

2024 Regular Session

HOUSE BILL NO. 64

BY REPRESENTATIVES STAGNI, ADAMS, BACALA, BAGLEY, BAYHAM, BILLINGS, BOYER, BRASS, BRAUD, BRYANT, BUTLER, CARRIER, CHASSION, COX, DEWITT, DOMANGUE, EGAN, FISHER, FONTENOT, FREEMAN, FREIBERG, GREEN, HILFERTY, HORTON, HUGHES, ILLG, JACKSON, KNOX, LAFLEUR, MCMAKIN, MOORE, MYERS, OWEN, PHELPS, SELDERS, TAYLOR, THOMPSON, VENTRELLA, VILLIO, WALTERS, WILDER, WILEY, AND WYBLE

DRUGS/CONTROLLED: Prohibits the retail sale of nitrous oxide

1 AN ACT

2 To amend and reenact R.S. 40:989, relative to dangerous chemical substances; to provide
3 relative to the elements of unlawful inhalation, ingestion, use, or possession of
4 certain substances; to provide for an exception; to provide for penalties; to provide
5 for enforcement; to provide for the promulgation of rules and regulations; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 40:989 is hereby amended and reenacted to read as follows:

9 §989. Dangerous chemical substances; butyl nitrite, nitrous oxide, and amyl nitrite;
10 use and transference; penalties

11 A.(1) It shall be unlawful for any person to inhale, ingest, use, or possess any
12 compound, liquid, gas, or chemical which contains butyl nitrite, isobutyl nitrite,
13 secondary butyl nitrite, tertiary butyl nitrite, and mixtures containing butyl nitrite,
14 isobutyl nitrite, secondary butyl nitrite, or tertiary butyl nitrite.

15 (2) It shall be unlawful for any person to inhale, ingest, use, or possess any
16 compound, liquid, gas, or chemical which contains nitrous oxide, commonly known
17 as "laughing gas" and any amyl nitrite, commonly known as "poppers" or "snappers".

18 ~~(3)~~ B. The provisions ~~hereof~~ do of Subsection A of this Section shall not
19 apply to any of the following:

1 ~~(1) the~~ The possession and use of these substances prescribed as part of the
2 care or treatment of a disease, condition, or injury by a licensed medical or dental
3 practitioner.

4 ~~(2) or to the~~ The possession and use of these substances by a manufacturer
5 as part of a manufacturing process or industrial operation.

6 ~~(4) (3)~~ The provisions of this Section do not apply to the possession, use, or
7 sale of nitrous oxide as a propellant in food preparation for restaurant, food service,
8 or houseware products.

9 ~~(4)~~ The possession, use, or sale of nitrous oxide for automotive purposes.

10 ~~B. C.~~ It shall be unlawful for any person to, entity, business, or corporation
11 to produce, manufacture, possess, buy, sell, or otherwise transfer any substance
12 specified in Subsection A of this Section ~~for the purpose of inducing or aiding any~~
13 ~~other person to inhale or ingest such substance~~ or otherwise violate the provisions
14 of Subsection A.

15 ~~C. D.~~ Whoever violates the provisions of this Section shall be fined not more
16 than two thousand five hundred dollars or imprisoned with or without hard labor for
17 not more than ~~six months~~ one year, or both.

18 ~~D. E.~~ Any person who violates any of the provisions of this Section may, in
19 the discretion of the trial judge, be required to participate in an approved drug
20 rehabilitation program, as a condition of probation.

21 F.(1) The office of alcohol and tobacco control may conduct any
22 investigation as necessary to regulate and enforce the provisions of this Section.

23 ~~(2)~~ The provisions of this Subsection shall not prohibit a law enforcement
24 agency of the state or its political subdivisions with appropriate jurisdiction from
25 enforcing the provisions of this Section.

26 G. The office of alcohol and tobacco control shall promulgate rules and
27 regulations in accordance with the Administrative Procedure Act to provide for the
28 regulation and enforcement of this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 64 Reengrossed

2024 Regular Session

Stagni

Abstract: Prohibits the retail sale of nitrous oxide.

Present law provides that it is unlawful for any person to inhale, ingest, use, or possess any compound, liquid, or chemical which contains butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, mixtures containing butyl nitrite, isobutyl nitrite, secondary butyl nitrite, or tertiary butyl nitrite, nitrous oxide, commonly known as "laughing gas" or any amyl nitrite, commonly known as "poppers" or "snappers".

Proposed law retains present law and provides that it is also unlawful for any person to inhale, ingest, use, or possess any gas which contains the substances provided in present law.

Present law provides that it is not unlawful to possess or use present law substances as part of a manufacturing process or industrial operation.

Proposed law amends present law to clarify that the use of present law substances as part of a manufacturing process or industrial operation may only be by the manufacturer.

Proposed law provides that the possession, use, or sale of nitrous oxide for automotive purposes shall not be a violation of present law.

Present law provides that it is unlawful for any person, entity, business, or corporation to produce, manufacture, possess, buy, sell, or otherwise transfer any substance specified in present law for the purpose of inducing or aiding any other person to inhale or ingest such substance or otherwise violate present law.

Proposed law amends present law to remove the condition that, in order to be unlawful, the sale or transfer of any substance specified in present law be for the purpose of inducing or aiding any other person to inhale or ingest such substance.

Present law provides that whoever violates present law shall be fined not more than \$500 or imprisoned for not more than six months, or both.

Proposed law changes the penalty from a fine of not more than \$500 to a fine of not more than \$2,500. Further changes the imprisonment term from not more than six months to not more than one year with or without hard labor.

Proposed law retains present law relative to the imposition of both a fine and imprisonment as a penalty.

Proposed law provides that the office of alcohol and tobacco control may conduct any investigation as necessary to regulate and enforce the provisions of present law.

Proposed law shall not prohibit a law enforcement agency of the state or its political subdivisions with appropriate jurisdiction from enforcing the provisions of present law.

Proposed law requires the office of alcohol and tobacco control to promulgate rules and regulations in accordance with the Administrative Procedure Act to provide for the regulation and enforcement of present law.

(Amends R.S. 40:989)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Provide that the possession, use, or sale of nitrous oxide for automotive purposes is not an unlawful use of nitrous oxide.
3. Add that production or manufacture of any substance specified in present law shall constitute a violation of present law.
4. Expand the list of prohibited actors to include an entity, business, or corporation.
5. Permit the office of alcohol and tobacco control to conduct any investigation as necessary to regulate and enforce the provisions of present law.
6. Clarify that a law enforcement agency of the state or its political subdivisions with appropriate jurisdiction is not prohibited from enforcing the provisions of present law.
7. Require the office of alcohol and tobacco control to promulgate rules and regulations in accordance with the Administrative Procedure Act to provide for the regulation and enforcement of present law.
8. Clarify that the term of imprisonment is with or without hard labor.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.