

UNFINISHED BUSINESS

Bill No: SB 758
Author: Umberg (D) and Menjivar (D), et al.
Amended: 8/13/26
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

SENATE FLOOR: 40-0, 1/27/26

AYES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ASSEMBLY FLOOR: Passed, 8/25/26

SUBJECT: Public health: nitrous oxide

SOURCE: League of California Cities; California Narcotics Officers' Association

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

Assembly Amendments specify that “a retailer” does include a convenience store and authorizes local governments to adopt an ordinance imposing greater restrictions on the retail sale of nitrous oxide than those imposed by the provisions of this bill provided that the ordinance does not restrict legitimate uses, including,

but not limited to, medical, dentistry, food preparation, industrial, manufacturing, and automotive services.

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.
 - d) (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 but does include a convenience store.

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

According to the Assembly Appropriations Committee:

The California Department of Tax and Fee Administration (CDTFA) estimates costs of \$159,000 in 2026-27 and \$2,000 in 2027-28 and ongoing for implementation activities, including providing notifications, answering taxpayer inquiries, issuing and processing misdemeanor citations, and license suspensions or revocations after convictions, and handling appeals. (Cigarette and Tobacco Products Compliance Fund). CDTFA states it cannot estimate effects on revenues from lost license fees, court-ordered fines, or losses in sales and use taxes.

SUPPORT: (Verified 8/25/26)

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 Alameda
City of Brea
City of Buena Park
City of Carlsbad
City of El Cerrito
City of Garden Grove
City of Irvine
City of Paramount
City of Pico Rivera
City of Stanton
City of Sunnyvale
City of Tulare
Claremont Police Officers Association
Corona Police Officers Association
County of Humboldt
County of Kern
County of Tulare
Culver City Police Officers' Association
Dental Board of California
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 County Sheriff's Office
Riverside Police Officers Association
Riverside Sheriffs' Association
Rural County Representatives of California
San Bernardino County Sheriff's Department

OPPOSITION: (Verified 8/25/26)

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

Prepared by: Stephanie Jordan / PUB. S. /
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