

Date of Hearing: June 16, 2026

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

SB 936 (Blakespear) – As Amended May 18, 2026

NOTE: This bill is double referred and if passed by this Committee will be re-referred to the Assembly Committee on Public Safety.

SENATE VOTE: 33-0

SUBJECT: Nitrous oxide: sales

SUMMARY: Prohibits the sale of specified nitrous oxide products associated with a greater likelihood of being inappropriately used for direct inhalation of nitrous oxide by the purchaser and establishes penalties for the unlawful sale of those nitrous oxide containers.

EXISTING LAW:

- 1) Establishes the California Department of Tax and Fee Administration (CDTFA) within the Government Operations Agency. (Government Code §§ 15570 *et seq.*)
- 2) Enacts the Cigarette and Tobacco Products Licensing Act of 2003 to provide for the licensing of manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. (Business and Professions Code (BPC) §§ 22970 *et seq.*)
- 3) Provides for specified application requirements for a retailer to obtain a license to engage in the sale of cigarettes or tobacco products and specifies causes for denial of a license, including the conviction of specified felonies. (BPC § 22973.1)
- 4) Specifies causes for suspension or revocation of a retailer's license to engage in the sale of cigarettes or tobacco products by the CDTFA, including violations of laws relevant to the scope of the license. (BPC § 22980.3)
- 5) Provides that any person who possesses nitrous oxide with the intent to breathe, inhale, ingest for the purposes of causing intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses, or for the purposes of changing, distorting, or disturbing the audio, visual, or mental processes, or who is intentionally under the influence of nitrous oxide, is guilty of a misdemeanor punishable by imprisonment in county jail for up to six months, by a fine not to exceed \$1,000, or by both imprisonment and a fine. (Penal Code (PEN) § 381b)
- 6) Defines "nitrous oxide" as N₂O, dinitrogen monoxide, dinitrogen oxide, nitrogen oxide, or laughing gas; 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 for up to six months, by a fine not to exceed \$1,000, or by both imprisonment and a fine; requires the court to consider ordering community service as a condition of probation. (PEN § 381c)

- 7) Makes it a misdemeanor punishable by imprisonment in a county jail for up to 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 themselves or any other person. (PEN § 381d)
- 8) Requires a person who distributes or dispenses nitrous to record each transaction involving nitrous oxide in a physical written document, which both that person and the purchaser must sign, and which that person must make available during normal business hours to members of law enforcement or to the California State Board of Pharmacy. (PEN § 381e(a))
- 9) Specifies that the following the document used to record each 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.(PEN § 381e(b))
- 10) Exempts from these requirements 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))
- 11) Exempts from these requirements the sale of nitrous oxide contained in food products for use as a propellant. (PEN § 381e(d))
- 12) Exempts from these requirements the sale of nitrous oxide by a wholesaler licensed by the California State Board of Pharmacy or a specified manufacturer. (PEN § 381e(e))

THIS BILL:

- 1) Provides that it is unlawful for any person to sell, furnish, offer, distribute, or give away any of the following:
 - a) A nitrous oxide container capable of holding more than eight grams of nitrous oxide.
 - b) A nitrous oxide container from which an individual may directly inhale nitrous oxide.
 - c) Nitrous oxide that has, or is marketed as having, the taste or smell of any food, including 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.

- d) Any device that a person knows, or reasonably should know, 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.
- 2) Exempts from the above prohibitions nitrous oxide or a nitrous oxide container that meets any of the following:
 - a) Has been denatured or otherwise rendered unfit for human consumption or 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 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 purpose listed in this subdivision.
 - 3) Defines “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.
 - 4) Expressly provides that sales conducted in person, through the internet, or through any other electronic or digital means are included in the above prohibitions.
 - 5) Provides that a violation of the above prohibitions are punishable as an infraction punishable by 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 suspend the business license or license to engage in the sale of cigarettes or tobacco products of a business that violates the above prohibitions.
 - 7) Clarifies that the bill does 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.

FISCAL EFFECT: According to the Senate Committee on Appropriations, the 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, along with the potential loss of some fee revenue, 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; additional unknown, potentially significant costs to the trial court system to adjudicate the newly created criminal penalties.

