

HB 1598-FN - AS INTRODUCED

2022 SESSION

22-2787

04/05

HOUSE BILL ***1598-FN***

AN ACT legalizing the possession and use of cannabis.

SPONSORS: Rep. Abbas, Rock. 8; Rep. Doucette, Rock. 8; Rep. Espitia, Hills. 31; Rep. Rhodes, Ches. 15; Rep. Osborne, Rock. 4; Rep. Roy, Rock. 32; Rep. Conley, Straf. 13; Rep. McGuire, Merr. 29; Rep. Nunez, Hills. 37

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill legalizes the possession and use of cannabis for persons 21 years of age and older.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT legalizing the possession and use of cannabis.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Purpose and Findings. The general court hereby finds that:

2 I. The people of the state of New Hampshire find and declare that the use of cannabis by a
3 person 21 years of age or older should be legal and subject to reasonable regulations.

4 II. In the interest of the health and public safety of our citizenry, the people of the state of
5 New Hampshire further find and declare that cannabis should be regulated in a manner similar to
6 alcohol so that:

7 (a) Individuals will have to show proof of age before purchasing cannabis.

8 (b) Selling, distributing, or transferring cannabis to minors and other individuals under
9 the age of 21 shall remain illegal.

10 (c) Driving under the influence of cannabis or using cannabis while driving shall be
11 illegal.

12 (d) A retail cannabis store shall be operated by the state of New Hampshire.

13 (e) Cannabis sold in this state will be tested, labeled, and subject to additional
14 regulations to ensure that consumers are informed and protected.

15 (f) The state of New Hampshire shall not collect any transfer tax from any cannabis
16 cultivator or retail sales tax from any consumer.

17 2 New Subparagraph; Application of Receipts; Cannabis Control Fund. Amend RSA 6:12, I(b)
18 by inserting after subparagraph (382) the following new subparagraph:

19 (383) Moneys deposited in the cannabis control fund established in RSA 318-F:15.

20 3 Alcoholic Beverages; Statement From Purchaser as to Age. Amend RSA 179:8, I(d) to read as
21 follows:

22 (d) A valid passport ~~from~~ **issued by the United States or by** a country with whom the
23 United States maintains diplomatic relations.

24 4 Model Drug Dealer Liability Act; Definition of Illegal Drug. Amend RSA 318-C:4, I to read as
25 follows:

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

29 5 New Chapter; Regulation of Cannabis. Amend RSA by inserting after chapter 318-E the
30 following new chapter:

31 CHAPTER 318-F

REGULATION OF CANNABIS

1
2 318-F:1 Definitions. In this chapter:

3 I. "Alternative treatment center" means an entity as defined in RSA 126-X:1, I.

4 II. "Consumer" means a person 21 years of age or older who purchases cannabis or cannabis
5 products for personal use by a person 21 years of age or older, but not for resale.

6 III. "Commission" means the liquor commission, division of cannabis enforcement and
7 licensing.

8 IV. "Department" means the department of health and human services.

9 V. "Disqualifying offense" means a violation of a state or federal controlled substances law
10 that was classified as a felony in the jurisdiction in which the person was convicted, but not
11 including:

12 (a) An offense for which the sentence, including any term of probation, incarceration, or
13 supervised release was completed 5 or more years earlier; or

14 (b) An offense prior to the effective date of this chapter that consisted of cultivation or
15 possession of an amount of cannabis not exceeding the possession limit.

16 VI. "Immature cannabis plant" means a cannabis plant that has not flowered and that does
17 not have buds that may be observed by visual examination.

18 VII. "Cannabis" means all parts of the plant of the genus cannabis whether growing or not,
19 the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture,
20 salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including cannabis
21 concentrate. "Cannabis" shall not include hemp, fiber produced from the stalks, oil, or cake made
22 from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the
23 weight of any other ingredient combined with cannabis to prepare topical or oral administrations,
24 food, drink, or other product.

