Amendment to HB 656-FN-A-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT relative to the home cultivation of marijuana plants and the possession of certain marijuana-infused products.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. The general court finds that:

I. Since 2012, voters in the District of Columbia and 7 states, including Maine and the Commonwealth of Massachusetts, have legalized possession and limited cultivation of marijuana by adults 21 years of age and older.

II. Statewide polls have consistently found that most New Hampshire voters support making marijuana legal for adults 21 years of age and older.

III. Marijuana is less harmful than alcohol to the consumer and to society. It is less toxic, less harmful to the body, less addictive, and less likely to contribute to violent or reckless behavior. Adults should not be punished choosing to use marijuana instead of alcohol, if that is what they prefer.

IV. Home brewing of alcoholic beverages is legal in New Hampshire and every other state in the nation.

V. Allowing adults to cultivate their own limited supply of marijuana will provide them with an alternative to buying marijuana from illicit drug dealers.

2 Other Alcohol and Drug Offenses; Possession of Drugs. Amend RSA 265-A:43 to read as follows:

265-A:43 Possession of Drugs. Any person who drives on any way a vehicle while knowingly having in his or her possession or in any part of the vehicle a controlled drug or controlled drug analog in violation of the provisions of RSA 318-B shall be guilty of a misdemeanor, and his or her license shall be revoked or his or her right to drive denied for a period of 60 days and at the discretion of the court for a period not to exceed 2 years. This section shall not apply to the possession of marijuana or hashish as provided in RSA 318-B:2-c[. or a personal use amount of a regulated marijuana-infused product as defined in RSA 318-B:2-c, I(b)].

3 Controlled Drug Act; Personal Possession of Marijuana. Amend RSA 318-B:2-c to read as follows:

318-B:2-c Personal Possession of Marijuana.
I. In this section:

(a) "Marijuana'' includes the leaves, stems, flowers, and seeds of all species of the plant
    genus cannabis, but shall not include the resin extracted from any part of such plant and every
    compound, manufacture, salt, derivative, mixture, or preparation from such resin including
    hashish, and further, shall not include the mature stalks of such plant, fiber produced from such
    stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt,
    derivative, mixture, or preparation of such mature stalks, fiber, oil or cake, or the sterilized seed of
    such plant which is incapable of germination.

(b) ["Personal use amount of a regulated marijuana-infused product"] "Marijuana-
    infused product'' means one or more products that is comprised of marijuana, marijuana extracts,
    or resins and other ingredients and is intended for use or consumption, such as, but not limited to,
    edible products, ointments, and tinctures[...], which was obtained from a state where marijuana sales
    to adults are legal and regulated under state law, and which is in its original, child-resistant,
    labeled packaging when it is being stored, and which contains a total of no more than 300
    milligrams of tetrahydrocannabinol].

(c) “Possession limit” means:

    (1) Three-quarters of an ounce of marijuana, excluding hashish,
    marijuana-infused products, and growing marijuana plants;

    (2) Five grams of hashish;

    (3) Marijuana-infused products containing no more than 300 milligrams of
    tetrahydrocannabinol (THC);

    (4) Six marijuana plants, with 3 or fewer being mature, flowering plants;
    and

    (5) Any additional marijuana, hashish, or marijuana-infused products
    produced from the person’s marijuana plants, provided that any amount of marijuana in
    excess of ¾ of an ounce of marijuana, 5 grams of hashish, and marijuana-infused
    products containing no more than 300 milligrams of THC shall be possessed in the same
    location where the plants were cultivated.

I-a. Except as provided in paragraphs III and IV, if undertaken by a person 21
years of age or older, the following acts shall not be illegal under New Hampshire law,
shall not be a criminal or civil offense under New Hampshire law or the law of any
political subdivision of New Hampshire, and shall not be a basis for seizure or forfeiture
of assets under New Hampshire law:

(a) Possessing, consuming, growing, processing, or transporting an amount of
    marijuana that does not exceed the possession limit; or

(b) Transferring ¾ of an ounce of marijuana, 5 grams of hashish, marijuana-
    infused products containing no more than 300 milligrams of THC, or 3 immature, non-
flowering marijuana plants to a person who is 21 years of age or older without
remuneration; and

(c) Manufacturing, possessing, or purchasing marijuana accessories, or
distributing or selling marijuana accessories to a person who is 21 years of age or older.

