

**PENALTY FOR MISUSE OF LAWFUL
SUBSTANCES**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Hogue

Rebecca D. Lockhart
Richard M. Siddoway
DeMar Bud Bowman
Neil A. Hansen
Fred J. Fife
Max W. Young
Don E. Bush
Sheryl L. Allen

Carl R. Saunders
Cindy Beshear
Ty McCartney
Carol Spackman Moss
David Litvack
Peggy Wallace
Mike Thompson
Steven R. Mascaro

Brent D. Parker
Brent H. Goodfellow
Joseph G. Murray
Douglas C. Aagard
Duane E. Bourdeaux
Ralph Becker
Jack A. Seitz

This act modifies the Criminal Code to establish the offense and penalty regarding abuse of nitrous oxide. The act also includes the offense of providing psychotoxic chemical solvents for illegal purposes.

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

AMENDS:

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

ENACTS:

76-10-107.5, Utah Code Annotated 1953

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

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

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

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

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

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

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

(b) ~~[Knowing or believing that a purchaser or another]~~ the person offers, sells, or provides

a psychotoxic chemical solvent to another person, knowing that other person or a third party intends to possess or use [a] that psychotoxic chemical solvent in violation of Subsection (1)(a)[, he sells or offers to sell any psychotoxic chemical solvent].

(2) This section ~~shall~~ does not apply to the prescribed use, distribution, or sale of those substances for medical or dental purposes.

(3) Abuse of psychotoxic chemical solvents is a class B misdemeanor.

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

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

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

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

(a) N₂O, a colorless gas or liquid that is also referred to as dinitrogen monoxide, nitrogen oxide, or laughing gas; and

(b) any substance containing nitrous oxide.

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

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

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

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

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

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

(3) Subsection (2)(b) does not apply to any person who is under the influence of nitrous oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person holding a license under state law that authorizes the administration of nitrous oxide.

(4) Subsection (2)(c) does not apply to any person who administers nitrous oxide for the purpose of medical, surgical, or dental care and who holds a license under state law that authorizes the administration of nitrous oxide.

(5) A violation of this section is a class A misdemeanor.