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**SENATE COMMITTEE ON  
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**  
Senator Dr. Aisha Wahab, Chair  
2025 - 2026 Regular

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<b>Bill No:</b>	SB 936	<b>Hearing Date:</b>	April 13, 2026
<b>Author:</b>	Blakespear and Umberg		
<b>Version:</b>	April 8, 2026		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Elissa Silva		

**Subject:** Nitrous oxide: sales

**SUMMARY:** Makes it unlawful to sell, furnish, offer, distribute, or give away a nitrous oxide container that is capable of holding more than eight grams of nitrous oxide or a nitrous oxide container from which an individual may directly inhale nitrous oxide, except as specified; prohibits selling or distributing nitrous oxide that is marketed as having the taste or smell of any food or providing a device that a person knows would allow a person to inhale nitrous oxide from a nitrous oxide container, as specified. Creates new infractions, punishable by a fine, related to the sale or distribution of a nitrous oxide cannister and permits a court in addition to levying a fine to suspend a business license for up to one year of a cannabis licensee holder, a tobacco retailer, or any business, as specified. Provide exemptions from the prohibitions on sale or distribution of nitrous oxide cannisters with defined uses.

**NOTE:** *This bill was heard in the Senate Committee on Public Safety on March 17, 2026, and passed on a 6-0 vote.*

**Existing law:**

- 1) Establishes the Cigarette and Tobacco Products and Licensing Act of 2003 (Act). (Business and Professions Code (BPC) § 22970 *et seq.*)
- 2) Requires a retailer to have in place and maintain a license issued by the California Department of Tax and Fee Administration (CDTFA) to engage in the sale of cigarettes or tobacco products and further requires a retailer that owns or controls more than one retail location to obtain a separate license for each location, as specified. (BPC § 22972(a))
- 3) Requires the CDTFA upon request, to provide to the State Department of Public Health, the office of the Attorney General, a law enforcement agency, a local lead agency, and any agency authorized to enforce or administer state or local tobacco control laws to access to the CDTFA's database of licensed retailers within the jurisdiction of that agency, local agency, lead agency or law enforcement agency for purposes of enforcing tobacco control laws and adhere to all state laws pertaining to the protection of personal information and individual privacy. (BPC § 22973.2)
- 4) Authorizes the CDTFA to seize flavored tobacco products or tobacco product flavor enhancers at the retail location if a retailer or any of the tobacco retailer's agents or

employees sell or offer to sell a flavored tobacco product, as specified. (BPC § 22974.2)

- 5) States that in addition to any other civil or criminal penalty provided by law, upon a finding that a retailer has violated any provision of the Act, the CDTFA may take the following actions:
  - a) In the case of the first offence, the CDTFA may revoke or suspend the license or licenses of the retailer, as specified;
  - b) In the case of a second or any subsequent offense, in addition to the action authorized under (a) above, the CSTFA may impose a civil penalty in an amount not to exceed the greater of either of the following:
    - i) Five times the retail value of the seized cigarettes or tobacco products; or,
    - ii) Five thousand dollars (\$5,000) (BPC § 22974.7)
- 6) 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. (Health and Safety Code (HSC) § 104559.5(b))
- 7) Defines "tobacco product" to mean any of the following:
  - a) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.
  - b) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.
  - c) Any component, part, or accessory of a tobacco product, whether or not sold separately, but does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes, as specified. (BPC § 22950.5)
- 8) States that any person who possesses nitrous oxide or any substance containing nitrous oxide, with the intent to breathe, inhale, or ingest for purposes of intoxication is guilty of a misdemeanor except that the prohibition does not apply to any person who is under the influence of nitrous oxide or any material containing nitrous oxide pursuant to the administration for medical, surgical, or dental care by a person licensed to administer such an agent. (Penal Code (PC) § 381b)
- 9) Specifies that any person who offers to, or who sells, furnishes, administers, distributes, or gives away a device, canister, tank or receptacle containing nitrous

oxide to a person under 18 years of age is guilty of a misdemeanor. (PC § 381c(b))

