STATE OF NEW YORK

10923--A

IN ASSEMBLY

April 9, 2026

Introduced by M. of A. McDONALD, K. BROWN, SIMPSON, STECK, SCHIAVONI, COLTON, SAYEGH -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the general business law, in relation to prohibiting the retail sale of nitrous oxide and establishing civil penalties for violations; to amend the public health law, in relation to including nitrous oxide misuse in the health care and wellness education and outreach program; and to repeal section 834 of the general business law relating to the sale of whipped cream chargers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as "Nima's law".

§ 2. Subdivision 5 of section 3380 of the public health law, as amended by chapter 667 of the laws of 1989, paragraphs (b) and (f) as amended by chapter 551 of the laws of 1990, is amended to read as follows:

5. (a) No person shall use nitrous oxide for purposes of causing intoxication, inebriation, excitement, stupefaction or the dulling of the brain or nervous system of [~~himself~~] themself or another.

(b) No person shall sell any canister or other container of nitrous oxide unless granted an exemption pursuant to this subdivision. [~~In no event shall any canister or other container of nitrous oxide be sold to a person under the age of twenty-one years.~~]

(c) This subdivision shall not apply to the use of nitrous oxide in industrial, medical or dental applications, or to specific products which must use nitrous oxide as a propellant provided such products shall in no event be sold at retail to the public, as shall be determined by the commissioner pursuant to paragraph (d) of this subdivision.

(d) The commissioner [~~is directed to~~] shall promulgate regulations to exempt specific products which must use nitrous oxide, or a mixture of nitrous oxide with other gases, as a propellant from the provisions of

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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this chapter provided such regulations shall prohibit the sale of such products at retail to the public.

(e) The provisions of this section shall not be deemed to prohibit the sale of food products containing nitrous oxide provided such products comply with the provisions of section sixteen-a of the agriculture and markets law.

[~~(f) The commissioner may, upon the application of a manufacturer or seller of a product containing nitrous oxide and intended for sale at retail, authorize the sale of such a product if there is no evidence of substantial misuse of the product as defined by this subdivision and if the manufacturer or seller takes the following steps to:~~

~~(i) clearly indicate the legitimate purpose or use of the product on the package;~~

~~(ii) display prominently on the package in heavy type print language which warns of health dangers resulting from the misuse of nitrous oxide;~~

~~(iii) demonstrate that the product bears a distinctive feature or features enabling it to be clearly distinguished from the nitrous oxide products of other manufacturers;~~

~~(iv) educate wholesale and retail businesses which sell the product of the dangers of nitrous oxide and the need to monitor its sale; and~~

~~(v) prevent their sale of the product to any person, firm or corporation who or which sells drug-related paraphernalia as such term is defined by subdivision two of section eight hundred fifty of the general business law.~~]

§ 3. Section 834 of the general business law is REPEALED.

§ 4. The general business law is amended by adding a new article 38-C to read as follows:

ARTICLE 38-C
NITROUS OXIDE

Section 840. Definitions.
841. Restrictions on sale.
842. Restrictions on the sale of nitrous oxide; exemption required.
843. Enforcement.
844. Preemption.

§ 840. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Acceptable Sale" for the purposes of this article shall mean the sale of nitrous oxide authorized to be sold under an exception established in subdivision five of section thirty-three hundred eighty of the public health law.

2. "Nitrous oxide" for the purposes of this article means nitrous oxide but shall not include food products containing nitrous oxide provided such products comply with the provisions of section sixteen-a of the agriculture and markets law.

3. "Retail sale" or "at retail" means a sale to a consumer or to any person for any purpose other than for resale. For the purposes of this section, the term "retail sale" shall not include an acceptable sale of nitrous oxide.

§ 841. Restrictions on sale. 1. No person, corporation, partnership, limited liability company, firm, or any other business entity doing business within this state shall sell or offer for sale nitrous oxide at retail to the public unless the sale would be deemed an acceptable sale.

2. Any person, corporation, partnership, limited liability company, firm, or any other business entity that violates the provisions of this

section shall be subject to a civil penalty of not more than two thousand five hundred dollars for an initial offense and not more than five thousand dollars for the second and each subsequent offense.

§ 842. Restrictions on the sale of nitrous oxide; exemption required. 1. It shall be a violation of this section for any person, corporation, partnership, limited liability company, firm or other business entity doing business within the state to possess with the intent to sell or offer for sale nitrous oxide without an exemption granted by the department of health pursuant to subdivision five of section thirty-three hundred eighty of the public health law.

2. Any person, corporation, partnership, limited liability company, firm, or any other business entity that violates the provisions of this section shall be subject to a civil penalty of not more than two thousand five hundred dollars for an initial offense and not more than five thousand dollars for the second and each subsequent offense.

§ 843. Enforcement. The attorney general or any state or local health officer, town, village or city attorney, or the chief executive officer of a municipality may institute an action in a court of competent jurisdiction to enjoin any activity prohibited pursuant to this article.

§ 844. Preemption. This article preempts all local ordinances and regulations governing the sale of nitrous oxide, with all such ordinances enacted prior to the effective date rendered void.

§ 5. Subdivision 1 of section 207 of the public health law is amended by adding a new paragraph (t) to read as follows:

(t) The dangers associated with the misuse of nitrous oxide, including, but not limited to, vitamin B-12 deficiency, impaired motor function, psychiatric disturbances, loss of consciousness, asphyxiation, and death. The commissioner shall consult with the commissioner of the office of addiction services and supports when developing education and outreach programs under this provision.

§ 6. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgement shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 7. This act shall take effect on the one hundred eightieth day after it shall have become a law.