25 VIII. "Cannabis accessories" or "cannabis paraphernalia" means any equipment, products, or
26 materials of any kind that are used, intended for use, or designed for use in planting, propagating,
27 cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing,
28 processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing
29 cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body.

30 IX. "Cannabis cultivation facility" or "cultivation facility" means an entity registered to
31 cultivate, prepare, and package cannabis, and sell cannabis to retail cannabis stores, to cannabis
32 product manufacturing facilities, and to other cannabis cultivation facilities, but not to consumers.
33 A cannabis cultivation facility shall not produce cannabis concentrates, tinctures, extracts, or other
34 cannabis products.

35 X. "Cannabis establishment" means a cannabis cultivation facility, a cannabis testing
36 facility, a cannabis product manufacturing facility, a retail cannabis store, a cannabis transporter, or
37 any other type of cannabis business authorized and registered by the commission.

1 XI. "Cannabis product manufacturing facility" or "product manufacturing facility" means an
2 entity registered to purchase cannabis, to manufacture, prepare, and package cannabis products,
3 and sell cannabis and cannabis products to other cannabis product manufacturing facilities and to
4 retail cannabis stores, but not to consumers.

5 XII. "Cannabis products" means concentrated cannabis products and cannabis products that
6 are comprised of cannabis and other ingredients and are intended for use or consumption, such as,
7 but not limited to, edible products, ointments, and tinctures.

8 XIII. "Cannabis testing facility" or "testing facility" means an entity registered to test
9 cannabis for potency and contaminants.

10 XIV. "Cannabis transporter" means an entity registered to transport cannabis between
11 cannabis establishments.

12 XV. "Municipality" means a city, town, or an unincorporated place.

13 XVI. "Possession limit" means:

14 (a) Four ounces of cannabis in plant form.

15 (b) Ten grams of concentrated cannabis, including hashish.

16 (c) Cannabis-infused products containing THC purchased from a retail cannabis store
17 which shall be limited to medical use only, and for which the purchaser presents documentation
18 permitting use of cannabis for medical purposes.

19 XVII. "Public place" means any place to which the general public has access.

20 XVIII. "Retail cannabis store" or "retail store" means a state-operated facility that purchases
21 cannabis from a cannabis cultivation facility, or purchases cannabis and cannabis products from a
22 cannabis product manufacturing facility, and sells, transfers, and delivers cannabis and cannabis
23 products to consumers.

24 XIX. "Resident" means a natural person who:

25 (a) Is domiciled in New Hampshire; and

26 (b) Has maintained a place of abode in New Hampshire for at least the past 2 years,
27 unless the individual was homeless and residing in New Hampshire for at least 51 percent of the last
28 2 years.

29 318-F:2 Personal Use of Cannabis.

30 I. Except as otherwise provided in this chapter, the following acts, if undertaken by a person
31 21 years of age or older, shall not be illegal under New Hampshire law or the law of any political
32 subdivision of the state or be a basis for seizure or forfeiture of assets under New Hampshire law:

33 (a) Possessing, consuming, using, displaying, obtaining, purchasing, processing,
34 producing, or transporting an amount of cannabis that does not exceed the possession limit, except
35 that no adult other than one who is acting in his or her capacity as a staffer of a cannabis product
36 manufacturer may perform extractions using solvents other than water, glycerin, propylene glycol,
37 vegetable oil, or food-grade ethanol.

1 (b) Transferring an amount of cannabis that does not exceed the possession limit to a
2 person who is 21 years of age or older without remuneration. For purposes of this section, a transfer
3 is for remuneration if cannabis is given away contemporaneously with another transaction between
4 the same parties, if a gift of cannabis is offered or advertised in conjunction with an offer for sale of
5 goods or services, or if the gift of cannabis is contingent upon a separate transaction for goods or
6 services.

7 (c) Transferring cannabis, including cannabis products, to a cannabis testing facility.

8 (d) Controlling property where the acts described under this section occur.

9 (e) Assisting another person who is 21 years of age or older in any of the acts described
10 under this section.

