
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: SB 936 **Hearing Date:** March 17, 2026
Author: Blakespear
Version: January 29, 2026
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Nitrous oxide: sales*

HISTORY

Source: Rural Counties of California
National Stewardship Action Council
County of Orange
San Diego County District Attorney

Prior Legislation: SB 193 (Nielsen), held in Assembly Appropriations, 2019
SB 631 (Nielsen), not set for hearing Assembly Judiciary, 2017
AB 1735 (Hall), Ch. 458, Stats. of 2014
AB 1015 (Torlakson), Ch. 266, Stats. of 2009

Support: California Cannabis Operators Association; California District Attorneys Association; California Narcotic Officers' Association; California Product Stewardship Council; Californians Against Waste; City of Escondido; CleanEarth4Kids; County of Mendocino; County of Santa Barbara; County of Santa Clara; Del Norte Solid Waste Management Authority; League of California Cities; Los Angeles County Sanitation Districts; Merced County Regional Waste Management Authority; Recology; Republic Services; Resource Recovery Coalition of California; Riverside County Sheriff's Office; The Last Plastic Straw; Urban Counties of California; Western Placer Waste Management Authority; Zero Waste Marin; Zero Waste Sonoma

Opposition: Californians United for a Responsible Budget; (unless amended) ACLU California Action; San Francisco Public Defender

PURPOSE

The purpose of this bill is to create 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.

Existing law 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).)

Existing law 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).)

Existing law 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.)

Existing law requires that a person who dispenses or distributes nitrous oxide record each transaction in a written or electronic document. (Pen. Code, § 381e.)

Existing law 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.)

Existing law requires that the document signed by the purchaser include all of the following:

- That inhalation of nitrous oxide outside of a clinical setting may have dangerous health effects.
- 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.
- 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 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.

This bill 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.

This bill 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.

This bill 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.

This bill 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.

This bill authorizes a court to issue either of the following orders:

- 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.
- 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.

This bill requires the court to provide a copy of any suspension order to the appropriate regulating agency.

This bill specifies that its provisions do not apply to 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.

This bill 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.”

This bill provides that “nitrous oxide” has the same meaning as it does in existing law.

COMMENTS

1. Need For This Bill

According to the author:

SB 936 would prohibit the sale of nitrous oxide canisters larger than 8 grams, except for legitimate medical, dental, culinary, and automotive uses. Commonly known as “whippets,” these canisters are increasingly used by youth as a recreational drug, but they pose serious health risks for users and can impair driving. SB 936 addresses this growing public health problem by limiting retail sales to intended purposes. The bill follows similar prohibitions already enacted in Nebraska and Louisiana and several California counties, including Humboldt, Orange, San Mateo, and Santa Cruz.

2. 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. (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.

3. Related Legislation

In January of this year, this Committee passed SB 758 (Umberg) which limits retail sales of nitrous oxide to a grocery store or general retail merchandise store with a grocery department. SB 758 is intended to prohibit nitrous oxide sales in smoke shops, convenience stores, and other retail outlets that arguably have no legitimate reason to sell the product, and whose sales of nitrous oxide are believed to contribute to nitrous oxide misuse.

4. Effect of This 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 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.

5. Argument in Support

A coalition of organizations, including the Rural Counties of California and the National Stewardship Council, two of the bill's co-sponsors, 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 agencies are responsible for the collection, processing, recycling and disposal of solid waste, including the operation of local household hazardous waste (HHW) collection programs. Local agencies often contract with solid waste enterprises to provide these services. These programs typically offer residents free drop-off of HHW; however, the cost to manage some of the waste streams is significant and puts serious financial pressure on both the programs and local governments that operate them. While some consumers properly dispose of nitrous oxide cylinders at the local HHW collection facility, others are found in recycling carts because residents believe their metal content makes them recyclable. These must be diverted to the local HHW facilities and managed as HHW. The cost for local governments to manage nitrous oxide cylinders exceeds the initial purchase price that consumers pay at the point of sale. While large whippets can be purchased for \$40-\$70 each, they typically cost local agencies \$70-\$120 each to manage. These costs are not sustainable.

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.

6. 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.

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.

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