

438.343 Prohibition on sale of nitrous oxide -- Definition -- Exceptions -- Penalties.

- (1) As used in this section, "nitrous oxide" means any of the following substances:
 - (a) N₂O;
 - (b) Dinitrogen monoxide;
 - (c) Dinitrogen oxide;
 - (d) Nitrogen oxide;
 - (e) Butyl nitrite;
 - (f) Isobutyl nitrite;
 - (g) Secondary butyl nitrite;
 - (h) Tertiary butyl nitrite; or
 - (i) Laughing gas.
- (2) A retailer shall not sell, distribute, give away, or cause to be sold any device, canister, tank, or receptacle that either exclusively contains nitrous oxide or exclusively contains a chemical compound mixed with nitrous oxide.
- (3) Nitrous oxide shall only be available for the uses as authorized by this subsection. This section shall not prohibit:
 - (a) The sale or distribution of medical gases that contain nitrous oxide by a wholesaler licensed by the Kentucky Board of Pharmacy;
 - (b) Any person who administers nitrous oxide for the purpose of providing medical or dental care, if administered by a dentist or dental hygienist in accordance with KRS 313.060;
 - (c) The possession or use of nitrous oxide substances by a manufacturer as part of a manufacturing process or industrial operation;
 - (d) The possession, use, or sale of nitrous oxide as a propellant in food preparation for restaurant, food service, or houseware products; or
 - (e) The possession, use, or sale of nitrous oxide for automotive purposes.
- (4) Any retailer that violates this section shall be subject to:
 - (a) A two thousand five hundred dollar (\$2,500) fine to the owner of a retail establishment for a first citation issued for a violation of this section;
 - (b) A five thousand dollar (\$5,000) fine to the owner of a retail establishment for a second citation issued for a violation of this section; and
 - (c) Up to thirty (30) days in jail for a third citation issued for a violation of this section.
- (5) Each citation shall be specific to the premises of the retailer where the violation occurred.

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History: Created 2025 Ky. Acts ch. 78, sec. 16, effective June 27, 2025.