
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

SB 936 (Blakespear) - Nitrous oxide: sales

Version: April 28, 2026

Policy Vote: PUB. S. 6 - 0, B., P. & E.D.
11 - 0

Urgency: No

Mandate: Yes

Hearing Date: May 4, 2026

Consultant: Bob Franzoia

Bill Summary: SB 936 would prohibit the sale and distribution of a nitrous oxide container that can hold more than eight grams of nitrous oxide or from which a person may directly inhale nitrous oxide.

Fiscal Impact: This bill would authorize a court to suspend the business license, including a license to sell tobacco products or cannabis, if the business has a prior conviction for violating these provisions. The Department of Tax and Fee Administration (CDTFA) estimates this bill would result in potentially significant state costs of up to \$250,000 annually for administrative workload related to license and permit suspensions, inspections, and issuing violation citations, among other activities. CDTFA indicates the bill could result in some loss of fee revenue (Cigarette and Tobacco Products Compliance Fund), as well as potential loss of sales and use tax revenue, depending upon the number of licenses that would be suspended as result of the provisions of the bill.

Any loss of sales and use tax revenue would depend on compliance with the prohibition. If sellers comply, then sales of nitrous oxide as specified in the bill will be discontinued, resulting in a loss of sales and use tax revenue that would have been collected (General Fund).

Unknown, potentially significant costs to the trial court system to adjudicate the newly created criminal penalties in this bill. The fiscal impact of this bill on the courts will depend on the number of people charged with an offense and the factors unique to each case. An hour of court time is estimated at \$1,300 based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator, administrative staff, and jury per-diems. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations (Trial Court Trust Fund, General Fund).

The Department of Cannabis Control indicated minor costs.

Background: 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. It is relatively easy to administer 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.

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

Proposed Law: 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.

Related Legislation: SB 758 (Umberg) would prohibit retailers (excluding a grocery store or a general retail merchandise store with a grocery department) from selling nitrous oxide at a retail location. SB 758 was held as the Assembly Desk (12/27/26).

Staff Comments: It is difficult to accurately determine CDTFA’s actual annual administrative costs because the primary driver of those costs is repeat violations of the nitrous oxide sales prohibition, for which a court orders the suspension of the cigarette and tobacco products (CTP) license and/or seller's permit. The number of second convictions for violations is unknown. Additionally, it is unknown if the court will issue a suspension order for a CTP license or a seller's permit upon a second conviction.

Infractions are considered minor offenses and do not carry jail time. Infractions can incur fines and the person charged has no right to a jury trial or a court appointed attorney. This bill proposes a fine of not more than \$500 for the first offense, \$1,000 for a second offense or \$2,000 for a third and subsequent offense.