

Date of Hearing: June 30, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

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

As Proposed to be Amended in Committee

SUMMARY: Creates four new infractions related to the sale, offers to sell, or distribution of nitrous oxide. Specifically, **this bill:**

- 1) Makes it unlawful for any person to sell, offer to sell, or distribute 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, offer to sell, or distribute a nitrous oxide container which an individual may directly inhale nitrous oxide, except as provided.
- 3) Makes it unlawful to sell, offer 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 to sell, or distribute 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 any business license, for a period of up to one year, of a business that knowingly violates any of the above provisions 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 any business license, 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) Defines “nitrous oxide container” as “a device, canister, tank, or receptacle either exclusively containing nitrous oxide or exclusively containing a chemical compound mixed with nitrous oxide.”
- 10) Provides that “nitrous oxide” has the same meaning as it does in existing law.

EXISTING LAW:

- 1) Defines “nitrous oxide” to mean any of the following substances: N₂O, dinitrogen monoxide, dinitrogen oxide, nitrogen oxide, or laughing gas. (Pen. Code, § 381c, subd. (a).)
- 2) Provides that any person that possesses nitrous oxide or any substance containing nitrous oxide with the intent to breathe, inhale, ingest for the purposes of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses, or for the purposes of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or who knowingly with the intent to do so, is under the influence of nitrous oxide is a guilty of a misdemeanor punishable by imprisonment in a county jail by a term not to exceed six months, by a fine not to exceed \$1,000, or by both imprisonment and a fine. (Pen. Code, § 381b.)
- 3) 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 by a term not to exceed six months, by a fine not to exceed \$1,000, or by both imprisonment and a fine. The court shall consider ordering community service as a condition of probation. (Pen. Code, § 381c, subd. (b).)
- 4) Provides that it is a defense to the crime of selling nitrous to a minor if the defendant honestly and reasonably believed that the minor involved in the offense was at least 18 years of age. The defendant bears the burden of establishing this defense by a preponderance of the evidence. (Pen. Code, § 381c, subd. (c)(1) & (2).)

- 5) Makes it a misdemeanor punishable by a term of imprisonment not to exceed 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 himself, herself, or any other person. (Pen. Code, § 381d.)
- 6) Requires a person that distributes or dispenses nitrous to record each transaction involving nitrous oxide in a physical written document. The person dispensing or distribution the nitrous oxide shall require the purchaser to sign the document and provide a residential address and present a valid government issued photo identification card. The person dispensing or distributing the nitrous oxide shall sign and date the document and retain the document at the business address for one year from the date of the transaction, and shall make transaction records available during normal business hours for inspection and copying by officers and employees of the California State Board of Pharmacy, or of other law enforcement agencies of this state or of the United States upon presentation of a duly authorized search warrant. (Pen. Code, § 381e, subd. (a).)
- 7) Requires that the document used to record each nitrous oxide 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.
 - d) States that these requirements shall not apply to any person that administers nitrous oxide for the purpose of providing medical or dental care if administered by a medical or dental provider licensed by this state or at the direction or under the supervision of a practitioner licensed in this state; and,
 - e) Provides that these requirements shall not apply to the sale of nitrous oxide contained in food products for use as a propellant. (Pen. Code, § 381e, subd. (b).)
- 8) Requires, commencing June 30, 2004, a retailer have in place and maintain a license to engage in the sale of cigarettes or tobacco products. A retailer that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application for those licenses. (Bus. & Prof. § 22972, subd. (a).)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Sponsors:** Rural County Representatives of California, National Stewardship Action Council, County of Orange, and San Diego County District Attorney.
- 2) **Author's Statement:** 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.”
- 3) **Nitrous Oxide:** Nitrous oxide is a colorless, odorless to sweet-smelling gas used to manage pain and anxiety in dentistry as well as other clinical settings.¹ 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.² Short-term side effects include slurred speech, dizziness, and headaches.³ 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.⁴

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.

