

Sen. Kahn, Dist 10  
Sen. French, Dist 7  
Sen. Reagan, Dist 17  
April 28, 2022  
2022-1885s  
04/10

Floor Amendment to HB 629-FN

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

2

3 AN ACT relative to the possession of cannabis and certain cannabis-infused products.

4

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

6

7 1 Other Alcohol and Drug Offenses; Possession of Drugs. Amend RSA 265-A:43 to read as  
8 follows:

9 265-A:43 Possession of Drugs. Any person who drives on any way a vehicle while knowingly  
10 having in his or her possession or in any part of the vehicle a controlled drug or controlled drug  
11 analog in violation of the provisions of RSA 318-B shall be guilty of a misdemeanor, and his or her  
12 license shall be revoked or his or her right to drive denied for a period of 60 days and at the  
13 discretion of the court for a period not to exceed 2 years. This section shall not apply to the  
14 possession of cannabis or hashish as provided in RSA 318-B:2-c~~[- or a personal use amount of a~~  
15 ~~regulated marijuana-infused product as defined in RSA 318-B:2-e, I(b)].~~

16 2 Controlled Drug Act; Personal Possession of Cannabis. Amend RSA 318-B:2-c to read as  
17 follows:

18 318-B:2-c Personal Possession of ~~[Marijuana]~~ **Cannabis**.

19 I. In this section:

20 (a) ~~["Marijuana"]~~ **"Cannabis"** includes the leaves, stems, flowers, and seeds of all  
21 species of the plant genus cannabis, but shall not include the resin extracted from any part of such  
22 plant and every compound, manufacture, salt, derivative, mixture, or preparation from such resin  
23 including hashish, and further, shall not include the mature stalks of such plant, fiber produced  
24 from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture,  
25 salt, derivative, mixture, or preparation of such mature stalks, fiber, oil or cake, or the sterilized  
26 seed of such plant which is incapable of germination. Marijuana shall not include hemp grown,  
27 processed, marketed, or sold under RSA 439-A.

28 (b) ~~["Personal use amount of a regulated marijuana-infused product"]~~ **"Cannabis-**  
29 **infused product"** means one or more products that is comprised of ~~[marijuana, marijuana]~~  
30 **cannabis, cannabis** extracts, or resins and other ingredients and is intended for use or

1 consumption, such as, but not limited to, edible products, ointments, and tinctures~~[, which was~~  
2 ~~obtained from a state where marijuana sales to adults are legal and regulated under state law, and~~  
3 ~~which is in its original, child-resistant, labeled packaging when it is being stored, and which contains~~  
4 ~~a total of no more than 300 milligrams of tetrahydrocannabinol].~~

5 (c) ***“Possession limit” means:***

6 (1) ***Three-quarters of an ounce of cannabis, excluding hashish, cannabis-***  
7 ***infused products, and growing cannabis plants;***

8 (2) ***Five grams of hashish; and***

9 (3) ***Cannabis-infused products containing no more than 300 milligrams of***  
10 ***tetrahydrocannabinol (THC).***

11 ***I-a. Except as provided in paragraph I-b, if undertaken by a person 21 years of age***  
12 ***or older, the following acts shall not be illegal under New Hampshire law, shall not be a***  
13 ***criminal or civil offense under New Hampshire law or the law of any political subdivision***  
14 ***of New Hampshire, and shall not be a basis for seizure or forfeiture of assets under New***  
15 ***Hampshire law:***

16 (a) ***Possessing, consuming, processing, or transporting an amount of cannabis***  
17 ***that does not exceed the possession limit; or***

18 (b) ***Transferring <sup>3</sup>/<sub>4</sub> of an ounce of cannabis, 5 grams of hashish, or cannabis-***  
19 ***infused products containing no more than 300 milligrams of THC, to a person who is 21***  
20 ***years of age or older without remuneration. For purposes of this subparagraph, a transfer***  
21 ***is for remuneration if cannabis is given away contemporaneously with another transaction***  
22 ***between the same parties, if a gift of cannabis is offered or advertised in conjunction with***  
23 ***an offer for sale of goods or services, or if the gift of cannabis is contingent upon a separate***  
24 ***transaction for goods or services; and***

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

27 ***I-b. No person shall consume cannabis in a public place. A person 21 years of age***  
28 ***or older who violates this paragraph shall be guilty of a violation and may be fined not***  
29 ***more than \$100.***

30 II. Except as provided in RSA 126-X, any person ***under 21 years of age*** who knowingly  
31 possesses  $\frac{3}{4}$  of an ounce or less of ~~[marijuana]~~ ***cannabis***, including adulterants or dilutants, shall  
32 be guilty of a violation, and subject to the penalties provided in paragraph [V] IV.

