

UNFINISHED BUSINESS

Bill No: SB 936
Author: Blakespear (D) and Umberg (D), et al.
Amended: 8/17/26
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

SENATE FLOOR: 33-0, 5/22/26
AYES: Archuleta, Arreguín, Ashby, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Ochoa Bogh, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
NO VOTE RECORDED: Allen, Alvarado-Gil, Becker, Hurtado, Niello, Padilla, Stern

ASSEMBLY FLOOR: Passed, 8/24/26

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, offer to sell, or distribute 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.

Assembly Amendments prohibit a person who is engaged in the business of selling cigarettes or tobacco products from possessing, storing, owning, or selling nitrous oxide in violation of the criminal provisions in this bill at any site where cigarettes and tobacco products are stored or sold; subject a violator to civil penalties in amounts depending on the aggregate retail value of the seized nitrous oxide and the number of violations within five years of the first violation; and establish procedures for the California Department of Tax and Fee Administration to follow for a court-ordered tobacco retailer license revocation.

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, 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 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 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 revocation of a license issued pursuant to the Cigarette and Tobacco Products Licensing Act of 2003, of a business that knowingly violates any of the above provisions following two prior convictions.
- 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 Assembly Appropriations Committee:

CDTFA estimates costs of \$258,000 in 2026-27 and \$288,000 in 2027-28 and ongoing for administration related to license or permit suspensions, performing inspections to ensure compliance with the court-ordered suspension provisions, issuing civil or criminal citations for violations of the suspension provisions, seizing cigarettes and tobacco products for violations of the suspension provisions, and revoking the suspended license for violations during suspension (Cigarette and Tobacco Products Compliance Fund).

Cost pressures of an unknown amount to the courts to adjudicate any additional filings. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded based on workload, an increase in workload could result in delayed court services and pressure on the Trial Court Trust Fund, which put pressure for increased funding from the General Fund.

No costs to the Department of Justice.

SUPPORT: (Verified 8/18/26)

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 Carlsbad
City of Escondido
City of Laguna Niguel
City of Los Alamitos
City of San Juan Capistrano
City of San Jose
City of Sunnyvale
City of Vacaville
Cleaneearth4kids.org
County of Mendocino
County of Santa Barbara
County of Santa Clara
Del Norte Solid Waste Management Authority
Dental Board of California
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.
Orange County Fire Authority
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 8/18/26)

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

Prepared by: Stephanie Jordan / PUB. S. /
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