

HOUSE BILL NO. 648  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee for Courts of Justice  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Delegate Kent)

*A BILL to amend and reenact § 18.2-264 of the Code of Virginia, relating to distributing nitrous oxide prohibited; penalties.*

**Be it enacted by the General Assembly of Virginia:**

1. That § 18.2-264 of the Code of Virginia is amended and reenacted as follows:

**§ 18.2-264. Inhaling drugs or other noxious chemical substances or causing, etc., others to do so prohibited; distributing nitrous oxide prohibited; penalties.**

A. For the purposes of this section, "noxious chemical substances" includes fingernail polish and model airplane glue and chemicals containing any ketones, aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors, fluorinated hydrocarbons or vapors, nitrous oxide, or hydrogenated fluorocarbons.

B. It is unlawful, except under the direction of a practitioner as defined in § 54.1-3401, for any person deliberately to smell or inhale any drugs or any other noxious chemical substances with the intent to become intoxicated, inebriated, excited, or stupefied or to dull the brain or nervous system.

Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

**B- C.** It is unlawful for any person, other than one duly licensed, deliberately to cause, invite, or induce any person to smell or inhale any drugs or any other noxious chemical substances with the intent to intoxicate, inebriate, excite, stupefy, or dull the brain or nervous system of such person.

Any person violating the provisions of this subsection is guilty of a Class 2 misdemeanor.

**C. 1. D.** It is unlawful for any person to sell, distribute, or offer to sell or distribute a device that is designed or intended to deliver a gas containing nitrous oxide to any person ~~under 18 years of age for any purpose with the intent to intoxicate, inebriate, excite, stupefy, or dull the brain or nervous system of such person.~~

2. This subsection shall not apply to (i) a device, as described in subdivision 1, for nitrous oxide that is denatured or otherwise rendered unfit for human consumption or (ii) any person or establishment that is (a) solely engaged in the business of selling or distributing eating supplies, food processing equipment, or compressed gases for industrial or medical use or (b) a health care provider as defined in § 32.1-127.1:03.

*3. any person intending to sell, distribute, or offer to sell or distribute to a practitioner as defined in*

32       § 54.1-3401. Any person who fails to make diligent inquiry as to whether the person trying to obtain a device  
33       as described in subdivision 1 is 18 years of age or older or violates the provisions of this subsection is guilty  
34       of a Class 1 misdemeanor.

35       D. For purposes of this section:

36       "Diligent inquiry" means a good faith effort to determine the age of a person that includes an examination  
37       of any valid photo identification that establishes the identity and age of such person.

38       "Noxious chemical substances" includes fingernail polish and model airplane glue and chemicals  
39       containing any ketones, aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors, fluorinated  
40       hydrocarbons or vapors, nitrous oxide, or hydrogenated fluorocarbons.