

THIRD READING

Bill No: SB 936
Author: Blakespear (D) and Umberg (D), et al.
Amended: 5/18/26
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 3/17/26
AYES: Arreguín, Seyarto, Caballero, Pérez, Reyes, Wiener

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 11-0, 4/13/26
AYES: Wahab, Choi, Archuleta, Arreguín, Caballero, Grayson, Menjivar, Niello,
Smallwood-Cuevas, Strickland, Umberg

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/14/26
AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

SUBJECT: Nitrous oxide: sales

SOURCE: County of Orange
National Stewardship Action Council
Rural Counties of California
San Diego County District Attorney's Office

DIGEST: This bill creates four new infractions related to the sale or distribution of nitrous oxide, including making 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.

Senate Floor Amendments of 5/18/26 strike language authorizing a court to suspend a license issued pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act for a violation of one the infractions created by the bill.

ANALYSIS:

Existing law:

- 1) Defines “nitrous oxide” to mean any of the following substances: N₂O, dinitrogen monoxide, dinitrogen oxide, nitrogen oxide, or laughing gas. (Penal (Pen.) Code § 381c, subdivision (subd.) (a).)
- 2) 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. (Pen. Code § 381c, subd. (b).)
- 3) 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.)
- 4) Requires that a person who dispenses or distributes nitrous oxide record each transaction in a written or electronic document. (Pen. Code § 381e.)
- 5) 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.)
- 6) 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.)

This bill:

- 1) Makes it unlawful for any person to sell, furnish, offer, distribute, 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 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 marketed 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) Provides that a violation of the above provisions is punishable as an infraction. Specifies that the penalties are 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.
- 6) Authorizes a court to issue either of the following orders:
 - a) The suspension of a 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 provisions of this bill following a prior conviction.
 - b) The suspension of a license issued pursuant to the Cigarette and Tobacco Products Licensing Act of 2003 or the Medicinal and Adult-Use Cannabis Regulation and Safety Act, or a seller's permit issued by the California Department of Tax and Fee Administration for a period of up to one year, of a business that knowingly violates any of the above provisions following a prior conviction.
- 7) Requires the court to provide a copy of any suspension order to the appropriate regulating agency.

- 8) Specifies that its provisions do not apply to nitrous oxide or a nitrous oxide container that meets any of the following:
 - a) Has been denatured or otherwise rendered unfit for human consumption for 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 or dental practitioner to be administered or prescribed as part of the care or treatment 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 restaurant, food service, or houseware products.
 - f) Is sold by a wholesaler for any of the above listed purposes.

- 9) Provides the following definitions:
 - a) “Distributor” means a person who sells a product to a retailer in violation of the provisions of this bill, or accepts an order for a product from a retailer in violation of the provisions of this bill.
 - b) “Nitrous oxide container” means “a device, canister, tank, or receptacle either exclusively containing nitrous oxide or exclusively containing a chemical compound mixed with nitrous oxide.”
 - c) “Nitrous oxide” has the same meaning as it does in existing law.

- 10) Provides that 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) Specifies that the provisions of this bill do not limit the authority of a city, county, or city and county to adopt or enforce a local ordinance that further restricts the sale, furnishing, offering, or distribution of nitrous oxide.

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.*)

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.

This bill creates four new 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. A court would also be authorized to suspend business licenses for any business that knowingly violates the infractions that this bill creates. Specifically, this bill makes it unlawful to do any of the following:

- Sell, furnish, offer, distribute, or give away a nitrous oxide container that is capable of holding more than eight grams of nitrous oxide.
- Sell, furnish, offer, distribute, or give away a nitrous oxide container which an individual may directly inhale nitrous oxide.
- Sell or distribute nitrous oxide that has, or is marketed 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.

- 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.

This bill explicitly exempts nitrous oxide or a nitrous oxide container that meets any of 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 for use in a vehicle to enhance the performance of the vehicle.
- Is sold to a licensed medical or dental practitioner to be administered or prescribed 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 restaurant, food service, or houseware products.
- Is sold by a wholesaler for any of the above listed purposes.

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

According to the Senate Appropriations Committee:

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.

SUPPORT: (Verified 5/18/26)

County of Orange (co-source)
National Stewardship Action Council (co-source)
Rural Counties of California (co-source)
San Diego County District Attorney's Office (co-source)
California Association of Alcohol and Drug Program Executives
California Cannabis Operators Association
California District Attorneys Association
California Medical Association
California Narcotic Officers' Association
California Product Stewardship Council
Californians Against Waste
City of Escondido
City of Laguna Niguel
City of Los Alamitos
City of San Jose
Cleaneart4kids.org
County of Mendocino
County of Santa Barbara
County of Santa Clara
Del Norte Solid Waste Management Authority
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
Nug, Inc.
Recology
Republic Services

Resource Recovery Coalition of California
Rethink Waste
Riverside County Sheriff's Office
Sacramento County District Attorney
San Dieguito Alliance for Drug-Free Youth
Santa Clara County Recycling and Waste Reduction Commission
StopWaste
Swana California Chapters Legislative Task Force
The Last Plastic Straw
Urban Counties of California
Western Placer Waste Management Authority
Zero Waste Marin
Zero Waste Marin Joint Powers Authority
Zero Waste Sonoma
Individual

OPPOSITION: (Verified 5/18/26)

ACLU California Action
Californians United for a Responsible Budget
San Francisco Public Defender

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