishing any device, canister, tank, or receptacle either exclusively containing nitrous oxide or exclusively containing a chemical compound mixed with nitrous oxide, to a person under 18 years of age, any person who does so is guilty of a misdemeanor. (Pen. Code, § 381c, subd. (a).) This section is expressly aimed at businesses that sell nitrous to young people knowing they would use it for an illegal purpose. Penal Code section 381d criminalizes sale of nitrous to a person

¹ American Dental Association, Nitrous Oxide <<https://www.ada.org/resources/ada-library/oral-health-topics/nitrous-oxide>> [as of June 19, 2026].

² 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>> [as of June 19, 2026].

³ American Addiction Centers, Nitrous Oxide (Whippet) Abuse, Side Effects, & Treatment (Dec. 31, 2024) <<https://americanaddictioncenters.org/inhalant-abuse/nitrous-oxide-whippets>> [as of June 19, 2026].

⁴ *Ibid.*

that suffers death or bodily injury. Both 381c and 381d are misdemeanors punishable by up to six months in the county jail, by fine, or both.

When a person sells or furnishes nitrous oxide where the seller knows or reasonably should know, a person under the age of 18 would use it for an illegal purpose, the court is required to order the suspension of the business license, for a period of up to one year, if the person who knowingly sold or furnished nitrous to a person under the age of 18 after having been previously convicted of this offense, unless the owner of the business license can demonstrate a good faith attempt to prevent illegal sales or deliveries by the owner's employees. (Pen. Code, 381c, subd. (e).)

- 5) **Argument in Support:** According to the *League of California Cities*, a co-sponsor of this bill, "Nitrous oxide (NOX) is an odorless, colorless chemical with established legitimate uses in food preparation and dentistry. However, it is increasingly misused through inhalation for intoxicating purposes. In recent years, numerous California cities have reported an increase in the recreational use of nitrous oxide obtained from smoke shops and other retailers.

"Not only is recreational use illegal but it is also extremely dangerous. The U.S. Food & Drug Administration earlier this year warned in their publication titled, 'FDA Advises Consumers Not to Inhale Nitrous Oxide Products' that, 'Inhaling nitrous oxide can result in a range of symptoms and serious health problems, neurological and nerve damage, spinal cord and brain damage, heart attack, and in some cases, death.'

"Although current law prohibits the sale of nitrous oxide for recreational intoxicating purposes, significant loopholes in the statutory framework allow these products to be easily diverted into the recreational market. For example, nitrous oxide canisters labeled for food preparation are repurposed and resold at various tobacco retail locations. To address this issue, at least twenty-five cities have brought forth ordinances focused on restricting the sale of nitrous oxide in tobacco retail locations that have no real connection to legitimate uses. However, effectively preventing the recreational sale of nitrous oxide will require clear, consistent statewide guidelines.

"SB 758 would close the dangerous loophole that allows nitrous oxide to be sold in smoke shops, making it easier for cities to address the troubling proliferation of recreational nitrous oxide related injuries and deaths."

- 6) **Argument in Opposition:** No longer applicable.
- 7) **Related Legislation:** SB 936 (Blakespear) would create four new infractions related to the sale, offer to sell, or distribution of nitrous oxide. SB 936 is scheduled for hearing today in this committee.
- 8) **Prior Legislation:**
- a) AB 1107 (Flora), of the 2023-2024 Legislative Session, would have mandated a court to suspend a business license for up to one year of any business or person that knowingly fails to record any nitrous oxide sale, as specified. AB 1107 was held in suspense in the Assembly Appropriations Committee.

- b) SB 193 (Nielsen), of the 2019-2020 Legislative Session, would have created a new misdemeanor for any retailer of tobacco or tobacco-related products from selling or offering to sell nitrous oxide; and would have required a court to suspend the business license, for a period of up to one year, for any business owner or employee who knowingly violates the prohibition against selling nitrous oxide after having been previously convicted of a violation, unless the owner of the business license can demonstrate a good-faith attempt to prevent violations by the owner or the owner's employees. SB 193 was held in suspense in the Assembly Appropriations Committee.
- c) SB 631 (Nielsen), of the 2017-2018 Legislative Session, would have prohibited any retailer of tobacco or tobacco-related products, as defined, from selling, offering, or exposing for sale nitrous oxide. The hearing on SB 631 in the Assembly Judiciary Committee was canceled at the request of the author.
- d) AB 1735 (Hall), Chapter 458, Statutes of 2014, makes it a misdemeanor for any person to dispense or distribute nitrous oxide to a person, if it is known or should have been known that the nitrous will be ingested or inhaled by the person for the purposes of causing intoxication, and that person proximately cause great bodily injury or death to himself/herself, or any other person.
- e) AB 1015 (Torklason), Chapter 266, Statutes of 2009, makes it a misdemeanor for a person to sell or furnish to a person under the age of 18 years a canister or device containing nitrous oxide or a chemical compound mixed with nitrous oxide.

REGISTERED SUPPORT / OPPOSITION:

Support

California Narcotic Officers' Association (Sponsor)
League of California Cities (Co-Sponsor)
Rural County Representatives of California (RCRC) (Co-Sponsor)
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Reserve Peace Officers Association
Californians Against Waste
City of Alameda
City of Carlsbad
City of El Cerrito
City of Garden Grove
City of Paramount
City of Pico Rivera
City of Rocklin
City of San Buenaventura
City of Seal Beach

City of Ventura
Claremont Police Officers Association
Corona Police Officers Association
County of Humboldt
County of Kern
Culver City Police Officers' Association
Fullerton Police Officers' Association
Irvine; City of
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
South Bayside Waste Management Authority (sbwma) Dba Rethinkwaste
Sunnyvale; City of
Tulare; City of

Opposition

No longer applicable.

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