



RULES COMMITTEE AGENDA:  
ITEM:

# Memorandum

**TO:** RULES AND OPEN GOVERNMENT GOVERNMENT COMMITTEE      **FROM:** Councilmember Davis

**SUBJECT:** NITROUS OXIDE ORDINANCE      **DATE:** 01/01/2022

Approved

Date 02/01/2022

## **RECOMMENDATION:**

1. Direct the City Attorney to draft an ordinance banning the sale of nitrous oxide products in vape and smoke shops.
  - a. Direct Staff to define “vape and smoke shops” and identify nitrous oxide products banned that will be banned at these retailers.
  - b. Direct Staff to create a timeline for vape and smoke shops to cease nitrous oxide product sales.
  - c. Work with law/code enforcement to create a work plan to audit nitrous oxide product sales at vape and smoke shops.
  - d. Direct Staff to explore fines and/or retail license suspension for vape and smoke shops who continue the sale of nitrous oxide after the ordinance goes into effect.
2. Require retailers who sell nitrous oxide products to display substance abuse resources.
3. Add this issue to our city’s legislative priorities list to advocate for state legislation that prioritizes banning nitrous oxide product sales at vape and smoke shop

## **BACKGROUND**

Nitrous Oxide, also known as laughing gas, is used for medical and dental anesthesia. Outside of medical facilities, it can be purchased for engine performance and used to dispense and preserve whip cream. It’s also widely sold at vape and smoke shops.

Nitro, N2O, NOS, nangs, whippet, hippy crack, buzz bomb, or nos balloons can be used as an illegal recreational substance. The sale of nitrous oxide in vape and smoke shops can encourage illegal recreational use and give youth easy access to a euphoric inhalant that may seem harmless.

Inhaling nitrous oxide blocks oxygen to the brain and gives a short term high. Nitrous oxide is a popular illegal inhalant due to its easy access and easy concealment. High use and long-term use can create a B12 deficiency, weaken the immune system, cause organ failure, and “lead to severe neurological complications within the peripheral and/or central [nervous system](#).”<sup>1</sup>

In the state of California, it is illegal to sell and possess nitrous oxide products if the intention is to consume for intoxication or an altered state of mind. It is also illegal to sell nitrous oxide products to minors. Those who dispense or distribute nitrous oxide must require the purchaser to sign a document with the laws and dangers of inhaling nitrous oxide products. The purchaser must provide a residential address and present a valid government-issued photo identification.

Nitrous oxide can be used for whip cream products and is therefore regulated by the Food and Drug Administration (FDA) and not the Drug Enforcement Administration (DEA). Its status can mean looser regulation as an illegal substance

The troublesome part is that nitrous oxide products are sold in stores that exclusively sell recreational inhaling products. By allowing this, we are promoting the illegal use of nitrous oxide. As a city, we can regulate where nitrous oxide is sold and where it shouldn't be. This can create further obstacles for those who seek to use nitrous oxide products illegally.

As a parent, I am concerned that children and young adults have easy access to an inhalant that can lead to addiction and other harmful side [effects](#)<sup>2</sup>. Bakers who may need a cartridge for whipped cream do not go to smoke shops to buy them. They also don't buy mass quantities. Inhalant use and addiction are on the rise. The least we can do is keep these harmful products from retailers whose purpose is to sell legal inhalant.

Targeted prevention, education on inhalant abuse, and regulation are important ways to prevent the misuse of nitrous oxide products.

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<sup>1</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4794556/>

<sup>2</sup> <https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHNationalFindingsReport2018/NSDUHNationalFindingsReport2018.pdf>

# Attachment A

## **California Penal Codes on Nitrous Oxide:**

[-Penal Code 381b](#)

[-Penal Code 381c](#)

[-Penal Code 381 d and e](#)

## **Bills:**

[-SB491](#)

[-SB193](#)

[-SB631](#)

## **Sources:**

1. [Recurrent Paraparesis and Death of a Patient with ‘Whippet’ Abuse](#)
2. [Key Substance Use and Mental Health Indicators in the United States: Results from the 2018 National Survey on Drug Use and Health](#)
3. [Recreational nitrous oxide use: Prevalence and risks](#)
4. [Up: The rise of nitrous oxide abuse. An international survey of contemporary nitrous oxide use](#)
5. [Inhalant Drug Facts](#)
6. [Inhalants Research Report](#)
7. [Commonly Used Drug Charts](#)
8. [The dangerous use of inhalants among teens: A case report](#)

## **In the news:**

<https://www.nytimes.com/2021/01/30/style/nitrous-oxide-whippets-tony-hsieh.html>

<https://www.mercurynews.com/2021/05/07/editorial-addictive-deadly-nitrous-oxide-meets-legislative-inaction/>

<https://www.mercurynews.com/2021/05/05/opinion-how-addiction-to-whipits-nitrous-oxide-killed-my-life-partner/>

<https://www.latimes.com/opinion/op-ed/la-oe-lodge-nitrous-oxide-smoke-shop-law-20190429-story.html>