- 4) **Prohibition on Sale of Nitrous Oxide:** Existing law prohibits possessing nitrous oxide with the intent inhaling the gas for the purpose of causing a condition of intoxication, or who knowingly and with the intent to use nitrous oxide illegally and is under the influence of nitrous oxide or any material containing nitrous oxide is guilty of a misdemeanor. (Pen. Code, § 381b.) Penal Code section 381c prohibits any person from selling or furnishing any 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, any person who does so is guilty of a misdemeanor. (Pen. Code, § 381c, subd. (a).) This

¹ American Dental Association, Nitrous Oxide <<https://www.ada.org/resources/ada-library/oral-health-topics/nitrous-oxide>> [as of June 19, 2026].

² 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>> [as of June 19, 2026].

³ (American Addiction Centers, Nitrous Oxide (Whippet) Abuse, Side Effects, & Treatment (Dec. 31. 2024) <<https://americanaddictioncenters.org/inhalant-abuse/nitrous-oxide-whippets>> [as of June 19, 2026].

⁴ *Ibid.*

section is expressly aimed at businesses that sell nitrous to young people knowing they would use it for an illegal purpose. Penal Code section 381d criminalizes sale of nitrous to a person that suffers death or bodily injury. Both 381c and 381d are misdemeanors punishable by up to six months in the county jail, by fine, or both.

When a person sells or furnishes nitrous oxide where the seller knows or reasonably should know, a person under the age of 18 would use it for an illegal purpose, the court is required to order the suspension of the business license, for a period of up to one year, if the person who knowingly sold or furnished nitrous to a person under the age of 18 after having been previously convicted of this offense, unless the owner of the business license can demonstrate a good faith attempt to prevent illegal sales or deliveries by the owner's employees. (Pen. Code, 381c, subd. (e).)

- 5) **Effect of the bill:** 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 sell, offer to sell, or distribute a nitrous oxide container that is capable of holding more than eight grams of nitrous oxide; a nitrous oxide container which an individual may directly inhale nitrous oxide; 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; or, 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 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; or is sold by a wholesaler for any of the above listed purposes.

- 6) **Argument in Support:** According to *Rural County Representatives of California*, "Senate Bill 936 bans the sale of nitrous oxide, which is widely used as an illicit recreational inhalant. The illicit use of nitrous oxide as a party drug causes serious and sobering public health and safety consequences. Proper management and disposal of large nitrous oxide cylinders is a growing and expensive waste management problem for local governments. Importantly, SB 936 preserves access to nitrous oxide for legitimate purposes by exempting sales for food preparation, manufacturing, automotive, medical, veterinary, and dentistry purposes.

"When used as a recreational inhalant, nitrous oxide has been linked to serious health problems, including dizziness, nausea and vomiting, memory loss, low blood pressure, impaired functioning and judgement, irregular heartbeats, severe asphyxia, and neurological damage. Nitrous oxide misuse was responsible for a fatal collision in Orange County that killed three and seriously injured four children. Another nitrous oxide-related crash in

Northern California killed the impaired driver, two occupants of another vehicle, and left a young mother who was a passenger in the car unable to walk or talk.

“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.

“Local agencies are responsible for the collection, processing, recycling and disposal of solid waste, including the operation of local household hazardous waste (HHW) collection programs. Waste nitrous oxide cylinders must be managed by local governments as HHW, where the cost for disposal (roughly \$70-\$120/container) far exceeds the initial consumer purchase price (\$40-\$70/container). These costs are not sustainable.

“Local governments 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.

“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.”

- 7) **Argument in Opposition:** According to *Californians United for a Responsible Budget*, “It is unnecessary and counterproductive to regulate Nitrous Oxide products through the criminal legal system. Instead, any concerns about their availability on the market should be addressed through regulations grounded in public health, consumer protection, and evidence-based oversight.

“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. 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. 1

“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.”

8) **Related Legislation:** SB 758 (Umberg) would prohibit a retailer from selling nitrous oxide at a retail location. SB 758 will be heard today in this committee.