- 10) Makes it a misdemeanor to dispense or distribute nitrous oxide to a person if the person who dispenses or distributes the nitrous oxide knows or should know that the recipient is going to use the nitrous oxide for the purpose of intoxication, and that person who dispenses or distributes the nitrous oxide proximately causes great bodily injury or death to himself, herself, or another person. (PC § 381d)
- 11) Requires any person who dispenses or distributes nitrous oxide to record each transaction involving the dispensing or distribution of nitrous oxide in a written or electronic document and further specifies that the person dispensing or distributing the nitrous oxide must require the purchaser to sign the document and provide a complete residential address and present a valid government-issued photo identification. The person dispensing or distributing the nitrous oxide must sign and date the document and retain it at the person's business address for one year from the date of the transaction.
- 12) Requires the documentation related to the dispensing or distribution of nitrous oxide in 11) above to be available during normal business hours for inspection and copying, upon presentation of a duly authorized search warrant, by officers or employees of the California State Board of Pharmacy or of other law enforcement agencies of this state or the United States.
- 13) Provides the following exemptions from the documentation requirements:
  - a) any person who administers nitrous oxide for the purpose of providing medical or dental care, if administered by a licensed medical or dental provider or at the direction or under the supervision of a licensed practitioner. (PEN § 381e(c))
  - b) the sale of nitrous oxide contained in food products for use as a propellant. (PEN § 381e(d))
  - c) the sale of nitrous oxide by a wholesaler licensed by the California State Board of Pharmacy or a specified manufacturer. (PEN § 381e(e))
- 14) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to provide for a comprehensive regulatory framework for the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medicinal and adult-use cannabis. (BPC §§ 26000 *et seq.*)
- 15) Establishes the Department of Cannabis Control (DCC) within the Business, Consumer Services, and Housing Agency for purposes of administering and enforcing MAUCRSA. (BPC § 26010)

**This bill:**

- 1) Makes it unlawful for a person to sell, furnish, offer, or give away a nitrous oxide container that is capable of holding more than eight grams of nitrous oxide, except as provided.

- 2) Makes it unlawful for any person to sell, furnish, offer, distribute, or give away a nitrous oxide container from which an individual may directly inhale nitrous oxide, except as provided.
- 3) Makes it unlawful to sell or distribute nitrous oxide that has, or is marked as having, the taste or smell of any food, including, but not limited to, any fruit, candy, dessert, alcoholic beverage, herb, or spice that is distinguishable by an ordinary consumer either prior to or during consumption or use of the product.
- 4) Makes it unlawful to sell, offer, distribute, or otherwise provide a device that allows an individual to inhale nitrous oxide from the nitrous oxide container or to hold nitrous oxide released from the nitrous oxide container for purposes of inhalation.
- 5) States that a violation of 1-4) above is punishable as an infraction by a fine of not more than \$500 for a first offense, \$1,000 for a second offense and \$2,000 for a third and subsequent offense.
- 6) Authorizes a court, in addition to issuing a fine, to either:
  - a) Suspend any business license issued by the state, a city, a county, or a city and county, for a period of up to one year of a business that knowingly violates the prohibitions of this bill; or,
  - b) Suspend a retail tobacco retail license, a cannabis license, or a seller's permit for a period of up to one year of a business that knowingly violates the prohibitions of this bill, following a prior conviction for a violation of the provisions of this bill.
- 7) Requires the court to provide a copy of any suspension order to the appropriate regulating agency.
- 8) States that the prohibitions in this bill do not apply to nitrous oxide or a nitrous oxide container that meets any of the following:
  - a) Has been denatured or otherwise unfit for human consumption use;
  - b) Is intended and marketed for use by a manufacturer as part of a manufacturing process or industrial operation;
  - c) Is specifically designed and marketed for use in a vehicle to enhance the performance of the vehicle;
  - d) Is sold to a licensed medical, veterinary, or dental practitioner to be administered or prescribed as part of the care of a disease, condition, or injury;
  - e) Contains less than nine grams of nitrous oxide as a propellant in food or to be used in food preparation for restaurants, food service, or houseware products; or,
  - f) Is sold by a wholesaler for any of the purposes specified in a-e) above.

