



An Bille um Chúram Leanaí (Leasú), 2023
Child Care (Amendment) Bill 2023

Mar a tionscnaíodh

As initiated



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ACTS REFERRED TO

Child Care Act 1991 (No. 17)

Criminal Justice (Psychoactive Substances) Act 2010 (No. 22)

Food Safety Authority of Ireland Act 1998 (No. 29)

Intoxicating Liquor Act 1988 (No. 16)

Irish Medicines Board Act 1995 (No. 29)

Misuse of Drugs Acts 1977 to 2017



AN BILLE UM CHÚRAM LEANAÍ (LEASÚ), 2023
CHILD CARE (AMENDMENT) BILL 2023

Bill

entitled

An Act to regulate the sale of nitrous oxide gas by prohibiting its sale in a reusable cylinder or disposable cartridge to a person who has not attained the age of 18 years and for that purpose to amend the Child Care Act 1991 and to provide for related matters. 5

Be it enacted by the Oireachtas as follows:

Amendment to Part X of the Child Care Act 1991

1. Part X of the Child Care Act 1991 is amended by inserting the following after section 74: 10

“Restriction on the sale of nitrous oxide to children

74A. (1) A person commits an offence if he or she sells a container of nitrous oxide gas to a person who has not attained the age of 18 years or to another person acting on behalf of that second-mentioned person and the seller knows or has reasonable cause to believe that the nitrous gas or its vapor is likely to be inhaled, by a person who has not attained the age of 18 years, for the purpose of causing intoxication. 15

(2) Subsection (1) does not apply to—

(a) any person who sells or provides nitrous oxide gas or any material containing nitrous oxide gas to a person who has not attained the age of 18 years for the purpose of medical, surgical or dental care by a person duly licensed or otherwise duly authorised to administer such gas, 20

(b) any person who sells or provides any product containing nitrous oxide gas to a person who has not attained the age of 18 years that is— 25

(i) a medicinal product within the meaning of section 1(1) of the Irish Medicines Board Act 1995, or

(ii) a food product within the meaning of section 2 of the Food Safety Authority of Ireland Act 1998 which has been placed on the market in compliance with food legislation within the meaning of that section, 30

or

- (c) any person who has not attained the age of 18 years when that person sold, offered or made available nitrous oxide gas and was acting otherwise than in the course of or furtherance of a business.
- (3) The sale of nitrous oxide gas is deemed, for the purposes of this section, to take place on the premises or any place where an agreement is made for the sale of that product, or where— 5
- (a) the premises in which the agreement for the sale of a nitrous oxide product is made is not in the State, and
- (b) the premises from which the nitrous oxide product is despatched is in the State, 10
- the sale is deemed, for the purposes of this section, to take place on the premises from which the nitrous oxide product is so despatched.
- (4) (a) In proceedings for an offence under subsection (1) it shall be a defence for the person against whom such proceedings are brought to prove that he or she made all reasonable efforts to satisfy himself or herself that the person to whom the alleged offence relates had at the time of the alleged commission of the offence attained the age of 18 years. 15
- (b) For the purpose of paragraph (a), a person has reasonable grounds to be satisfied that the person to whom the alleged offence relates has attained the age of 18 years if that person produced one of the following documents, relating to that person and showing that person's date of birth, including, but not limited to— 20
- (i) an age card, (within the meaning of Part IV of the Intoxicating Liquor Act 1988), 25
- (ii) a passport,
- (iii) a driving licence or a learner permit, or
- (iv) such other form of identification as may be prescribed.
- (5) A person guilty of an offence under this section shall be liable on summary conviction, to a class C fine or imprisonment for a term not exceeding 12 months, or both. 30
- (6) Subject to subsection (7), a court by which a person is convicted of an offence under this section may order anything shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court thinks fit. 35
- (7) A court shall not order anything to be forfeited under this section unless an opportunity is given to any person appearing to the court to be the owner of or otherwise interested in it to show cause why the order should not be made. 40
- (8) A member of the Garda Síochána may seize a nitrous oxide gas container which is in the possession of a child in any public place and

which the member has reasonable cause to believe the contents is being inhaled by that child in a manner likely to cause the child to be intoxicated. Any container so seized may be destroyed or otherwise disposed of in such a manner as a member of the Garda Síochána not below the rank of Superintendent may direct.

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(9) For the purposes of this section ‘container’ means—

(a) any reusable cylinder or disposable cartridge in which nitrous oxide gas in pressurised form is sold to the public, or

(b) a balloon or other device into which nitrous oxide gas has been decanted from a container referred to in paragraph (a) and used for purposes of inhaling that gas.

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(10) This section is without prejudice to the Misuse of Drugs Acts 1977 to 2017 or the Criminal Justice (Psychoactive Substances) Act 2010.”

Short title, collective citation and commencement

2. (1) This Act may be cited as the Child Care (Amendment) Act 2023.

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(2) This Act and the Child Care Act 1991 may be cited together as the Child Care Acts 1991 to 2023.

(3) This Act comes into operation 6 months after the date of its passing or on such earlier date than the said 6 months as the Minister for Children, Equality, Disability, Integration and Youth may by order appoint.

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BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht chun díol gáis ocsaíde nítriúla a rialáil trí thoirmeasc a chur lena dhíol i sorcóir in-athúsáidte nó i gcartús indiúscartha le duine nach bhfuil 18 mbliana d'aois slánaithe aige nó aici agus, chun na críche sin, do leasú an Achta um Chúram Leanaí, 1991 agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Na Teachtaí Seán Mac Conradha, Aengus Ó Snodaigh agus Muiris Ó Caoindealbháin a thug isteach,

21 Márta, 2023

BILL

(as initiated)

entitled

An Act to regulate the sale of nitrous oxide gas by prohibiting its sale in a reusable cylinder or disposable cartridge to a person who has not attained the age of 18 years and for that purpose to amend the Child Care Act 1991 and to provide for related matters.

Introduced by Deputies Seán Crowe, Aengus Ó Snodaigh and Maurice Quinlivan,

21st March, 2023

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