11 II. No law enforcement officer employed by an agency that receives state or local
12 government funds shall expend any state or local resources, including the officer's time, to effect any
13 arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity the officer
14 believes to constitute a violation of federal law if the officer has reason to believe that such activity is
15 in compliance with this chapter, nor shall any such officer expend any state or local resources,
16 including the officer's time, to provide any information or logistical support related to such activity to
17 any federal law enforcement authority or prosecuting entity.

18 318-F:3 Personal Cultivation Prohibited. No person shall cultivate cannabis plants unless
19 authorized by law to do so.

20 318-F:4 Smoking or Vaporizing of Cannabis in Public Prohibited; Penalty. No person shall
21 smoke or vaporize cannabis in an area accessible to the public. Any person who violates this section
22 shall be guilty of a misdemeanor, may be fined not more than \$500, and shall forfeit all cannabis and
23 cannabis products.

24 318-F:5 Smoking or Vaporizing of Cannabis in a Moving Vehicle Prohibited; Penalty.

25 I. No operator or passenger shall consume cannabis while driving or attempting to drive a
26 motor vehicle on a way, or while operating or attempting to operate an off-highway recreational
27 vehicle, snowmobile, boat, vessel, aircraft, or other motorized device used for transportation.

28 II. No person shall smoke or vaporize cannabis while such person is a passenger in a motor
29 vehicle that is being driven on any public way or boat, vessel, aircraft, or other motorized device used
30 for transportation in or on any public way.

31 III. Any person who violates this section who is the operator of a motor vehicle on a way, or
32 while operating or attempting to operate an off-highway recreational vehicle, snowmobile, boat,
33 vessel, aircraft, or other motorized device used for transportation, shall be guilty of a misdemeanor,
34 may be fined not more than \$1,000, and shall have his or her driver's license suspended for up to 6
35 months for the first offense, and shall be guilty of a misdemeanor, and may be fined not more than
36 \$1,000 and have his or her driver's license suspended for up to one year, or both, for a second or
37 subsequent offense.

1 IV. The license suspension as described in this section shall only apply a person who violates
2 this section and who is the operator of the motor vehicle, recreational vehicle, snowmobile, boat,
3 vessel, aircraft, or other motorized device used for transportation.

4 V. When determining whether a person violated an offense under the section, the issue of
5 whether the operator of the motor vehicle is impaired shall not be an element of the offense. A
6 person who consumes or permits another to consume cannabis in a motor vehicle, recreational
7 vehicle, snowmobile, boat, vessel, aircraft, or other motorized device used for transportation he or
8 she is operating shall be liable under this section without regard to fault.

9 VI. In this section, “way” shall have the same meaning as in RSA 265-A:44.
10 318-F:6 Cannabis Accessories Authorized.

11 I. Except as provided by this section, it shall not be illegal under New Hampshire law or be a
12 basis for seizure or forfeiture of assets under New Hampshire law for a person 21 years of age or
13 older to manufacture, possess, or purchase cannabis accessories, or to distribute or sell cannabis
14 accessories to a person who is 21 years of age or older.

15 II. Except as provided by this section, a person who is 21 years of age or older, or a business
16 entity, may manufacture, possess, obtain, and purchase cannabis paraphernalia, and may distribute,
17 deliver, or sell cannabis paraphernalia to a person who is 21 years of age or older.

18 III. No person or entity shall manufacture, distribute, or sell cannabis accessories that
19 violate reasonable regulations enacted by the commission. Any person or entity that violates this
20 paragraph shall be guilty of a violation for a first offense and subject to a fine of up to \$1,000 and
21 forfeiture of the cannabis accessories. A person shall be guilty of a class A misdemeanor for a second
22 or subsequent offense and shall forfeit the cannabis accessories.

23 318-F:7 Regulation of Cannabis. No later than October 1, 2022, the commission shall adopt
24 rules, pursuant to RSA 541-A, for the registration and regulation of cannabis establishments and
25 cannabis cultivation facilities. No later than December 1, 2022, the commission shall adopt rules,
26 pursuant to RSA 541-A, relative to:

27 I. The registration and regulation of all other cannabis establishments.

28 II. The manufacture and sale of cannabis accessories.

29 III. The requirements for the transportation of cannabis between cannabis establishments,
30 including documentation that shall accompany any cannabis being transported by cannabis
31 cultivation facilities.

