



Ohio Revised Code

Section 2925.32 Trafficking in harmful intoxicants - improperly dispensing or distributing nitrous oxide.

Effective: September 13, 2016

Legislation: Senate Bill 204 - 131st General Assembly

(A) Divisions (A)(1) and (2) of this section do not apply to the dispensing or distributing of nitrous oxide.

(1) No person shall knowingly dispense or distribute a harmful intoxicant to a person age eighteen or older if the person who dispenses or distributes it knows or has reason to believe that the harmful intoxicant will be used in violation of section 2925.31 of the Revised Code.

(2) No person shall knowingly dispense or distribute a harmful intoxicant to a person under age eighteen if the person who dispenses or distributes it knows or has reason to believe that the harmful intoxicant will be used in violation of section 2925.31 of the Revised Code. Division (A)(2) of this section does not prohibit either of the following:

(a) Dispensing or distributing a harmful intoxicant to a person under age eighteen if a written order from the juvenile's parent or guardian is provided to the dispenser or distributor;

(b) Dispensing or distributing gasoline or diesel fuel to a person under age eighteen if the dispenser or distributor does not know or have reason to believe the product will be used in violation of section 2925.31 of the Revised Code. Division (A)(2)(a) of this section does not require a person to obtain a written order from the parent or guardian of a person under age eighteen in order to distribute or dispense gasoline or diesel fuel to the person.

(B)(1) No person shall knowingly dispense or distribute nitrous oxide to a person age twenty-one or older if the person who dispenses or distributes it knows or has reason to believe the nitrous oxide will be used in violation of section 2925.31 of the Revised Code.

(2) Except for lawful medical, dental, or clinical purposes, no person shall knowingly dispense or distribute nitrous oxide to a person under age twenty-one.



(3) No person, at the time a cartridge of nitrous oxide is sold to another person, shall sell a device that allows the purchaser to inhale nitrous oxide from cartridges or to hold nitrous oxide released from cartridges for purposes of inhalation. The sale of any such device constitutes a rebuttable presumption that the person knew or had reason to believe that the purchaser intended to abuse the nitrous oxide.

(4) No person who dispenses or distributes nitrous oxide in cartridges shall fail to comply with either of the following:

(a) The record-keeping requirements established under division (F) of this section;

(b) The labeling and transaction identification requirements established under division (G) of this section.

(C) This section does not apply to products used in making, fabricating, assembling, transporting, or constructing a product or structure by manual labor or machinery for sale or lease to another person, or to the mining, refining, or processing of natural deposits.

(D)(1)(a) Whoever violates division (A)(1) or (2) or division (B)(1), (2), or (3) of this section is guilty of trafficking in harmful intoxicants, a felony of the fifth degree. If the offender previously has been convicted of a drug abuse offense, trafficking in harmful intoxicants is a felony of the fourth degree. In addition to any other sanction imposed upon an offender for trafficking in harmful intoxicants, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for trafficking in harmful intoxicants, the court immediately shall comply with section 2925.38 of the Revised Code.

(b) Any offender who received a mandatory suspension of the offender's driver's or commercial



driver's license or permit under this section prior to the effective date of this amendment may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

Upon the filing of a motion under division (D)(1)(b) of this section, the sentencing court, in its discretion, may terminate the suspension.

(2) Whoever violates division (B)(4)(a) or (b) of this section is guilty of improperly dispensing or distributing nitrous oxide, a misdemeanor of the fourth degree.

(E) It is an affirmative defense to a charge of a violation of division (A)(2) or (B)(2) of this section that:

(1) An individual exhibited to the defendant or an officer or employee of the defendant, for purposes of establishing the individual's age, a driver's license or permit issued by this state, a commercial driver's license or permit issued by this state, an identification card issued pursuant to section 4507.50 of the Revised Code, for another document that purports to be a license, permit, or identification card described in this division;

(2) The document exhibited appeared to be a genuine, unaltered document, to pertain to the individual, and to establish the individual's age;

(3) The defendant or the officer or employee of the defendant otherwise did not have reasonable cause to believe that the individual was under the age represented.

(F) Beginning July 1, 2001, a person who dispenses or distributes nitrous oxide shall record each transaction involving the dispensing or distributing of the nitrous oxide on a separate card. The person shall require the purchaser to sign the card and provide a complete residence address. The person dispensing or distributing the nitrous oxide shall sign and date the card. The person shall retain the card recording a transaction for one year from the date of the transaction. The person shall



maintain the cards at the person's business address and make them available during normal business hours for inspection and copying by officers or employees of the state board of pharmacy or of other law enforcement agencies of this state or the United States that are authorized to investigate violations of Chapter 2925., 3719., or 4729. of the Revised Code or the federal drug abuse control laws.

The cards used to record each transaction shall inform the purchaser of the following:

- (1) That nitrous oxide cartridges are to be used only for purposes of preparing food;
- (2) That inhalation of nitrous oxide can have dangerous health effects;
- (3) That it is a violation of state law to distribute or dispense cartridges of nitrous oxide to any person under age twenty-one, punishable as a felony of the fifth degree.

(G)(1) Each cartridge of nitrous oxide dispensed or distributed in this state shall bear the following printed warning:

"Nitrous oxide cartridges are to be used only for purposes of preparing food. Nitrous oxide cartridges may not be sold to persons under age twenty-one. Do not inhale contents. Misuse can be dangerous to your health."

- (2) Each time a person dispenses or distributes one or more cartridges of nitrous oxide, the person shall mark the packaging containing the cartridges with a label or other device that identifies the person who dispensed or distributed the nitrous oxide and the person's business address.