

1                                   **PENALTY FOR MISUSE OF LAWFUL**  
2                                                           **SUBSTANCES**

3                                                                                   2002 GENERAL SESSION  
4                                                                                   STATE OF UTAH

5                                                                                   **Sponsor: David L. Hogue**

6   **This act modifies the Criminal Code to establish the offense and penalty regarding abuse of**  
7   **nitrous oxide. The act also increases the penalty for abuse of psychotoxic chemical solvents,**  
8   **and includes the offense of providing these solvents for illegal purposes.**

9   This act affects sections of Utah Code Annotated 1953 as follows:

10   AMENDS:

11                   **76-10-107**, as last amended by Chapter 30, Laws of Utah 1992

12   ENACTS:

13                   **76-10-107.5**, Utah Code Annotated 1953

14   *Be it enacted by the Legislature of the state of Utah:*

15                   Section 1. Section **76-10-107** is amended to read:

16                   **76-10-107. Abuse of psychotoxic chemical solvents.**

17                   (1) A person is guilty of abuse of psychotoxic chemical solvents if:

18                   (a) for the purpose of causing a condition of intoxication, inebriation, excitement,  
19   stupefaction, or the dulling of his brain or nervous system, he intentionally:

20                   (i) smells or inhales the fumes of any psychotoxic chemical solvent; or

21                   (ii) possesses, purchases, or attempts to possess or purchase any psychotoxic chemical  
22   solvent[-]; or

23                   (b) ~~[Knowing or believing that a purchaser or another]~~ the person offers, sells, or provides  
24   a psychotoxic chemical solvent to another person, knowing § [or believing] § that other person or a  
24a third

25   party intends to possess or use [a] that psychotoxic chemical solvent in violation of Subsection  
26   (1)(a) ~~[-, he sells or offers to sell any psychotoxic chemical solvent].~~

27                   (2) This section ~~[shall]~~ does not apply to the prescribed use, distribution, or sale of those



28 substances for medical or dental purposes.

29 (3) Abuse of psychotoxic chemical solvents is a class ~~h~~ [F]B[h] ~~A~~ h misdemeanor.

30 (4) As used in this section, psychotoxic chemical solvent includes any glue, cement, or  
 31 other substance containing one or more of the following chemical compounds: acetone and acetate,  
 32 amyl nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite, butyl nitrate, or  
 33 their isomers, ethyl alcohol, ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol,  
 34 methyl alcohol, methyl ethyl ketone, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl  
 35 nitrite or propyl nitrate or their isomers, toluene or xylene, or other chemical substance capable of  
 36 causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain  
 37 or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.  
 38 Nothing in this section shall be construed to include any controlled substance regulated by the  
 39 provisions of Title 58, Chapter 37, Utah Controlled Substances Act.

40 Section 2. Section **76-10-107.5** is enacted to read:

41 **76-10-107.5. Abuse of nitrous oxide -- Penalty.**

42 (1) As used in this section, "nitrous oxide" means:

43 (a) N<sub>2</sub>O, a colorless gas or liquid that is also referred to as dinitrogen monoxide, nitrogen  
 44 oxide, or laughing gas; and

45 (b) any substance containing nitrous oxide.

46 (2) A person is guilty of abuse of nitrous oxide who:

47 (a) possesses nitrous oxide with the intent to breathe, inhale, or ingest it for the purpose  
 48 of:

49 (i) causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling  
 50 of the senses;

51 (ii) in any manner changing, distorting, or disturbing the audio, visual, or mental  
 52 processes;

53 (b) knowingly and intentionally is under the influence of nitrous oxide; or

54 (c) offers, sells, or provides nitrous oxide to another person, knowing § [or believing] § that  
 55 other person or a third party intends to possess or use the nitrous oxide in violation of Subsection  
 56 (2)(a) or (b).

57 (3) Subsection (2)(b) does not apply to any person who is under the influence of nitrous  
 58 oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person

59 holding a license under state law that authorizes the administration of nitrous oxide.

59a     ~~h~~ (4) SUBSECTION (2)(c) DOES NOT APPLY TO ANY PERSON WHO ADMINISTERS NITROUS  
59b OXIDE FOR THE PURPOSE OF MEDICAL, SURGICAL, OR DENTAL CARE AND WHO HOLDS A  
59c LICENSE UNDER STATE LAW THAT AUTHORIZES THE ADMINISTRATION OF NITROUS OXIDE.

60 ~~(4)~~ (5) h A violation of this section is a class A misdemeanor.

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**Legislative Review Note**  
**as of 11-8-01 9:40 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**