

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)

AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

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

(2) It shall be unlawful for any person to inhale, ingest, use, or possess any compound, liquid, gas, or chemical which contains nitrous oxide, commonly known 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 **by a person who is at least**  
5 **twenty-one years of age when** prescribed as part of the care or treatment of a  
6 disease, condition, or injury by a licensed medical or dental practitioner.

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; ~~or food service; or~~ **The possession, use, or sale of**  
12 **houseware products by a person at least twenty-one years of age.**

13 (4) The possession, use, or sale of nitrous oxide for automotive purposes **by**  
14 **a person at least twenty-one years of age.**

15 C. **The presence of additional flavoring in a substance or labeling on any**  
16 **part of a container of the substance referring to the contents being flavored**  
17 **shall create a rebuttable presumption against the exceptions described in**  
18 **Subsection B of this Section.**

19 **D.** It shall be unlawful for any person, entity, business, or corporation,  
20 **including an online retailer,** to produce, manufacture, possess, buy, sell, or  
21 otherwise transfer any substance specified in Subsection A of this Section or  
22 otherwise violate the provisions of Subsection A of this Section.

23 ~~D.E.(1)~~ Whoever violates the provisions of **Subsection A of** this Section  
24 shall be fined not more than two thousand five hundred dollars or imprisoned with  
25 or without hard labor for not more than one year, or both.

26 **(2)(a) Whoever violates the provisions of Subsection D of this Section**  
27 **shall be fined not more than twenty-five thousand dollars or imprisoned with**  
28 **or without hard labor for not more than one year, or both.**

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

**provisions of Subsection D of this Section and possesses a certificate, permit, or license issued by the commissioner of alcohol and tobacco control in the Department of Revenue shall have its certificate, permit, or license suspended for thirty days upon the first violation. The certificate, permit, or license shall be revoked upon a second violation.**

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

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

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

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

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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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#### DIGEST

SB 98 Reengrossed

2025 Regular Session

Myers

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".

Present law 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 by a person at least 21 years of age.

(4) Nitrous oxide when used for automotive purposes.

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

Proposed law 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 present law.

Present law prohibits any person, entity, business, or corporation, including online retailers, from producing, manufacturing, possessing, buying, selling, or otherwise transferring any prohibited substance specified by present law.

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

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

Proposed law requires that if violators who produce, manufacture, possess, buy, sell, or otherwise transfer any prohibited substance specified by present law 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)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Specify that proposed law will apply to online retailers.

##### Senate Floor Amendments to engrossed bill

1. Make technical changes.