- 9) Defines the following for purposes of this bill:
  - a) “nitrous oxide container” to mean a device, canister, tank, or receptacle either exclusively containing nitrous oxide or exclusively containing a chemical compound mixed with nitrous oxide.
  - b) “distributor” to mean a person who sells a product to a retailer in violation of this bill or accepts an order for a product from a retailer in violation of the prohibitions in this bill.
- 10) Clarifies that for purposes of the prohibition on sales of a nitrous oxide container as specified in this bill, a reference to a sale, offer to sell, distribution, advertisement, or provision of a product or service includes conduct that occurs in person, through the internet, or through any other electronic or digital means.
- 11) States that the provisions of this bill do not limit the authority of a city, county, or city and county from adopting or enforcing a local ordinance that further restricts the sale, furnishing, offering, or distribution of nitrous oxide.

**FISCAL EFFECT:** Unknown. This bill is keyed fiscal by Legislative Counsel.

**COMMENTS:**

1. **Purpose.** This bill makes it unlawful to sell, distribute, or otherwise give away a nitrous oxide container that can hold more than eight grams of nitrous oxide, unless the container is for limited, specified purposes including food, medical, and automotive/manufacturing.

The Rural County Representatives of California, National Stewardship Action Council, Orange County, and the San Diego County District Attorney are the sponsors of this bill. According to the Author, “SB 936 would prohibit the sale of nitrous oxide canisters larger than 8 grams, except for legitimate medical, dental, culinary, and automotive uses. Commonly known as “whippets,” these canisters are increasingly used by youth as a recreational drug, but they pose serious health risks for users and can impair driving. SB 936 addresses this growing public health problem by limiting retail sales to intended purposes. The bill follows similar prohibitions already enacted in Nebraska and Louisiana and several California counties, including Humboldt, Orange, San Mateo, and Santa Cruz.”

2. **Background.**

*Nitrous Oxide.* Nitrous oxide is often referred to as “laughing gas”. Nitrous oxide is a colorless and odorless gas. It has several uses, including managing pain and anxiety in dentistry and medicine and used in veterinary medicine for diagnostic and surgical procedures. According to information from WebMD, in medical and dental procedures it is used as a sedative to help relieve anxiety prior to procedures. It is reported to be relatively easy to administer (no needles necessary) and has the intended effect quickly.

It is also used in food preparation, and as an oxidizer in model rockets and motor vehicle racing. Nitrous oxide is used as a food aerosol in the preparation of food, including whipped cream. In the motor vehicle field, it is used in engines to help engines go faster. Using nitrous oxide as intended is not considered dangerous, but when used as an “inhalant” for the purpose of “getting high” the product is no longer considered safe. The Food and Drug Administration (FDA) approves the use of nitrous oxide for medical purposes and for food additives.

Unfortunately, nitrous oxide is also being misused as an illicit agent for purposes of “getting high”. Last year in 2025, the FDA released a consumer notice advising consumers not to inhale nitrous oxide products due to the *“potential for severe adverse effects if used for recreational/non-food purposes.”* According to the FDA notice, adverse health events from inhaling nitrous oxide for its unintended use can result in a range of symptoms and serious health problems ranging from blood clots, loss of consciousness, numbness, paralysis, and psychiatric disturbances to name a few. Habitual use of the product can lead to prolonged neurological effects even once stopping use. The FDA notice lists certain name brands of some nitrous oxide products including, but not limited to, “Breaking Bad”, “Cosmic Gas”, “MassGas”, “Whip-it!”, “FastGas”, and “Euro Gas” to name a few. It notes that products are sold across the retail landscape, including online retailers and at smoke/vape shops and gas stations. According to information available at [posinoncontrol.org](http://posinoncontrol.org), “breathing an inhalant is breathing poison.” Short term effects include dizziness, nausea, or even passing out. Long term effects include nerve or kidney damage, addiction or psychological damage to name a few.

In addition to health risks, there are reports of environmental hazards when dispensed nitrous oxide cannisters are improperly disposed of or dumped, requiring cleanup by local governments or others.

