SLS 25RS-245 **ORIGINAL**

2025 Regular Session

SENATE BILL NO. 98

BY SENATORS MYERS AND TALBOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONTROL DANGER SUBSTANCE. Increases the penalties for the retail sale of nitrous oxide. (8/1/25)

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

1	"snappers".
2	B. The provisions of Subsection A of this Section shall not apply to any of
3	the following:
4	(1) The possession and use of these substances prescribed as part of the care
5	or treatment of a disease, condition, or injury by a licensed medical or dental
6	practitioner who is at least twenty-one years of age.
7	(2) The possession and use of these substances by a manufacturer as part of
8	a manufacturing process or industrial operation by a manufacturer or a person
9	who is at least twenty-one years of age and employed by the manufacturer.
10	(3) The possession, use, or sale of nitrous oxide as a propellant in food
11	preparation for restaurant, food service, or houseware products by a person at least
12	twenty-one years of age.
13	(4) The possession, use, or sale of nitrous oxide for automotive purposes $\underline{\mathbf{b}}\underline{\mathbf{y}}$
14	a person at least twenty-one years of age.
15	C. The presence of additional flavoring in a substance or labeling on any
15 16	C. The presence of additional flavoring in a substance or labeling on any part of a container of the substance referring to the contents being flavored
16	part of a container of the substance referring to the contents being flavored
16 17	part of a container of the substance referring to the contents being flavored shall create a rebuttable presumption against the exceptions described in
16 17 18	part of a container of the substance referring to the contents being flavored shall create a rebuttable presumption against the exceptions described in Subsection B of this Section.
16 17 18 19	 part of a container of the substance referring to the contents being flavored shall create a rebuttable presumption against the exceptions described in Subsection B of this Section. D. It shall be unlawful for any person, entity, business, or corporation to
16 17 18 19 20	 part of a container of the substance referring to the contents being flavored shall create a rebuttable presumption against the exceptions described in Subsection B of this Section. D. It shall be unlawful for any person, entity, business, or corporation to produce, manufacture, possess, buy, sell, or otherwise transfer any substance
16 17 18 19 20 21	 part of a container of the substance referring to the contents being flavored shall create a rebuttable presumption against the exceptions described in Subsection B of this Section. D. It shall be unlawful for any person, entity, business, or corporation to produce, manufacture, possess, buy, sell, or otherwise transfer any substance specified in Subsection A of this Section or otherwise violate the provisions of
16 17 18 19 20 21	part of a container of the substance referring to the contents being flavored shall create a rebuttable presumption against the exceptions described in Subsection B of this Section. D. It shall be unlawful for any person, entity, business, or corporation to produce, manufacture, possess, buy, sell, or otherwise transfer any substance specified in Subsection A of this Section or otherwise violate the provisions of Subsection A of this Section.
16 17 18 19 20 21 22 23	part of a container of the substance referring to the contents being flavored shall create a rebuttable presumption against the exceptions described in Subsection B of this Section. D. It shall be unlawful for any person, entity, business, or corporation to produce, manufacture, possess, buy, sell, or otherwise transfer any substance specified in Subsection A of this Section or otherwise violate the provisions of Subsection A of this Section. D. E.(1) Whoever violates the provisions of Subsection A of this Section
16 17 18 19 20 21 22 23	part of a container of the substance referring to the contents being flavored shall create a rebuttable presumption against the exceptions described in Subsection B of this Section. D. It shall be unlawful for any person, entity, business, or corporation to produce, manufacture, possess, buy, sell, or otherwise transfer any substance specified in Subsection A of this Section or otherwise violate the provisions of Subsection A of this Section. D.E.(1) Whoever violates the provisions of Subsection A of this Section shall be fined not more than two thousand five hundred dollars or imprisoned with
16 17 18 19 20 21 22 23 24	part of a container of the substance referring to the contents being flavored shall create a rebuttable presumption against the exceptions described in Subsection B of this Section. D. It shall be unlawful for any person, entity, business, or corporation to produce, manufacture, possess, buy, sell, or otherwise transfer any substance specified in Subsection A of this Section or otherwise violate the provisions of Subsection A of this Section. D. E.(1) Whoever violates the provisions of Subsection A of this Section shall be fined not more than two thousand five hundred dollars or imprisoned with or without hard labor for not more than one year, or both.

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(b) Any person, entity, business, or corporation that violates the

1	provisions of Subsection D of this Section and possesses a certificate, permit, or
2	license issued by the commissioner of alcohol and tobacco control in the
3	Department of Revenue shall have its certificate, permit, or license suspended
4	for thirty days upon the first violation. The certificate, permit, or license shall
5	be revoked upon a second violation.
6	E.F. Any person who violates any of the provisions of this Section may, in
7	the discretion of the trial judge, be required to participate in an approved drug
8	rehabilitation program as a condition of probation.
9	$F_{\cdot}G_{\cdot}(1)$ The office of alcohol and tobacco control may conduct any
10	investigation as necessary to regulate and enforce the provisions of this Section.
11	(2) The provisions of this Subsection shall not prohibit a law enforcement
12	agency of the state or its political subdivisions with appropriate jurisdiction from
13	enforcing the provisions of this Section.
14	G.H. The office of alcohol and tobacco control shall promulgate rules and
15	regulations in accordance with the Administrative Procedure Act to provide for the
16	regulation and enforcement of this Section.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, 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)]

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<u>Present law</u> 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".

<u>Present law</u> provides for exceptions in which the prohibited substances can be possessed and used, including any of the following:

- (1) As part of the care or treatment of a disease, condition, or injury administered by a licensed medical or dental practitioner.
- (2) By a manufacturer as part of a manufacturing process or industrial operation.
- (3) Nitrous oxide when used as a propellant in food preparation for restaurant, food service, or houseware products.

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Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

(4) Nitrous oxide when used for automotive purposes.

<u>Proposed law</u> retains <u>present law</u> but further limits the possession or use of the prohibited substances to persons at least 21 years of age.

<u>Proposed law</u> provides that the presence of additional flavoring in the prohibited substance or labeling on any part of a container of the prohibited substance referring to the contents being flavored creates a rebuttable presumption against the exceptions described in <u>present</u> law.

<u>Present law</u> prohibits any person, entity, business, or corporation from producing, manufacturing, possessing, buying, selling, or otherwise transferring any prohibited substance specified by <u>present law</u>.

<u>Present law</u> provides that violators who possess or use any prohibited substance specified by <u>present law</u> be fined not more than \$2,500 or imprisoned with or without hard labor for not more than one year, or both.

<u>Proposed law</u> provides that violators who produce, manufacture, possess, buy, sell, or otherwise transfer any prohibited substance specified by <u>present law</u> be fined not more than \$25,000 or imprisoned with or without hard labor for not more than one year, or both.

<u>Proposed law</u> requires that if violators who produce, manufacture, possess, buy, sell, or otherwise transfer any prohibited substance specified by <u>present law</u> also possess a certificate, permit, or license issued by the commissioner of alcohol and tobacco control, then its certificate, permit, or license be suspended for 30 days upon the first violation, with the certificate, permit, or license being revoked upon a second violation.

Effective August 1, 2025.

(Amends R.S. 40:989)