

By the Committee on Criminal Justice and Senator Bronson

307-1771A-00

1                                   A bill to be entitled  
2           An act relating to nitrous oxide; amending s.  
3           877.111, F.S.; providing that it is a  
4           third-degree felony to distribute, sell,  
5           purchase, or possess more than a specified  
6           amount of nitrous oxide; allowing the use of  
7           nitrous oxide for specified purposes; providing  
8           that a person who discharges, or who aids  
9           another in discharging, nitrous oxide for  
10          subsequent inhalation creates an inference of  
11          the person's knowledge that such nitrous oxide  
12          is for unlawful use; providing an effective  
13          date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17           Section 1. Section 877.111, Florida Statutes, is  
18 amended to read:

19           877.111 Inhalation, ingestion, possession, sale,  
20 purchase, or transfer of harmful chemical substances;  
21 penalties.--

22           (1) It is unlawful for any person to inhale or ingest,  
23 or to possess with intent to breathe, inhale, or drink, any  
24 compound, liquid, or chemical containing toluol, hexane,  
25 trichloroethylene, acetone, toluene, ethyl acetate, methyl  
26 ethyl ketone, trichloroethane, isopropanol, methyl isobutyl  
27 ketone, ethylene glycol monomethyl ether acetate,  
28 cyclohexanone, nitrous oxide, diethyl ether, alkyl nitrites  
29 (butyl nitrite), or any similar substance for the purpose of  
30 inducing a condition of intoxication or which distorts or  
31 disturbs the auditory, visual, or mental processes. This

1 section does not apply to the possession and use of these  
2 substances as part of the care or treatment of a disease or  
3 injury by a practitioner licensed under chapter 458, chapter  
4 459, chapter 464, or chapter 466 or to beverages controlled by  
5 the provisions of chapter 561, chapter 562, chapter 563,  
6 chapter 564, or chapter 565.

7 (2) It is unlawful for any person to possess, buy,  
8 sell, or otherwise transfer any chemical substance specified  
9 in subsection (1) for the purpose of inducing or aiding any  
10 other person to violate the provisions of subsection (1).

11 (3) Except as provided in subsection (4) with respect  
12 to nitrous oxide, any person who violates subsection (1) or  
13 subsection (2) any of the provisions of this section shall  
14 upon conviction be guilty of a misdemeanor of the second  
15 degree, punishable as provided in s. 775.082 or s. 775.083.

16 (4) Any person who knowingly distributes, sells,  
17 purchases, transfers, or possesses more than 16 grams of  
18 nitrous oxide for any use other than:

19 (a) As part of the care or treatment of a disease or  
20 injury by a practitioner licensed under chapter 458, chapter  
21 459, chapter 464, chapter 466, or chapter 474;

22 (b) As a food-processing propellant;

23 (c) As a semiconductor oxidizer;

24 (d) As an analytical chemistry oxidizer in atomic  
25 absorption spectrometry;

26 (e) In the production of chemicals used to inflate  
27 airbags;

28 (f) As an oxidizer for chemical production,  
29 combustion, or jet propulsion; or

30 (g) When mixed with not less than 100 parts per  
31 million of sulfur dioxide,

1  
2 commits a felony of the third degree which shall be known as  
3 unlawful distribution of nitrous oxide, punishable as provided  
4 in s. 775.082, s. 775.083, or s. 775.084. For purposes of this  
5 subsection, in addition to proving by any other means that  
6 nitrous oxide was knowingly possessed, distributed, sold,  
7 purchased, or transferred for any purpose not specified in  
8 paragraphs (a)-(g), any person who discharges, or who aids  
9 another in discharging, nitrous oxide to inflate a balloon or  
10 any other object suitable for subsequent inhalation creates an  
11 inference of the person's knowledge that the nitrous oxide's  
12 use is for a purpose not specified in paragraphs (a)-(g).

13 (5)(4) Any person who violates any of the provisions  
14 of this section may, in the discretion of the trial judge, be  
15 required to participate in a substance abuse services program  
16 approved or regulated by the Department of Children and Family  
17 Services pursuant to the provisions of chapter 397, provided  
18 the director of the program approves the placement of the  
19 defendant in the program. Such required participation may be  
20 imposed in addition to, or in lieu of, any penalty or  
21 probation otherwise prescribed by law. However, the total time  
22 of such penalty, probation, and program participation shall  
23 not exceed the maximum length of sentence possible for the  
24 offense.

25 Section 2. This act shall take effect July 1, 2000.

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27 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
28 COMMITTEE SUBSTITUTE FOR  
29 Senate Bill 726

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31 Creates an inference regarding the person's knowledge that the  
nitrous oxide's use was not for a specifically prescribed  
purpose.