COMMENTS:

Purpose. This bill is co-sponsored by *Rural County Representatives of California*; the *National Stewardship Action Council*; the *County of Orange*; and *San Diego District Attorney Summer Stephan*. According to the author:

SB 936 would prohibit the public sale of nitrous oxide canisters larger than 8 grams, while preserving access for legitimate medical, dental, culinary, and automotive uses. These canisters are increasingly used recreationally by youth and pose serious public safety risks, including impaired driving. SB 936 targets misuse by limiting retail sales to intended purposes, particularly addressing flavored, youth-oriented products marketed for inhalation. SB 936 also does not create new possession crimes or further criminalize Californians who consume nitrous, it simply reduces access for non-legitimate uses. The bill builds on actions already taken in Nebraska, Louisiana, and several California counties, including Humboldt, Orange, San Mateo, and Santa Cruz, to curb the retail sale of nitrous oxide.

Background. Nitrous oxide, or dinitrogen monoxide, is a gaseous chemical compound. Often referred to as “laughing gas,” nitrous oxide has long been used as a form of anesthesia in surgical and dental procedures. It is also commonly used in motor racing as a rapid-burning fuel for internal combustion engines (referred to in that setting as “NOS.”) Nitrous oxide has been approved by the World Health Organization’s Expert Committee on Food Additives as a propellant for food since 1985. The gas is used in aerosol containers to deliver culinary substances through a spray that turns into a foam upon being propelled, such as with cooking sprays and whipped cream. Nitrous oxide works particularly well for this purpose because of its interaction with food ingredients and its effectiveness for turning liquids into foamy sprays.

While most consumers interact with nitrous oxide through its use in consumer products already containing the substance intended to be sprayed, pure nitrous oxide may be purchased separately in bulbs or canisters for purposes of recharging dispensers that can then be loaded with home-made whipped products. A popular brand of whipped cream chargers is marketed as “Whip-It!” and can be easily purchased at kitchen supply stores and online retailers. These containers are associated with the inappropriate use of nitrous oxide as a recreational drug, commonly referred to as “whippets.”

The inhalation of nitrous oxide in order to get high is also sometimes called “hippy crack,” “nitro,” “laughing gas,” “the epiphany drug,” “nangs,” or “chargers.” Typically, the user will inflate a balloon with a charging canister and then inhale it, with the gas operating as a dissociative hallucinogen, producing a sense of euphoria. Recreational use of nitrous oxide is not a new phenomenon; affluent members of English society were known to have so-called “laughing gas parties” hosted by chemist Humphry Davy, who is credited with originally discovering the compound.

There are serious health risks associated with the recreational use of nitrous oxide, which can result in serious injury or dangerous activity. Existing law makes it a misdemeanor to possess nitrous oxide with the intent to use it for the purposes of getting high. Additionally, it is a crime to sell, furnish, administer, distribute, give away, or offer nitrous oxide canisters to a person who is under 18 years of age, or to anyone the seller knows intends to use the canisters to get high.

Current law also requires a person who dispenses or distributes nitrous oxide to record each transaction in a document signed by both the seller and the buyer, which must inform the buyer that recreational use of nitrous oxide is both a crime and dangerous.

Beyond these legal restrictions, nitrous oxide canisters are legal to purchase and sell for legitimate reasons and are not federally regulated as a controlled substance. It has been contended that while many stores sell nitrous oxide for its intended use—to dispense whipped cream through an aerosol device—it is very unlikely that a consumer who purchases the product from a shop primarily selling cigarettes or tobacco products intends to use the canisters for any purpose other than getting high. However, it has also been noted that nitrous oxide can be purchased from myriad other retailers that are arguably less regulated, including online retailers that do not necessarily engage in age verification or other protections against abuse.

Existing law makes it a crime to engage in certain unlawful conduct relating to the sale of nitrous oxide. First, it is a misdemeanor to sell, furnish, administer, distribute, or give away a 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. The defendant can raise a defense that they honestly and reasonably believed that the minor involved in the offense was at least 18 years of age. Beginning in 2010, the court is required to order the suspension of the business license, for a period of up to one year, of a person who knowingly violates this misdemeanor after having been previously convicted of a violation of the same crime.

