



IMPORTANT NOTICE

Date: June 16, 2026

Re: Nitrous Oxide Sales

Dear Retailer,

This Notice provides additional information and clarification regarding a [Notice](#) sent to retailers on March 11, 2026. The March Notice summarized existing California laws governing nitrous oxide and the circumstances under which its sale and use may be lawful or unlawful. This Notice is intended to communicate the County's understanding and interpretation of existing state law. It does not constitute legal advice, and retailers are encouraged to consult their own legal counsel regarding their obligations under California law.

This Notice is being issued in response to increasing concerns regarding the misuse of nitrous oxide, including reports of increases in arrests, impaired driving incidents, and consumer complaints. Of particular concern are the irreversible health effects and deaths that are associated with nitrous oxide misuse.

As previously noted, [California Penal Code section 381b](#) prohibits possession of nitrous oxide for the purpose of breathing, inhaling, or ingesting it to achieve elation, euphoria, exhilaration, stupefaction, or dizziness, or for any other intoxicating effect. Relevant to retail sales, [California Penal Code section 381d](#) further prohibits any person from knowingly selling, distributing, or furnishing nitrous oxide when the seller knows, or should know, that the product will be used for unlawful inhalation. The circumstances that may establish that a seller "should know" include but are not limited to those described below.

Retailers who continue selling nitrous oxide should take affirmative steps to assess whether their business practices comply with all applicable laws governing nitrous oxide products. The County is aware that some businesses rely on disclaimer statements, identification checks, and recordkeeping forms in connection with nitrous oxide sales.

Retailers should understand that such practices do not, by themselves, demonstrate that a transaction is lawful or provide immunity from enforcement. Based on the County's interpretation of applicable law, practices such as obtaining customer signatures, collecting personal information, scanning identification cards, or using "waiver" or "disclaimer" forms do not establish that a nitrous oxide sale is lawful or provide a defense to violations of Penal Code sections 381b or 381d.

The County is also aware that some retailers are collecting and retaining sensitive customer information for these purposes. Maintaining such information introduces privacy and data-security risks for consumers and may expose retailers to additional liability if that information is mishandled or accessed without authorization. Retailers should evaluate their own practices and are encouraged to discontinue the collection of any information not required by law.

When evaluating compliance, County agencies may consider the totality of the circumstances surrounding a sale, including the nature of the business, product packaging and marketing, the type and quantity of products sold, the sale of associated accessories, customer conduct, and any other facts or circumstances indicating the intended use of the product.

Examples of circumstances that may indicate unlawful intent include but is not limited to: requests for large quantities of nitrous oxide; purchases made together with balloons, “cracker” devices, or other inhalation accessories; flavored or novelty-branded nitrous oxide products; and products marketed in ways commonly associated with recreational inhalation. Retailers should be aware that nitrous oxide intended for legitimate commercial uses, such as food-service applications, is typically supplied through wholesale distributors rather than sold in retail storefront settings.

The County encourages retailers to carefully review their nitrous oxide inventory and sales practices and to voluntarily discontinue the sale of nitrous oxide products that are marketed for, or commonly associated with, recreational inhalation.

Questions regarding this Notice may be directed to Terese.Voge@sonomacounty.gov or 707-565-6680.

Sincerely,



Nolan Sullivan
Health Services Director
Sonoma County Department of Health Services
Office: (707) 565-7901 | Cell: (707) 970-8959
Email: Nolan.Sullivan@sonomacounty.gov

Cc: County of Sonoma, County Counsel Department
Sonoma County District Attorney