9) **Prior Legislation:**

- a) AB 1107 (Flora), of the 2023-2024 Legislative Session, would have mandated a court to suspend a business license for up to one year of any business or person that knowingly fails to record any nitrous oxide sale, as specified. AB 1107 was held in suspense in the Assembly Appropriations Committee.
- b) SB 193 (Nielsen), of the 2019-2020 Legislative Session, would have created a new misdemeanor for any retailer of tobacco or tobacco-related products from selling or offering to sell nitrous oxide; and would have required a court to suspend the business license, for a period of up to one year, for any business owner or employee who knowingly violates the prohibition against selling nitrous oxide after having been previously convicted of a violation, unless the owner of the business license can demonstrate a good-faith attempt to prevent violations by the owner or the owner’s employees. SB 193 was held in suspense in the Assembly Appropriations Committee.
- c) SB 631 (Nielsen), of the 2017-2018 Legislative Session, would have prohibited any retailer of tobacco or tobacco-related products, as defined, from selling, offering, or exposing for sale nitrous oxide. The hearing on SB 631 in the Assembly Judiciary Committee was canceled at the request of the author.
- d) AB 1735 (Hall), Chapter 458, Statutes of 2014, makes it a misdemeanor for any person to dispense or distribute nitrous oxide to a person, if it is known or should have been known that the nitrous 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 himself/herself, or any other person.
- e) AB 1015 (Torklason), Chapter 266, Statutes of 2009, makes it a misdemeanor for a person to sell or furnish to a person under the age of 18 years a canister or device containing nitrous oxide or a chemical compound mixed with nitrous oxide.

REGISTERED SUPPORT / OPPOSITION:

Support

National Stewardship Action Council (Sponsor)
Rural County Representatives of California (RCRC) (Sponsor)
San Diego County District Attorney's Office (Co-Sponsor)

American Nurses Association - California
American Nurses Association/California
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of Alcohol and Drug Program Executives
California Association of School Police Chiefs
California Behavioral Health Planning Council
California Cannabis Operators Association (CACOA)
California Cupa Forum
California District Attorneys Association
California Medical Association (CMA)
California Narcotic Officers' Association
California Nurses for Environmental Health & Justice
California Product Stewardship Council
California Reserve Peace Officers Association
Californians Against Waste
City of Carlsbad
City of Escondido
City of Laguna Niguel
City of Los Alamitos
City of San Jose
City of San Juan Capistrano
City of Vacaville
City of Ventura
Claremont Police Officers Association
Cleaneart4kids.org
Corona Police Officers Association
Costa Mesa; City of
County of Humboldt
County of Mendocino
County of Santa Barbara
County of Santa Clara
Culver City Police Officers' Association
Del Norte Solid Waste Management Authority
Dental Board of California
Douglas County Environmental Services
Elders Climate Action (ECA) Northern CA Chapter
Elders Climate Action (ECA) Southern CA Chapter
Elders Climate Action Northern California Chapter
Elders Climate Action Southern California Chapter
Facts Families Advocating for Chemical and Toxics Safety
Fullerton Police Officers' Association
Good Farmers Great Neighbors
Health Officers Association of California
League of California Cities
Long Beach; City of
Los Angeles County District Attorney's Office
Los Angeles County Sanitation Districts

Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Merced County Regional Waste Management Authority
Mojave Desert and Mountain Recycling Authority
Murrieta Police Officers' Association
Nevada County Climate Action Now
Newport Beach Police Association
Nug, INC.
Orange; County of
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Recology
Regen Monterey
Republic Services
Resource Recovery Coalition of California
Rethink Waste
Riverside County Sheriff's Office
Riverside Police Officers Association
Riverside Sheriffs' Association
Russian Hill Neighbors, San Francisco
Sacramento County District Attorney
San Diego County Sheriff's Office
San Francisco Marin Medical Society
San Luis Obispo County Integrated Waste Management Authority
Santa Clara County Recycling and Waste Reduction Commission
South San Francisco Scavenger Company
Stopwaste
Sunnyvale; City of
Swana California Chapters Legislative Task Force
Tehama County Solid Waste Management Agency
The Last Plastic Straw
Town of Apple Valley
Urban Counties of California (UCC)
Ventura; City of
Western Placer Waste Management Authority (WPWMA)
Wilton Rancheria
Zero Waste Marin
Zero Waste Marin Joint Powers Authority
Zero Waste Sonoma

Opposition

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

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