Additional provisions of law make it a misdemeanor for a retailer to dispense or distribute nitrous oxide to a person who the retailer knows or should know is going to use the nitrous oxide in violation of the law, and that person proximately causes great bodily injury or death to themselves or another person. Retailers are also required to record each transaction involving the dispensing or distribution of nitrous oxide and to make specified disclosures to purchasers, and a violation of required confidentiality relating to information obtained from purchasers is also punishable as a misdemeanor. Unlike the prohibition on sales of nitrous oxide to minors, repeated violations of these additional restrictions and requirements are not subject to mandatory suspension of a business license.

This bill would establish additional restrictions on the sale of nitrous oxide and nitrous oxide containers. Nitrous oxide containers capable of containing more than eight grams, having the taste or smell of food, or allowing for an individual to inhale nitrous oxide would all be prohibited. The bill would further prohibit the sale of a device that a person knows, or reasonably should know, 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.

Specific penalties for violations of these prohibitions would additionally be established by this bill. The bill would provide that the sale of a prohibited nitrous oxide product is punishable as an infraction punishable by 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. A court would be further authorized to suspend the business license of a business that knowingly violates the bill's prohibitions, as well as a license issued pursuant to the Cigarette and Tobacco Products Licensing Act of 2003.

Current Related Legislation. SB 1314 (Menjivar) would make it a misdemeanor for a person to possess nitrous oxide with the intent to get high, sell nitrous oxide to a minor, or dispense or distribute nitrous oxide knowing it will be ingested or inhaled to get high in an instance that results in serious harm or death. *This bill is pending in the Assembly Committee on Health.*

SB 758 (Umberg) would prohibit the sale of nitrous oxide by tobacco retailers. *This bill is pending referral in the Assembly.*

Prior Related Legislation. AB 1107 (Flora) of 2025 would have authorized 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 required 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. *This bill died on suspense in the Assembly Committee on Appropriations.*

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. *This bill died on suspense 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. *This bill died in Assembly Committee on Judiciary.*

AB 1735 (Hall), Chapter 458, Statutes of 2014 made 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 made 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.

ARGUMENTS IN SUPPORT:

The *Rural County Representatives of California*, the *National Stewardship Action Council*, the *California Product Stewardship Council*, *Republic Services*, *RethinkWaste*, *Recology*, *Californians Against Waste*, the *Resource Recovery Coalition of California*, *Western Placer Waste Management Authority*, *Tehama County Solid Waste Management Agency*, *Del Norte Solid Waste Management Authority*, the *Sanitation Districts of Los Angeles County*, *Solid Waste Association of North America California Chapters*, *StopWaste*, and *Zero Waste Marin* write jointly in support of this bill in a coalition letter. The coalition writes: "Senate Bill 936 bans the sale of nitrous oxide, which is widely used as an illicit recreational inhalant. Aside from serious and sobering public health and safety impacts associated with its illicit use as a party drug, large nitrous oxide cylinders are a growing and expensive waste management problem. ... 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."

ARGUMENTS IN OPPOSITION:

The *American Civil Liberties Union California Action* (ACLU) writes in opposition to this bill: “SB 936 raises concerns as it extends criminal liability to individuals, including those with no relation to a retailer, for the wrongs committed by a business.” ACLU opposes this bill unless amended “to directly regulate businesses. For example, California’s approach to regulating flavored tobacco products imposes civil fines and retail license consequences for businesses that fail to comply with the regulatory framework. The proper avenue for the intent of SB 936 is direct regulation of retailers, not criminalization of individuals. For these reasons, ACLU California Action respectfully opposes SB 936, unless it is amended to directly regulate businesses instead of criminalizing individuals.”

REGISTERED 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*)
California Behavioral Health Planning Council
California Cannabis Operators Association
California CUPA Forum
California Medical Association
California Narcotic Officers’ Association
California Nurses for Environmental Health & Justice
California Product Stewardship Council
Californians Against Waste
City of Carlsbad
City of Ventura
County of Santa Barbara
County of Santa Clara
Del Norte Solid Waste Management Authority
Dental Board of California
Good Farmers Great Neighbors
Health Officers Association of California
League of California Cities
Los Angeles County Sanitation Districts
Recology
Republic Services
Resource Recovery Coalition of California
RethinkWaste
San Francisco Marin Medical Society
StopWaste
SWANA California Chapters Legislative Task Force
Tehama County Solid Waste Management Agency
Urban Counties of California
Western Placer Waste Management Authority
Zero Waste Marin

REGISTERED OPPOSITION:

ACLU California Action

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