The Penal Code specifies existing prohibitions on the acquisition or distribution of nitrous oxide for improper use. Currently, it is a misdemeanor for any person to possess nitrous oxide with the intent to breathe, inhale, or ingest for purposes of getting high, be under the influence of, or sell it to anyone under 18 years of age. It is a misdemeanor for a person to possess nitrous oxide or any substance containing nitrous oxide with the intent of intoxication.

Individuals who dispense or distribute nitrous oxide are required to obtain a signed document from the purchaser that includes a complete residential address and the purchaser is required to present a valid government-issued identification. The dispensing person must also sign and date the transaction record and retain it at the business address for one year. The purchaser must receive documentation informing the purchaser of the following: 1) the inhalation of nitrous oxide outside of a clinical setting may have dangerous health effects. 2) 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. 3) 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, inhale, or ingest it for the purpose of intoxication.

This bill maintains the current misdemeanor penalties for nitrous oxide distribution or sales for non-food, health, or manufacturing purposes, but adds new infractions related to recreational sales of the product. Specifically, this bill makes it unlawful to sell, furnish or distribute a nitrous oxide *cannister* that can hold more than eight grams of nitrous oxide (which is typically the size used in food grade cannisters for products like whipped cream) and to sell, furnish, or distribute a nitrous oxide container cannister from which an individual may directly inhale nitrous oxide. This bill bans any flavoring of nitrous oxide with no exemptions for medical or culinary use. Instead of any misdemeanor penalty, this bill includes fines and the potential for a business license suspension.

This bill provides exemptions to the prohibitions for the following:

- Has been denatured or otherwise rendered unfit for human consumption for use.
- Is intended and marketed for use by a manufacturer as part of a manufacturing process or industrial operation.
- Is specifically designed and marketed to enhance vehicle performance.
- Is sold to a licensed medical, veterinary or dental practitioner as part of the care or treatment of a disease, condition, or injury.
- Contains less than nine grams of nitrous oxide as a propellant in food or to be used in food preparation for restaurants, food service, or houseware products.
- Is sold by a wholesaler for any of the above-mentioned purposes.

This bill does not prescribe jailtime for violations but instead establishes infractions related to the sale or distribution of nitrous oxide. A first violation carries a fine of not more than \$500, a second violation carries a fine of not more than \$1000, and a third or subsequent offense carries a fine of not more than \$2,000.

In addition to the penalties, this bill authorizes a court to suspend the business license for any business including a tobacco retailer licensed issued by the California Department of Tax and Fee Administration (CDTFA) and a cannabis license issued by the Department of Cannabis Control (DCC).

Under the California Cigarette and Tobacco Products Licensing Act of 2003, any business in California that sells cigarette and tobacco products is required to obtain a cigarette and tobacco retailer license (in addition to any local permit) issued by the CDTFA. A cannabis retailer must have a license issued by the DCC. Current law under the provisions of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) specifically prohibit tobacco or alcohol products from being sold at a retail location, however, cannabis retailers are permitted to sell pre-packaged, non-cannabis infused, non-alcoholic beverages.

While consistent in the efforts to remove nitrous oxide products from tobacco retailers, this bill takes a slightly different approach in that it prohibits certain tobacco and tobacco-product retailers from selling a nitrous oxide container. This bill also prohibits sellers from including a device that provides a mechanism to inhale the nitrous oxide directly from the container.

*Local Jurisdictions and Other State Prohibitions.* A multitude of local jurisdictions have passed varying ordinances to help prohibit the use of nitrous oxide for purposes other than intended including the cities of Eureka, Stanton, Costa Mesa, and Santa Ana and the counties of Santa Cruz, Humboldt, San Mateo and Orange to name a few. In addition, a handful of states have established misdemeanors for selling and/or obtaining nitrous oxide outside of medical, food preparation, and auto/manufacturing uses including Washington, Louisiana, Alabama, and Michigan. This bill specifies that local governments are not prohibited from adopting local ordinances that further restrict the sale, furnishing, offering, or distribution of nitrous oxide. This is to ensure that local governments can adopt ordinances with greater restrictions related to the sale and distribution of nitrous oxide.

