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AB-1109 Product sales: sodium nitrite. (2023-2024)

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Assembly Bill No. 1109

CHAPTER 462

An act to add Chapter 10.5 (commencing with Section 108930) to Part 3 of Division 104 of the Health and Safety Code, relating to health and safety.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1109, Connolly. Product sales: sodium nitrite.

Existing law prohibits the sale and distribution of certain consumer products that include chemicals such as phthalates, polybrominated diphenyl ether, and perfluoroalkyl and polyfluoroalkyl substances. Existing law prohibits the sale of certain products to persons under 21 years of age, such as alcohol and tobacco, among others. Existing law, the California Age-Appropriate Design Code Act, requires, beginning July 1, 2024, a business that provides an online service, product, or feature likely to be accessed by children to comply with specified requirements.

On or after July 1, 2024, this bill, to be known as Tyler's Law, would prohibit a person, retailer, or online marketplace from selling sodium nitrite to a person under 18 years of age and sodium nitrite in concentrations greater than 10% to a person 18 years of age or older. The bill would establish a defense to the former prohibition if the purchaser acknowledged before purchase they were at least 18 years of age through an effective system, as specified, and the person, retailer, or online marketplace took all reasonable precautions and exercised due diligence to ensure the product would be sold and delivered to a person at least 18 years of age, or the purchaser acknowledged before purchase they were at least 18 years of age and the person, retailer, or online marketplace complies with the requirements of the California Age-Appropriate Design Code Act. The bill would exclude from these provisions the sale of sodium nitrite to a business.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

- (a) This act shall be known, and may be cited, as Tyler's Law.
- (b) Suicide is one of the leading causes of death for children and teens in the United States.
- (c) More than 10 percent of youth under 17 years of age experience depression that impairs their ability to function, and over one-half of those who experience depression do not receive treatment.

(d) Suicide and suicide attempts have increased significantly among children and teens in the last 20 years, including a fivefold increase among children between 10 and 12 years of age.

(e) Sodium nitrite, a food preservative that is fatal at high levels of purity, can be easily purchased online and in retail stores by children and teenagers.

(f) Poison control centers throughout the country have reported a 253-percent increase in self-poisoning with nitrites and a 166-percent increase in fatalities in 2021 compared to 2018.

(g) Seventeen-year-old Tyler Muhleman from the City of San Jose tragically took his own life on May 25, 2021, after easily purchasing cheap and highly pure sodium nitrite from an online marketplace that delivered the deadly product to his parent's home. Muhleman was preparing to graduate from high school and excelled in academics. He loved playing the drums in his school's marching band. He also competed in a roller hockey league in the City of San Jose. The County of Santa Clara Medical Examiner-Coroner's Office confirmed his death was caused by ingesting a lethal dose of the chemical.

SEC. 2. Chapter 10.5 (commencing with Section 108930) is added to Part 3 of Division 104 of the Health and Safety Code, to read:

CHAPTER 10.5. Sodium Nitrite

108930. (a) On or after July 1, 2024, it is unlawful for a person, retailer, or online marketplace to sell sodium nitrite to a person under 18 years of age.

(b) It is unlawful for a person, retailer, or online marketplace to sell sodium nitrite in concentrations greater than 10 percent to a person 18 years of age or older.

(c) It shall be a defense to a violation of subdivision (a) to demonstrate either of the following:

(1) The person, retailer, or online marketplace is able to demonstrate both of the following:

(A) The purchaser acknowledged before purchase they were at least 18 years of age through an effective system created by the person, retailer, or online marketplace that is capable of verifying the age of purchasers to ensure they are above the minimum legal age to purchase a product. This system shall not completely rely on any of the following:

(i) The purchaser simply providing a date of birth without additional verification.

(ii) Using tick boxes to ask purchasers to confirm they are over the minimum age.

(iii) Using a general disclaimer such as: "Anyone ordering this product from our website will be deemed to be at least 18 years of age."

(iv) Using an "accept" statement for the purchaser to confirm that they have read the terms and conditions and are over the minimum age.

(v) Using electronic payment services that do not verify a user's age.

(vi) Only accepting payment by credit card without additional age verification.

(B) The person, retailer, or online marketplace took all reasonable precautions and exercised all due diligence to ensure that the product would be sold and delivered to a person at least 18 years of age.

(2) The purchaser acknowledged before purchase they were at least 18 years of age, and the person, retailer, or online marketplace complies with the requirements of the California Age-Appropriate Design Code Act (Title 1.81.47 (commencing with Section 1798.99.28) of Part 4 of Division 3 of the Civil Code).

(d) This section does not apply to the sale of sodium nitrite to a business.

(e) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.