

SENATE BILL NO. 98

BY SENATORS MYERS AND TALBOT AND REPRESENTATIVES COX,
DOMANGUE, EDMONSTON, FREIBERG, HORTON, JACKSON,
KNOX, SCHLEGEL, SPELL, STAGNI, TAYLOR AND VILLIO

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

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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 "snappers".

B. The provisions of Subsection A of this Section shall not apply to any of the following:

(1) The possession and use of these substances **by a person who is at least twenty-one years of age when** prescribed as part of the care or treatment of a disease, condition, or injury by a licensed medical or dental practitioner.

1 (2) The possession and use of these substances ~~by a manufacturer~~ as part of
 2 a manufacturing process or industrial operation **by a manufacturer or a person**
 3 **who is at least twenty-one years of age and employed by the manufacturer.**

4 (3) The possession, use, or sale of nitrous oxide as a propellant in food
 5 preparation for restaurant, ~~or~~ food service, ~~or~~

6 **(4) The possession, use, or sale of** houseware products **by a person at least**
 7 **twenty-one years of age.**

8 ~~(4)~~**(5)** The possession, use, or sale of nitrous oxide for automotive purposes
 9 **by a person at least twenty-one years of age.**

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

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

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

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

24 **(b) Any person, entity, business, or corporation that violates the**
 25 **provisions of Subsection D of this Section and possesses a certificate, permit, or**
 26 **license issued by the commissioner of alcohol and tobacco control in the**
 27 **Department of Revenue shall have its certificate, permit, or license suspended**
 28 **for thirty days upon the first violation. The certificate, permit, or license shall**
 29 **be revoked upon a second violation.**

30 ~~E.~~**F.** Any person who violates any of the provisions of this Section may, in

1 the discretion of the trial judge, be required to participate in an approved drug
2 rehabilitation program as a condition of probation.

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

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

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____