§ 3380. Inhalation of certain toxic vapors or fumes, and certain hazardous inhalants; sale of glue and hazardous inhalants in certain cases. 1. (a) As used in this section the phrase "glue containing a solvent having the property of releasing toxic vapors or fumes" shall mean and include any glue, cement, or other adhesive containing one or more of the following chemical compounds: acetone, cellulose acetate, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, ethylene trichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, toluene or such other similar material as the commissioner shall by regulation prescribe.

(b) As used in this section hazardous inhalants shall mean and include any of the preparations of compounds containing one or more of the chemical compounds; amyl nitrite, isoamyl nitrite, butyl nitrite, isobutyl nitrite, pentyl nitrite or any other akyl nitrite compound that is either designed to be used, or commonly used, as an inhalant.

2. No person shall, for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of his brain or nervous system, intentionally smell or inhale the fumes from any hazardous inhalants or from any glue containing a solvent having the property of releasing toxic vapors or fumes; provided, that nothing in this section shall be interpreted as applying to the inhalation of any anesthesia or inhalant for medical or dental purposes.

3. No person shall, for the purpose of violating subdivision two, use, or possess for the purpose of so using, any hazardous inhalants or any glue containing a solvent having the property of releasing toxic vapors or fumes.

4. No person shall sell, or offer to sell, to any other person any tube or other container of any hazardous inhalants or glue containing a solvent having the property of releasing toxic vapors or fumes:

(a) if he has knowledge that the product sold, or offered for sale, will be used for the purpose set forth in subdivision two of this section; or

(b) unless there has been added to such glue a sufficient quantity of an additive, approved by the commission, which shall act as a deterrent

to inhalation, and not be harmful or toxic to the human body. This provision shall not apply to hazardous inhalants or glue manufactured and sold for industrial use.

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 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 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 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.

6. (a) Any person who violates any provision of subdivision two or three of this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than five days, or by both such fine and imprisonment.

(b) Any person who violates any provision of subdivision four or five of this section shall be guilty of a class A misdemeanor.