I-b. No person who is 21 years of age or older shall cultivate marijuana plants
except as provided in this section:

(a) Marijuana plants shall not be cultivated in a location where the plants are
subject to public view, including to view from another private property, without the use of
binoculars, aircraft, or other optical aids.

(b) A person who cultivates marijuana shall take reasonable precautions to
ensure the plants are secure from unauthorized access. Cultivating marijuana in an
enclosed, locked space to which unauthorized persons do not have access, or other similar
security precautions, shall be prima facie evidence of reasonable precautions.

(c) Marijuana cultivation shall only occur at the cultivator’s primary
residence.

(d) A person who violates this section shall be guilty of a violation and may be
fined not more than $750.

I-c. No person shall smoke marijuana in a public place. A person 21 years of age
or older who violates this paragraph shall be guilty of a violation and may be fined not
more than $100.

II. Except as provided in RSA 126-X, any person under 21 years of age who knowingly
possesses 3/4 of an ounce or less of marijuana, including adulterants or dilutants, shall be guilty of a
violation, and subject to the penalties provided in paragraph [V] IV.

III. Except as provided in RSA 126-X, any person under 21 years of age who knowingly
possesses 5 grams or less of hashish, including adulterants or dilutants, shall be guilty of a
violation, and subject to the penalties provided in paragraph [V] IV.

IV. [Except as provided in RSA 126-X, any person 21 years of age or older possessing a
personal-use amount of a regulated marijuana-infused product shall be guilty of a violation, and
subject to the penalties provided in paragraph V. Persons 18 years of age or older and under 21
years of age who knowingly possess marijuana-infused products shall be guilty of a misdemeanor.

[V](a) Except as provided in this paragraph, any person 18 years of age or older who is
convicted of violating paragraph II or III[or any person 21 years of age or older who is convicted of
violating paragraph IV] shall be subject to a fine of $100 for a first or second offense under this
paragraph, or a fine of up to $300 for any subsequent offense within any 3-year period; however,
any person convicted based upon a complaint which alleged that the person had 3 or more prior
convictions for violations of paragraph [II, III or IV] II or III, or under reasonably equivalent
offenses in an out-of-state jurisdiction since the effective date of this paragraph, within a 3-year
period preceding the fourth offense shall be guilty of a class B misdemeanor. The offender shall forfeit the marijuana[... regulated marijuana infused products.] or hashish to the state. A court shall waive the fine for a single conviction within a 3-year period upon proof that person has completed a substance abuse assessment by a licensed drug and alcohol counselor within 60 days of the conviction. A person who intends to seek an assessment in lieu of the fine shall notify the court, which shall schedule the matter for review after 180 days. Should proof of completion of an assessment be filed by or before that time, the court shall vacate the fine without a hearing unless requested by a party.

(b) Any person under 18 years of age who is convicted of violating paragraph II or III shall forfeit the marijuana or hashish and shall be subject to a delinquency petition under RSA 169-B:6.

[V.] V. (a) Except as provided in this section, no person shall be subject to arrest for a violation of paragraph [II, III, or IV] II or III and shall be released provided the law enforcement officer does not have lawful grounds for arrest for a different offense.

(b) Nothing in this chapter shall be construed to prohibit a law enforcement agency from investigating or charging a person for a violation of RSA 265-A.

(c) Nothing in this chapter shall be construed as forbidding any police officer from taking into custody any minor who is found violating paragraph [II, III, or IV] II or III.

(d) Any person in possession of an identification card, license, or other form of identification issued by the state or any state, country, city, or town, or any college or university, who fails to produce the same upon request of a police officer or who refuses to truthfully provide his or her name, address, and date of birth to a police officer who has informed the person that he or she has been found to be in possession of what appears to the officer to be 3/4 of an ounce or less of marijuana[. a personal use amount of a regulated marijuana infused product.] or 5 grams or less of hashish, may be arrested for a violation of paragraph [II, III, or IV] II or III.