32 IV. Procedures for the delivery of cannabis to consumers, including documentation that shall
33 accompany any cannabis being transported to consumers.

34 V. Procedures for hearings on civil fines and suspensions and revocations of licenses.

35 VI. Reasonable security requirements for each type of cannabis establishment, which may
36 be varied based on the size of the cannabis establishment.

1 VII. Health and safety rules, including regarding the packaging and preparing of cannabis
2 and restricting the use of pesticides that may be dangerous to cannabis consumers.

3 VIII. Restrictions on the advertising, signage, marketing, and display of cannabis

4 IX. Labeling requirements for cannabis products, including:

5 (a) Mandating the disclosure of the THC content of each product.

6 (b) Requirements for packaging to ensure it is not designed to appeal to minors.

7 (c) Establishing the amount of THC that may be included in each serving of a cannabis
8 product.

9 X. Requirements for the testing of cannabis.

10 318-F:8 Registration Procedures for Cannabis Establishments.

11 I. Each application for a registration to operate a cannabis establishment shall be submitted
12 to the commission.

13 II. Each application shall include both the fee established by the commission and a \$250 fee
14 for the municipality to review the application.

15 III. The liquor commission shall:

16 (a) Accept and process applications beginning no later than May 1, 2023 for cannabis
17 cultivation facilities and beginning no later than August 1, 2023 for cannabis product manufacturing
18 facilities, cannabis transporters, and cannabis testing facilities.

19 (b) Immediately forward a copy of each application and the municipal fee to the
20 municipality in which the applicant desires to operate the cannabis establishment.

21 (c) Issue a registration to the applicant within 90 days after receipt of an application
22 unless:

23 (1) The commission finds the applicant is not in compliance with the requirements of
24 this chapter or rules adopted under this chapter;

25 (2) The commission is notified by the relevant municipality that the applicant is not
26 in compliance with an ordinance adopted pursuant to this chapter and in effect at the time of
27 application; or

28 (3) More qualified applicants have applied than the number of registrations
29 available in the municipality, and the applicant was not selected.

30 IV. Each registration applies to a single parcel of real property. Any additional address
31 requires a separate application and registration.

32 V. A renewal application may be submitted up to 90 days prior to the expiration of the
33 cannabis establishment's registration. The renewal application shall be granted within 30 days of
34 its submission unless the applicant has not paid the fee, the cannabis establishment's registration is
35 suspended or revoked, or the cannabis establishment has a pattern of violations of this law, the rules
36 issued pursuant to it, or municipal regulations.

37 318-F:9 Enactment of Municipal Ordinances.

1 I. A municipality may enact an ordinance prohibiting or limiting the number and type of
2 cannabis establishments that may be permitted within the municipality and regulating the time,
3 place, and manner of operation of a cannabis establishment, which is permitted within the
4 municipality.

5 II. A municipality may enact an ordinance specifying the entity within the municipality that
6 shall be responsible for reviewing applications submitted for a registration to operate a cannabis
7 establishment within the municipality. The entity designated by the municipality shall be
8 responsible for indicating whether the application is in compliance with municipal ordinances.

9 318-F:10 Residency Required.

10 I. Except as provided in this section, any person applying for a cannabis establishment
11 registration shall have been a resident, or shall have at least one director, officer, or partner who has
12 been a New Hampshire Resident, for at least 3 years immediately preceding the date of application.

13 II. This section shall not apply to an applicant for a testing facility registration.

14 318-F:11 Background Checks Required.

15 I. A cannabis establishment shall conduct a state and federal background check prior to
16 making a final offer of employment to a prospective manager or operator.

17 II. No cannabis establishment shall employ any person who has been convicted of a
18 disqualifying offense as an officer, manager, director, or general partner. No person convicted of a
19 disqualifying offense shall work as an officer, director, manager, or general partner of a cannabis
20 establishment or serve on the board of a cannabis establishment.