3. **Related Legislation.** SB 1314 (Menjivar of 2026) would, among other provisions, prohibit a smoke shop, as defined, from possessing, storing, owning, or selling nitrous oxide or products derived from nitrous oxide or paraphernalia related to the consumption of nitrous oxide, as specified. (Status: *This bill is currently pending in Senate Health Committee*)

AB 2076 (Lowenthal of 2026) prohibits an online retailer from selling nitrous oxide to any customer located in California and establishes a civil penalty of not more than \$1.5 million for a violation. (Status: *This bill is currently pending in the Assembly Committee on Appropriations*)

SB 758 (Umberg of 2025) prohibits a tobacco retailer, as defined, from selling nitrous oxide at a retail location. (Status: *This bill is pending in the Assembly*)

AB 1107 (Flora of 2025) would have empowered the CDTFA to deny, suspend, or revoke a license for a retailer to sell cigarettes or tobacco products if the retailer has been convicted of violating laws criminalizing the unlawful sale of nitrous oxide, and requires the court to order the suspension of the business license, for a period of up to one year, for a retailer that repeatedly violates those laws. (Status: *This bill died in the Assembly Committee on Appropriations*)

AB 957 (Ortega of 2025) would prohibit a pharmacy from selling cigarettes or tobacco products. (Status: *This bill is pending reconsideration in this Committee*)

SB 193 (Nielsen of 2019) would have criminalized the sale of nitrous oxide by a tobacco retailer and requires the court to order the suspension of the retailer's business license if convicted. (Status: *This bill died in the Assembly Committee on Appropriations.*)

SB 631 (Nielsen of 2017) would have prohibited a retailer of tobacco products or tobacco-related products from selling or offering to sell nitrous oxide and made a violation punishable by a civil penalty not to exceed \$2,500. (Status: *This bill died in Assembly Committee on Judiciary.*)

AB 1735 (Hall, Chapter 458, Statutes of 2014) makes it a misdemeanor 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, and that person proximately cause great bodily injury or death to themselves or any other person.

AB 1015 (Torlakson, Chapter 266, Statutes of 2009) makes it a misdemeanor to sell or furnish to a person under 18 years of age a canister or device containing nitrous oxide, or a chemical compound mixed with nitrous oxide.

- 4. Arguments in Support.** The Orange County Board of Supervisors, writes in support and notes, “Addressing substance abuse remains a top priority for Orange County. In February 2025, the Orange County Board of Supervisors approved an ordinance banning the sale or distribution of nitrous oxide for recreational use. According to recent data, fatal nitrous oxide poisonings increased by more than 500% from 2010 to 2023. Despite statewide limits, nitrous oxide remains widely sold in smoke shops, gas stations, and online for illegitimate uses. In August 2025, the Orange County Health Care Agency issued a special report on nitrous oxide assessing its use, highlighting challenges with collecting accurate data, and examining the negative effects of nitrous oxide misuse. Banning the unsanctioned sale of nitrous oxide will help address the growing negative public health impacts identified by our public health practitioners.”

The California District Attorneys Association, the Sacramento District Attorney’s office, write in support and note, “This bill represents a practical and targeted approach to addressing a growing public health and safety concern. By reducing the availability of large-capacity nitrous oxide containers and restricting misleading marketing practices, SB 936 will help deter recreational abuse and protect vulnerable consumers, particularly youth.”

The Rural County Representatives of California, National Stewardship Action Council, California Product Stewardship Council, Zero Waste Marin, Republic Services, Californians Against Waste, Resource Recovery Coalition of California, Sanitation Districts of Los Angeles County, Western Placer Waste Management Authority, Del Norte SWMA, Zero Waste Sonoma, CleanEarth4Kids.org, Families Advocating for Chemical and Toxics Safety, City of Escondido, Merced County Regional Waste Management Authority, Zero Waste Marin, The Last Plastic Straw, Santa Clara County Recycling and Waste Reduction Commission, Regen Monterey, Douglas County Environmental Services (Nebraska) and Recology, write in support and note, “Local governments and the solid waste industry have no control over what products are introduced into the marketplace and for which we will ultimately be responsible for management and disposal. By banning the sale of large nitrous oxide containers, SB 936 will significantly reduce cost pressures and management challenges for local solid waste programs and their operators.”

