

Committee Substitute for
Committee Substitute for House Bill No. 75

An act relating to nitrous oxide; amending s. 877.111, F.S.; prohibiting the unlawful distribution of nitrous oxide; providing a third degree felony penalty for violation; providing an effective date.

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

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

877.111 Inhalation, ingestion, possession, sale, purchase, or transfer of harmful chemical substances; penalties.—

(1) It is unlawful for any person to inhale or ingest, or to possess with intent to breathe, inhale, or drink, any compound, liquid, or chemical containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichloroethane, isopropanol, methyl isobutyl ketone, ethylene glycol monomethyl ether acetate, cyclohexanone, nitrous oxide, diethyl ether, alkyl nitrites (butyl nitrite), or any similar substance for the purpose of inducing a condition of intoxication or which distorts or disturbs the auditory, visual, or mental processes. This section does not apply to the possession and use of these substances as part of the care or treatment of a disease or injury by a practitioner licensed under chapter 458, chapter 459, chapter 464, or chapter 466 or to beverages controlled by the provisions of chapter 561, chapter 562, chapter 563, chapter 564, or chapter 565.

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

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

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

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

(b) As a food processing propellant;

(c) As a semiconductor oxidizer;

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

- (e) In the production of chemicals used to inflate airbags;
- (f) As an oxidizer for chemical production, combustion or jet propulsion;
or
- (g) When mixed with not less than 100 parts per million of sulfur dioxide

commits a felony of the third degree which shall be known as unlawful distribution of nitrous oxide, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, in addition to proving by any other means that nitrous oxide was knowingly possessed, distributed, sold, purchased, or transferred for any purpose not specified in paragraphs (a)-(g), proof that any person discharged, or aided another in discharging, nitrous oxide to inflate a balloon or any other object suitable for subsequent inhalation creates an inference of the person's knowledge that the nitrous oxide's use was for a purpose other than those provided in paragraphs (a)-(g).

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

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

Approved by the Governor April 13, 2000.

Filed in Office Secretary of State April 13, 2000.