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

36 IV. ~~[Except as provided in RSA 126-X, any person 21 years of age or older possessing a~~  
37 ~~personal-use amount of a regulated marijuana-infused product shall be guilty of a violation, and~~

**Floor Amendment to HB 629-FN**  
**- Page 3 -**

1 ~~subject to the penalties provided in paragraph V. Persons 18 years of age or older and under 21~~  
2 ~~years of age who knowingly possess marijuana-infused products shall be guilty of a misdemeanor.~~

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

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

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

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

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

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

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

**Floor Amendment to HB 629-FN**  
**- Page 4 -**

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

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

9           **VIII. Nothing in this section shall:**

10           (a) *Be construed to require an employer to permit or accommodate the use,*  
11 *consumption, possession, transfer, display, transportation, or sale of cannabis in the*  
12 *workplace or to affect the ability of employers to have policies restricting the use of*  
13 *cannabis by employees.*

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

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

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

23           3 Controlled Drug Act; Penalties. Amend RSA 318-B:26, II(c) and (d) to read as follows:

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

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

36           4 New Paragraph; Controlled Drug Act; Penalties. Amend RSA 318-B:26 by inserting after  
37 paragraph VIII the following new paragraph:

**Floor Amendment to HB 629-FN**  
**- Page 5 -**

1 VIII-a.(a) No person, other than an alternative treatment center approved pursuant to RSA  
2 126-X, shall perform solvent-based extractions on cannabis using solvents other than water,  
3 glycerin, propylene glycol, vegetable oil, or food grade ethanol.

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

6 (c) Any person who violates this paragraph shall be guilty of a class A misdemeanor.

7 5 Model Drug Dealer Liability Act; Definitions. Amend RSA 318-C:4, I to read as follows:

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

11 6 Alcohol or Drug Impairment; Driving or Operating Under Influence of Drugs or Liquor.  
12 Amend RSA 265-A:2, I to read as follows:

13 I. No person shall drive or attempt to drive a vehicle upon any way or operate or attempt to  
14 operate an OHRV:

15 (a) While such person is under the influence of intoxicating liquor or any controlled  
16 drug, prescription drug, over-the-counter drug, or any other chemical substance, natural or  
17 synthetic, which impairs a person's ability to drive or any combination of intoxicating liquor and  
18 controlled drugs, prescription drugs, over-the-counter drugs, or any other chemical substances,  
19 natural or synthetic, which impair a person's ability to drive; or

20 (b) While such person has an alcohol concentration of 0.08 or more or in the case of a  
21 person under the age of 21, 0.02 or more; ***or***

22 (c) ***While such person has a marijuana concentration, as shown by 5 or more***  
23 ***nanograms per milliliter of blood, of any of the following:***

24 (1) ***Delta 9-tetrahydrocannabinol (delta 9-THC).***

25 (2) ***11-hydroxy-delta 9-tetrahydrocannabinol (11-OH-THC).***

26 (3) ***11-nor-9-carbox-delta 9-tetrahydrocannabinol (THC-COOH).***

27 7 Effective Date. This act shall take effect January 1, 2023.

**Floor Amendment to HB 629-FN**  
**- Page 6 -**

2022-1885s

AMENDED ANALYSIS

This bill permits adults to possess up to  $\frac{3}{4}$  of an ounce of cannabis, 5 grams of hashish, and certain cannabis-infused products; permits adults to give cannabis to other adults, provided it is not more than  $\frac{3}{4}$  of an ounce of cannabis, 5 grams of hashish, or up to 300 mg of cannabis-infused products; provides that smoking or vaporizing cannabis in public by an adult would be punishable by a \$100 fine; penalizes dangerous, volatile extraction; permits adults to possess, make, and sell cannabis accessories to other adults; and adds blood chemical levels indicating the presence of marijuana to the prohibitions on driving or operating under the influence of drugs or liquor.