

HOUSE BILL NO. 1295

Introduced by

Representatives Rose, Cleary, Jensen, N. Johnson

1 A BILL for an Act relating to the sale of certain volatile chemicals to minors; to amend and
2 reenact section 12.1-36-06 and subsection 1 of section 29-06-15 of the North Dakota Century
3 Code, relating to inhalation of volatile chemicals and to arrest without a warrant; and to provide
4 a penalty.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 12.1-31-06 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **12.1-31-06. Volatile chemicals - Inhalation of vapors prohibited - Definitions -**

9 **Penalty.** A person is guilty of a class B misdemeanor if that person intentionally inhales the
10 vapors of a volatile chemical in a manner designed to affect the person's central nervous
11 system; to create or induce a condition of intoxication, hallucination, or elation; or to distort,
12 disturb, or change the person's eyesight, thinking processes, balance, or coordination. This
13 section does not apply to inhalations specifically prescribed for medical, dental, or optometric
14 treatment purposes or to controlled substances described in chapter 19-03.1. For the purposes
15 of this section, "volatile chemical" includes the following chemicals or their isomers:

- 16 1. Acetone.
- 17 2. Aliphatic hydrocarbons.
- 18 3. Amyl nitrite.
- 19 4. Butyl nitrite.
- 20 5. Carbon tetrachloride.
- 21 6. Chlorinated hydrocarbons.
- 22 7. Chlorofluorocarbons.
- 23 8. Chloroform.
- 24 9. Cyclohexane.

- 1 10. Diethyl ether.
- 2 11. Ethyl acetate.
- 3 12. Glycol ether inter solvent.
- 4 13. Glycol ether solvent.
- 5 14. Hexane.
- 6 15. Ketone solvent.
- 7 16. Methanol.
- 8 17. Methyl cellosolve acetate.
- 9 18. Methyl ethyl ketone.
- 10 19. Methyl isobutyl ketone.
- 11 20. Nitrous oxide.
- 12 21. Petroleum distillate.
- 13 ~~24.~~ 22. Toluene.
- 14 ~~22.~~ 23. Trichloroethane.
- 15 ~~23.~~ 24. Trichloroethylene.
- 16 ~~24.~~ 25. Xylol or xylene.

17 **SECTION 2. Volatile chemicals - Sales to minors prohibited - Penalty.**

- 18 1. A person is guilty of a class B misdemeanor if that person willfully sells or delivers
- 19 a substance containing a volatile chemical as defined in section 12.1-31-06 to a
- 20 minor and the substance is subject to special labeling requirements concerning
- 21 precautions against inhalation established under the Federal Hazardous
- 22 Substances Act, 15 U.S.C. 1261 et seq., and the federal regulations adopted under
- 23 that Act in title 16, Code of Federal Regulations, part 1500.14, or the substance is
- 24 nitrous oxide.
- 25 2. A person who sells to the public a substance that contains a volatile chemical
- 26 which is not allowed to be sold to a minor shall register with the department of
- 27 health. The fee for registration is fifty dollars per year.
- 28 3. The department of health shall deposit the fee with the state treasurer. The state
- 29 treasurer shall credit twenty-five dollars of the fee to a special account in the state
- 30 treasury designated as the volatile chemical prevention and awareness fund.
- 31 Subject to legislative appropriation, the department of human services shall use the

1 moneys in the fund to provide for a media campaign for the prevention and
2 awareness of the inhalation of volatile chemicals and to provide grants for the
3 prevention and awareness of the inhalation of volatile chemicals. The state
4 treasurer shall credit twenty-five dollars of the fee to a special account in the state
5 treasury designated as the volatile chemical registration enforcement fund.

6 Subject to legislative appropriation, the department of health shall use the moneys
7 in the fund to administer as responsibilities under this section.

8 4. The department of health shall educate businesses on the applicability of the law to
9 the sale of products containing volatile chemicals. The department of health shall
10 inspect businesses that are required to register for compliance with this section.
11 The department of health may revoke or suspend a registration under this section
12 for violation of this section.

13 5. A person that sells to the public a substance that contains a volatile chemical which
14 is not allowed to be sold to a minor and to which the public has physical access
15 shall post a sign easily seen from the location of the substance which states that
16 the substance may not be sold to a minor. The department of health shall design
17 and provide for the signs.

18 6. It is an affirmative defense for a violation of this section that the person was
19 presented identification and as a result reasonably believed the minor to be
20 eighteen years of age or older. This section does not apply to a physician,
21 pharmacy, hospital, dentist, veterinarian, scientific investigator, or other person
22 licensed, registered, or otherwise permitted to distribute, dispense, analyze,
23 administer, or conduct research with respect to a volatile chemical in the course of
24 professional practice or research, and the sale or delivery was within the limits of
25 that person's official authority. This section does not apply to the sale or delivery of
26 gasoline.

27 **SECTION 3. AMENDMENT.** Subsection 1 of section 29-06-15 of the 1997 Supplement
28 to the North Dakota Century Code is amended and reenacted as follows:

29 1. A law enforcement officer, without a warrant, may arrest a person:
30 a. For a public offense, committed or attempted in the officer's presence; and for
31 the purpose of this subdivision, a crime must be deemed committed or

- 1 attempted in the officer's presence when what the officer observes through
2 the officer's senses reasonably indicates to the officer that a crime was in fact
3 committed or attempted in the officer's presence by the person arrested.
- 4 b. When the person arrested has committed a felony, although not in the
5 officer's presence.
- 6 c. When a felony in fact has been committed, and the officer has reasonable
7 cause to believe the person arrested to have committed it.
- 8 d. On a charge, made upon reasonable cause, of the commission of a felony by
9 the party arrested.
- 10 e. For the public offenses, not classified as felonies and not committed in the
11 officer's presence as provided for under section 29-06-15.1.
- 12 f. On a charge, made upon reasonable cause, of driving or being in actual
13 physical control of a vehicle while under the influence of alcoholic beverages.
- 14 g. For the offense of violating a protection order under section 14-07.1-06, an
15 order prohibiting contact under section 14-07.1-13, or for an assault involving
16 domestic violence under section 14-07.1-11.
- 17 h. On a charge, made upon reasonable cause, of inhaling volatile chemical
18 vapors in violation of section 12.1-31-06.