

AMENDMENTS TO LB230
(Amendments to AM381)

Introduced by DeKay, 40.

1 1. Insert the following new section:

2 **Sec. 16. (1) For purposes of this section:**

3 (a) Delivery sale has the same meaning as in section 28-1418.01;

4 (b) Flavored nitrous oxide product means a nitrous oxide product:

5 (i) Having the taste or smell of any food, including, but not
6 limited to, any fruit, candy, dessert, alcoholic beverage, herb, or
7 spice, that is distinguishable by an ordinary consumer either prior to or
8 during consumption or use of the product;

9 (ii) That is marketed as having the taste or smell of any food,
10 including, but not limited to, any fruit, candy, dessert, alcoholic
11 beverage, herb, or spice; or

12 (iii) Regarding which the manufacturer, seller, or any person
13 authorized by, or acting with the consent of, the manufacturer or seller,
14 has made a public statement or claim, whether express or implied, that
15 such product has the taste or smell of any food, including, but not
16 limited to, any fruit, candy, dessert, alcoholic beverage, herb, or
17 spice; and

18 (c) Nitrous oxide product means a cartridge, cylinder, or tank
19 containing nitrous oxide.

20 (2) A business entity or corporation shall not sell, including by
21 delivery sale, offer for sale, give, furnish, or distribute to any
22 consumer in this state a nitrous oxide product or flavored nitrous oxide
23 product or willingly allow such products to be taken from such business
24 entity or corporation by any person. This subsection does not apply to a
25 nitrous oxide product, other than a flavored nitrous oxide product, that:

26 (a) Has been denatured or otherwise rendered unfit for human

1 consumption for use;

2 (b) Is intended for use by a manufacturer as part of a manufacturing
3 process or industrial operation;

4 (c) Is intended for use for automotive purposes;

5 (d) Is prescribed as part of the care or treatment of a disease,
6 condition, or injury by a licensed medical or dental practitioner; or

7 (e) Is a propellant in food or in food preparation for restaurant,
8 food service, or houseware products.

9 (3) A business entity or corporation that violates subsection (2) of
10 this section shall be subject to:

11 (a) A Class II misdemeanor for a first offense;

12 (b) A Class I misdemeanor for a second or subsequent offense; and

13 (c) A civil penalty of \$2,500 for a first or a subsequent offense.

14 (4) All nitrous oxide products or flavored nitrous oxide products
15 that are sold, offered for sale, given, or furnished in violation of this
16 section are subject to seizure, forfeiture, and destruction. The cost of
17 such seizure, forfeiture, and destruction shall be borne by the person
18 from whom the products are seized.

19 (5) Any common carrier that knowingly transports nitrous oxide
20 products or flavored nitrous oxide products for a business entity or
21 corporation that is in violation of subsection (2) of this section is
22 guilty of a Class II misdemeanor.

23 (6) In addition to any other penalty, a violation of this section
24 shall constitute a deceptive trade practice under the Uniform Deceptive
25 Trade Practices Act and shall be subject to any remedies or penalties
26 available for a violation of such act.

27 (7) This section does not apply to the following:

28 (a) The shipment of nitrous oxide products or flavored nitrous oxide
29 products to a foreign-trade zone that is established under 19 U.S.C. 81a
30 et seq., and that is located in this state if the products are from
31 outside of this country, were ordered by a distributor in another state,

1 and are not distributed in this state; or

2 (b) A government employee who is acting in the course of the
3 employee's official duties.

4 2. Renumber the remaining sections accordingly.

5 3. Correct the operative date section so that the section added by
6 this amendment becomes operative three calendar months after the
7 adjournment of this legislative session.