21 318-F:12 Restrictions on Location. No cannabis establishment shall operate, nor shall a
22 prospective cannabis establishment apply for a registration, if the establishment would be located
23 within 1,000 feet of the property line of a pre-existing public or private elementary or secondary
24 school, unless the municipality where the establishment seeks to operate has established a smaller
25 distance limitation.

26 318-F:13 Proof of Purchaser's Identity.

27 I. For the purposes of this chapter, any person or entity making the sale of cannabis or
28 cannabis accessories to any purchaser whose age is in question may accept any official
29 documentation listed in RSA 179:8 as proof that the purchaser is 21 years of age or older.

30 II. The establishment of all of the following facts by a retail cannabis store or an agent or
31 employee of a retail cannabis store making a sale of cannabis or cannabis accessories to a person
32 under the age of 21 shall constitute an affirmative defense to any prosecution for such sale:

33 (a) That the person presented what an ordinary and prudent person would believe to be
34 valid documentation of a type listed in RSA 179:8.

35 (b) That the sale was made in good faith relying upon such documentation and
36 appearance in the reasonable belief that the person was 21 years of age or older.

37 318-F:14 Professional License Holder Immunity.

1 I. A holder of a professional or occupational license shall not be subject to professional
2 discipline for providing advice or services related to cannabis establishments or applications to
3 operate cannabis establishments on the basis that cannabis is illegal under federal law.

4 II. An applicant for a professional or occupational license shall not be denied a license based
5 on previous employment related to cannabis establishments operating in accordance with state law.

6 318-F:15 Cannabis Control Fund Established.

7 I. There is established in the state treasury a nonlapsing fund to be known as the cannabis
8 control fund. Moneys credited to the fund shall include all moneys deposited into the fund by the
9 commission pursuant to this chapter.

10 II. Beginning July 1, 2023, and each biennium thereafter, the commission shall include the
11 cost of administration of this chapter in the commission's efficiency expenditure request pursuant to
12 RSA 9:4. Appropriations for such costs shall be a charge against the fund.

13 III. The commission shall credit all fees and civil penalties imposed under this chapter and
14 all other related moneys received from public or private sources to the fund.

15 IV. After deducting appropriations charged to the fund for the cost of administration of this
16 chapter, the allocation of remaining funds, subject to appropriation, shall be as follows:

17 (a) The sum of \$25,000,000 annually to the department of health and human services,
18 bureau of drug and alcohol services for use in evidence-based, voluntary programs for substance
19 misuse-related education, prevention, treatment, and recovery that includes mental health
20 treatment that is contributing to substance misuse, and for scientifically and medically accurate
21 public education campaigns educating youth and adults about the health and safety risks of alcohol,
22 tobacco, cannabis, and other substances, including education campaigns separately targeting youth
23 and adults that provide medically and scientifically accurate information about the health and safety
24 risks posed by cannabis use, including driving under the influence of cannabis.

25 (b) Of the remaining funds:

26 (1) Ninety percent to offset the educational tax revenue imposed on all persons and
27 property taxable pursuant to RSA 76:8. In the event the funds generated exceeds the amount the
28 commissioner of the department of revenue is authorized to generate, the funds in subparagraph
29 (b)(1) shall be used as follows:

30 (A) Seventy-five percent annually to the department of health and human
31 services, bureau of drug and alcohol services, for use in evidence-based, voluntary programs for
32 substance misuse-related education, prevention, treatment, and recovery that includes mental
33 health treatment that is contributing to substance misuse, and for scientifically and medically
34 accurate public education campaigns educating youth and adults about the health and safety risks of
35 alcohol, tobacco, cannabis, and other substances, including education campaigns separately targeting
36 youth and adults that provide medically and scientifically accurate information about the health and
37 safety risks posed by cannabis use, including driving under the influence of cannabis.

1 (B) Twenty-five percent to public safety agencies, including police, fire, and
2 rescue agencies, for the hiring and training of additional drug recognition experts, for advanced
3 roadside impaired driving enforcement training, and to assist in responding to drug overdose
4 incidents.

