

ASSEMBLY BILL

No. 1735

Introduced by Assembly Member Hall

February 14, 2014

An act to add Sections 381d and 381e to the Penal Code, relating to nitrous oxide.

LEGISLATIVE COUNSEL'S DIGEST

AB 1735, as introduced, Hall. Nitrous oxide: dispensing and distributing.

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 make it a misdemeanor to dispense or distribute nitrous oxide to a person, knowing or having reason to believe that the nitrous oxide will be used in violation of the above provisions. The bill would impose a mandatory fine of \$1,000 for a first conviction, a mandatory fine of \$2,000 for a 2nd conviction, and a mandatory fine of \$5,000 for a 3rd or subsequent conviction, and would allow the crime to also be punished by imprisonment in a county jail, not to exceed 6 months. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require any person who dispenses or distributes nitrous oxide to record each transaction in a physical written document, as

provided, and would require the person to make the document available for inspection during normal business hours to officers or employees of the California State Board of Pharmacy or other law enforcement agencies. The bill would require the purchaser to sign the document and provide a government-issued photo identification and residential address. The bill would require the person dispensing or distributing the nitrous oxide to mark the packaging or tank containing the nitrous oxide with a label that identifies the person who dispensed or distributed the nitrous oxide and the person’s business address.

The bill would require each cartridge or tank of nitrous oxide to be as a printed warning, as specified.

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 381d is added to the Penal Code, to read:
 2 381d. A person who dispenses or distributes nitrous oxide to
 3 a person, knowing or having reason to believe that the nitrous
 4 oxide will be used in violation of Section 381b, is guilty of a
 5 misdemeanor, and shall be punished by a mandatory fine of one
 6 thousand dollars (\$1,000) upon a first conviction, by a mandatory
 7 fine of two thousand dollars (\$2,000) upon a second conviction,
 8 and by a mandatory fine of five thousand dollars (\$5,000) upon a
 9 third or subsequent conviction; and may also be punished by
 10 imprisonment in a county jail, not exceeding six months.

11 SEC. 2. Section 381e is added to the Penal Code, to read:
 12 381e. (a) A person who dispenses or distributes nitrous oxide
 13 shall record each transaction involving the dispensing or
 14 distribution of nitrous oxide in a physical written document. The
 15 person dispensing or distributing the nitrous oxide shall require
 16 the purchaser to sign the document and provide a complete
 17 residential address and present a valid government-issued photo
 18 identification. The person dispensing or distributing the nitrous
 19 oxide shall sign and date the document and shall retain the

1 document at the person’s business address for one year from the
2 date of the transaction. The person shall make the documents
3 available during normal business hours for inspection and copying
4 by officers or employees of the California State Board of Pharmacy
5 or of other law enforcement agencies of this state or the United
6 States.

7 (b) The document used to record each transaction shall inform
8 the purchaser of all of the following:

9 (1) That inhalation of nitrous oxide may have dangerous health
10 effects.

11 (2) That it is a violation of state law to possess nitrous oxide or
12 any substance containing nitrous oxide, with the intent to breathe,
13 inhale, or ingest it for the purpose of intoxication.

14 (3) That it is a violation of state law to knowingly distribute or
15 dispense nitrous oxide or any substance containing nitrous oxide,
16 to a person who intends to breathe, inhale, or ingest it for the
17 purpose of intoxication.

18 (c) Each cartridge or tank of nitrous oxide dispensed or
19 distributed in this state, other than those intended for use by a
20 medical or dental practitioner, shall bear the following printed
21 warning:

22
23 “Do not inhale contents. Misuse may be dangerous to your
24 health”

25
26 (d) Each time a person dispenses or distributes nitrous oxide,
27 the person shall mark the packaging or tank containing the nitrous
28 oxide with a label or other device that identifies the person who
29 dispensed or distributed the nitrous oxide and the person’s business
30 address.

31 (e) This section shall not apply to any person who administers
32 nitrous oxide for the purpose of providing medical or dental care,
33 if administered by a medical or dental practitioner licensed by this
34 state or at the direction or under the supervision of a practitioner
35 licensed by this state.

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

38 SEC. 3. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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