The Rural County Representatives of California, the League of California Cities, the Urban Counties of California, and the County of Santa Barbara write in support and note, “California has long prohibited the use or sale of nitrous oxide for recreational purposes, but those laws have had little impact on a rapidly increasing problem. The Food and Drug Administration warned the public about the risks of recreational nitrous oxide use in June of 2025 and several cities and counties in California have

since banned the sale of nitrous oxide. Unfortunately, existing law provides neither the tools nor the consequences to adequately address the problem. SB 936 builds upon the models adopted by local governments in Orange County, Humboldt County, Nebraska, and Louisiana and imposes serious consequences for those who illegally sell nitrous oxide.”

Wilton Rancheria writes in support and notes, “By reducing access to large nitrous oxide containers commonly used for recreational inhalation, SB 936 will help protect public health, reduce environmental harm, and ease waste management burdens on communities.”

The Riverside County Sheriff’s Office writes in support and notes, “Although further policy discussions may be warranted in the future, SB 936 represents a strong and meaningful first step toward addressing a growing public safety and public health concern. By limiting the availability of products most frequently associated with recreational misuse, this legislation will help protect our communities and reduce the risks associated with nitrous oxide abuse.”

Good Farmers Great Neighbors and NUG Dispensaries writes in support and note, “SB 936 directly addresses another element of the illicit market by restricting the recreational sale of nitrous oxide across brick-and-mortar and online platforms. The State has a public health interest to reduce the proliferation of unregulated intoxicants in loosely regulated retail markets. This measure may also deflate the competitive advantage currently celebrated by unregulated operators that sell intoxicating substances without complying with the strict standards imposed on licensed cannabis businesses. Cannabis licensed retailers are required to verify age, sell products that have undergone laboratory testing, participate in state track-and-trace systems, and comply with state and local taxation and licensing requirements.”

Mendocino County Board of Supervisors writes in support and notes, “Senate Bill 936 complements a growing number of local ordinances and laws in other states that ban the sale of nitrous oxide, which is widely used as an illicit recreational inhalant with serious and sobering consequences in communities across the state. In particular, SB 936 bans all sales of flavored nitrous oxide and the sale of non-flavored nitrous oxide in containers larger than 8 grams, which is the size typically used to charge whipped cream cylinders. SB 936 preserves access to nitrous oxide for legitimate purposes by exempting sales for manufacturing, automotive, medical, and dentistry purposes.”

The City of Costa Mesa writes in support and notes, “Banning the sale of large nitrous oxide containers will preserve legitimate access for food preparation, manufacturing, automotive, medical, and dental uses.”

The City of Ventura writes in support, “In short, SB 936 will better protect children and young adults from the dangers of illicit nitrous oxide use while reducing local government solid waste management costs and challenges.”

The California Narcotic Officers’ Association writes in support and notes, “To address these concerns, the retail sale of nitrous oxide has been banned in the

states of Nebraska and Louisiana as well as the California counties of Orange, San Mateo, Humboldt, and Santa Cruz. In addition, it has been banned in numerous cities including Santa Ana, Costa Mesa, and Newport Beach, with many more cities planning to take action in the weeks and months ahead. CNOA has supported many of these local efforts and is pleased to offer its strong support for SB 936.”

The California Cannabis Operators Association writes in support and notes, “SB 936 helps reinforce a consistent principle in California’s consumer protection framework: intoxicating products should not be freely available in youth-accessible retail environments without appropriate safeguards, accountability, and oversight.”

5. **Arguments in Opposition.** The ACLU is opposed unless amended and notes, “In addition to fundamental opposition to criminalizing substances, SB 936 raises concerns as it is overly broad. Proposed Penal Code Section 381f(d) would make it a crime to “sell, offer, distribute or otherwise provide a device that allows an individual ... to hold nitrous oxide released from a nitrous oxide container for purposes of inhalation.” This broad language risks treating household items that may “hold” nitrous oxide gas, such as Ziploc bags, as illegal drug paraphernalia. The Legislature should not create such broad criminal liability.

