

AMENDED IN ASSEMBLY MAY 26, 2009

AMENDED IN ASSEMBLY APRIL 28, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1015

Introduced by Assembly Member Torlakson
(Coauthor: Assembly Member V. Manuel Perez)
(Coauthor: Senator Padilla)

February 27, 2009

An act to add Section 381c to the Penal Code, relating to nitrous oxide.

LEGISLATIVE COUNSEL'S DIGEST

AB 1015, as amended, Torlakson. Nitrous oxide: prohibit sale to minors.

Existing law makes it a misdemeanor for any person to possess nitrous oxide or any substance containing nitrous oxide, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or to knowingly and with the intent to do so be under the influence of nitrous oxide or any material containing nitrous oxide.

This bill would provide, in addition, that it is a misdemeanor, punishable as specified, to sell or give away a device, canister, tank, or receptacle exclusively containing nitrous oxide, or exclusively containing a chemical compound mixed with nitrous oxide, to a person under 18 years of age, as specified. The bill would also make it a misdemeanor for any person, corporation, retailer, or employee of a

retailer selling nitrous oxide to sell, give away, or in any way furnish to another person who is in fact under 18 years of age any canister, tank, or receptacle either exclusively containing nitrous oxide, or exclusively containing a chemical compound mixed with nitrous oxide, without first obtaining proper proof of identity and age of ~~minority~~ majority, as specified. *The bill would provide that its provisions do not apply to the sale of nitrous oxide contained in food products for use as a propellant.* By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 381c is added to the Penal Code, to read:
- 2 381c. (a) As used in this section, “nitrous oxide” refers to any
- 3 of the following substances: N₂O, dinitrogen monoxide, dinitrogen
- 4 oxide, nitrogen oxide, ~~and~~ or laughing gas.
- 5 (b) Every person who sells, furnishes, administers, distributes,
- 6 gives away, or offers to sell, furnish, administer, distribute, or give
- 7 away a device, canister, tank, or receptacle either exclusively
- 8 containing nitrous oxide or exclusively containing a chemical
- 9 compound mixed with nitrous oxide, to a person under 18 years
- 10 of age is guilty of a misdemeanor punishable by a fine not to
- 11 exceed two thousand five hundred dollars (\$2,500), or by
- 12 imprisonment in the county jail for a period of not more than one
- 13 year, or by both that fine and imprisonment.;
- 14 (c) (1) Every person, corporation, retailer, or employee of a
- 15 retailer selling nitrous oxide who sells, gives away, or in any way
- 16 furnishes to another person who is in fact under 18 years of age,
- 17 any canister, tank, or receptacle either exclusively containing
- 18 nitrous oxide, or exclusively containing a chemical compound
- 19 mixed with nitrous oxide, without first obtaining proper proof of
- 20 identity and age of majority is guilty of a misdemeanor.

1 (2) For the purposes of this subdivision, “proper proof of identity
2 and age of majority” means a valid passport, Armed Forces
3 identification card, or valid motor vehicle operator’s license or
4 identification card that indicates that the person is 18 years of age
5 or older.

6 (d) On and after July 1, 2010, the court shall order the
7 suspension of the business license, for a period of one year, of a
8 person who knowingly violates any of the provisions of this section
9 after having been previously convicted of a violation of this section,
10 unless the owner of the business license can demonstrate a good
11 faith attempt to prevent illegal sales or deliveries by the owner’s
12 employees.

13 (e) This section shall not apply to any person who administers
14 nitrous oxide for the purpose of providing medical or dental care,
15 if administered by a medical or dental practitioner licensed by this
16 state or at the direction or under the supervision of a practitioner
17 licensed by this state.

18 *(f) This section does not apply to the sale of nitrous oxide*
19 *contained in food products for use as a propellant.*

20 SEC. 2. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.