[VII.] VI. All fines imposed pursuant to this section shall be deposited into the alcohol abuse prevention and treatment fund established in RSA 176-A:1 and utilized for evidence-informed substance abuse prevention programs.

[VIII.] VII. (a) No record that includes personally identifiable information resulting from a violation of this section shall be made accessible to the public, federal agencies, or agencies from other states or countries.

(b) Every state, county, or local law enforcement agency that collects and reports data for the Federal Bureau of Investigation Uniform Crime Reporting Program shall collect data on the number of violations of paragraph [II, III, or IV] II or III. The data collected pursuant to this paragraph shall be available to the public. A law enforcement agency may update the data annually and may make this data available on the agency's public Internet website.

VIII. Nothing in this section shall:
(a) Be construed to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.

(b) Be construed to permit driving or operating under the influence of drugs or liquor pursuant to RSA 265-A, nor prevent the state from enacting and imposing penalties for driving under the influence of or while impaired by marijuana.

(c) Be construed to permit the transfer of marijuana, with or without remuneration, to a person under 21 years of age, or to allow a person under 21 years of age to purchase, possess, use, transport, grow, or consume marijuana.

(d) Prohibit a state or county correctional facility from prohibiting the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in the correctional facility's property.

(e) Prohibit a person or other entity that legally owns, leases, or controls any property from prohibiting or otherwise regulating the sale, use, or growing of marijuana on or in the property.

4 Controlled Drug Act; Penalties. Amend RSA 318-B:26, II(c) and (d) to read as follows:

(c) In the case of more than 3/4 ounce of marijuana, marijuana-infused products containing more than 300 milligrams of THC, or more than 5 grams of hashish, including any adulterants or dilutants, the person shall be guilty of a misdemeanor. In the case of marijuana-infused products possessed by persons under the age of 21 [or marijuana-infused products as defined in RSA 318-B:2-c, other than a personal use amount of a regulated marijuana-infused product as defined in RSA 318-B:2-c, I(b), that are possessed by a person 21 years of age or older], the person shall be guilty of a misdemeanor.

(d) In the case of 3/4 ounce or less of marijuana or 5 grams or less of hashish, including any adulterants or dilutants, possessed by a person under 21 years of age, the person shall be guilty of a violation pursuant to RSA 318-B:2-c. [In the case of a person 21 years of age or older who possesses a personal use amount of a regulated marijuana-infused product as defined in RSA 318-B:2-c, I(b), the person shall be guilty of a violation pursuant to RSA 318-B:2-c.]

5 New Paragraph; Controlled Drug Act; Penalties. Amend RSA 318-B:26 by inserting after paragraph VIII the following new paragraph:

VIII-a.(a) No person, other than an alternative treatment center approved pursuant to RSA 126-X, shall perform solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food grade ethanol.

(b) No person shall extract compounds from cannabis using ethanol in the presence or vicinity of an open flame.

(c) Any person who violates this paragraph shall be guilty of a class A misdemeanor.
6 Model Drug Dealer Liability Act; Definitions. Amend RSA 318-C:4, I to read as follows:

I. "Illegal drug" means any drug which is a schedule I-IV drug under RSA 318-B, the possession, use, manufacture, sale, or transportation of which is not otherwise authorized by law.

7 Effective Date. This act shall take effect 60 days after its passage.
AMENDED ANALYSIS

This bill permits adults to possess up to ¾ of an ounce of marijuana, 5 grams of hashish, and certain marijuana-infused products; permits adults to cultivate up to 6 marijuana plants at home in a secure location that is not visible from other properties, and to possess and process the marijuana produced from their plants at the same location; permits adults to give marijuana to other adults, provided it is not more than ¾ of an ounce of marijuana, 5 grams of hashish, or up to 300 mg of marijuana-infused products, or 3 immature plants; provides that smoking or vaporizing marijuana in public by an adult would be punishable by a $100 fine; provides that violations of the restrictions on cultivation would be a violation punishable by fine of up to $750; penalizes dangerous, volatile extraction; and permits adults to possess, make, and sell marijuana accessories to other adults.