“Instead of creating new drug crimes, we strongly urge your Office to amend the bill out of the Penal Code and to directly regulate businesses...The proper avenue for the intent of SB 936 is direct regulation of retailers, not criminalization of individuals.”

The San Francisco Public Defenders Office is opposed unless amended and notes, “Instead of creating new drug crimes, we strongly urge your Office to amend the bill out of the Penal Code and to directly regulate businesses...The proper avenue for the intent of SB 936 is direct regulation of retailers, not criminalization of individuals.

“In so far as SB 936 is aimed at addressing drug addiction, we urge the Office to explore effective public health solutions rather than expanding criminalization. The criminal punishment structure for controlling drugs and preventing harm has failed – opioids, stimulants and other substances are more widely available and cheaper than ever before. Despite the War on Drugs, the death rates have climbed decade after decade. It is well past time for a rational, public health approach to take the lead on preventing drug-related harms.”

6. **Policy Consideration.** Pursuant to current law, (BPC § 26012), except as specified in MAUCRSA, the DCC has the sole authority to create, issue, deny, renew, discipline, condition, suspend, or revoke licenses for commercial cannabis activity. This bill would authorize a court, outside of the DCC’s enforcement processes, to suspend the license of a cannabis license holder issued by the DCC for up to one year if they violate the prohibition on selling a nitrous oxide container. The DCC, as the lead regulatory entity over cannabis licensing and regulation in this state, already has broad enforcement authority to take an action against a licensee who violates the provisions of MAUCRSA. The DCC can suspend, revoke, place on probation, or otherwise discipline a licensee; the duration of which could be longer than the one year prescribed by this bill. BPC § 26054 already provides existing prohibitions under MAUCRSA which limit a cannabis licensee from selling alcoholic

beverages or any tobacco product at any premise licensed by the DCC. Would it be more practical to add nitrous oxide containers to the list of prohibited items that a cannabis licensee is restricted from selling; thereby, ensuring that a violation would result in a license discipline by the DCC instead of the courts for a consistent enforcement process and avoid duplication?

**SUPPORT AND OPPOSITION:**Support:

County of Orange (co-sponsor)  
National Stewardship Action Council (co-sponsor)  
Rural County Representatives of California (co-sponsor)  
San Diego County District Attorney's Office (co-sponsor)  
American Nurses Association California  
California Association of Alcohol and Drug Program Executives, INC.  
California Cannabis Operators Association  
California District Attorneys Association  
California Narcotic Officers' Association  
California Product Stewardship Council  
Californians Against Waste  
City of Costa Mesa  
City of Escondido  
City of Laguna Niguel  
City of San Jose  
City of Ventura  
Cleaneart4kids.org  
County of Mendocino  
County of Santa Barbara  
County of Santa Clara  
Del Norte Solid Waste Management Authority  
Douglas County Environmental Services  
Facts Families Advocating for Chemical and Toxics Safety  
Good Farmers Great Neighbors  
League of California Cities  
Los Angeles County Sanitation Districts  
Merced County Regional Waste Management Authority  
Nevada County Climate Action Now  
Nug, INC.  
Recology  
Regen Monterey  
Republic Services  
Resource Recovery Coalition of California  
Rethink Waste  
Riverside County Sheriff's Office  
Sacramento County District Attorney  
San Luis Obispo County Integrated Waste Management Authority  
Santa Clara County Recycling and Waste Reduction Commission  
South San Francisco Scavenger Company  
Stopwaste

Swana California Chapters Legislative Task Force  
The Last Plastic Straw  
Town of Apple Valley  
Urban Counties of California  
Western Placer Waste Management Authority  
Wilton Rancheria  
Zero Waste Marin  
Zero Waste Sonoma

Opposition:

ACLU California Action  
Californians United for Responsible Budget  
San Francisco Public Defender's Office

**-- END --**