5 (2) Five percent to public safety agencies, including police, fire, and rescue agencies,
6 for the hiring and training of additional drug recognition experts, for advanced roadside impaired
7 driving enforcement training, and to assist in responding to drug overdose incidents.

8 (3) Five percent annually to the department of health and human services, bureau of
9 drug and alcohol services, for use in evidence-based, voluntary programs for substance misuse-
10 related education, prevention, treatment, and recovery that includes mental health treatment that is
11 contributing to substance misuse, and for scientifically and medically accurate public education
12 campaigns educating youth and adults about the health and safety risks of alcohol, tobacco,
13 cannabis, and other substances, including education campaigns separately targeting youth and
14 adults that provide medically and scientifically accurate information about the health and safety
15 risks posed by cannabis use, including driving under the influence of cannabis.

16 6 The Liquor Commission; Divisions and Directors. Amend RSA 176:8 to read as follows:

17 176:8 Divisions and Directors. The commission shall have ~~3~~ 4 divisions under the direction of
18 unclassified division directors. The directors shall be nominated by the commissioner for
19 appointment by the governor with the consent of the council and shall serve for terms of 4 years
20 dependent upon maintaining good behavior and competence. There shall be a division of marketing,
21 merchandising, and warehousing, a division of administration, ~~and~~ a division of *liquor*
22 enforcement and licensing, **and a division of cannabis enforcement and licensing**. The director
23 of the division of *liquor* enforcement and licensing **and the director of the division of cannabis**
24 **enforcement and licensing** shall be subject to a background check by the state police prior to
25 appointment.

26 7 The Liquor Commission; Liquor Investigator Training. Amend RSA 176:9 to read as follows:

27 176:9 Liquor **and Cannabis** Investigator; Training.

28 I. The commission may, subject to rules adopted by the director of personnel, employ and
29 dismiss liquor **and cannabis** investigators. Liquor **and cannabis** investigators shall, under the
30 direction of the commission, investigate any or all matters arising under this title.

31 II. Any new liquor **and cannabis** investigator employed by the commission under this
32 section after August 13, 1985, shall, within 6 months of employment, satisfactorily complete a
33 preparatory police training program as provided by RSA 106-L:6, unless he or she has already
34 completed such a program.

35 III. The commissioner, deputy commissioner, assistant, or liquor **and cannabis**
36 investigator may enter any place where liquor, beverages, tobacco products, e-cigarettes, **or**
37 **cannabis** are sold ~~or~~, manufactured, **or cultivated** at any time, and may examine any license or

1 permit issued or purported to have been issued under the terms of this title. They shall make
2 complaints for violations of this title.

3 8 New Paragraph; The Liquor Commission; Commission to Sell. Amend RSA 176:11 by
4 inserting after paragraph II the following new paragraph:

5 III.(a) It shall be the duty of the commission to buy and have in its possession cannabis for
6 sale in the manner provided in this title. Such cannabis shall be free from adulteration and
7 misbranding within the meaning of the provisions of RSA 146. All cannabis sold for medicinal use
8 shall conform to the standards and tests for such cannabis under New Hampshire law at the time of
9 sale. All purchases of cannabis shall be made by the commission directly and not through the
10 department of administrative services. The commission shall be subject to all the provisions of RSA
11 9.

12 (b) In the event that the commission determines New Hampshire cannabis revenues are
13 being diverted by actions taken by persons holding any type of cannabis license, the commission may
14 take such marketing or merchandising action, or both, as it deems necessary, including sanctions
15 against the competing entities.

16 9 New Paragraph; The Liquor Commission; Rulemaking. Amend RSA 176:14 by inserting after
17 paragraph IX the following new paragraph:

18 IX-a. Cannabis licenses, including:

19 (a) Separate licenses for cultivation, manufacturing, and testing of cannabis, and dual
20 licenses as the commission may approve.

21 (b) Requirements and restrictions for each type of license.

22 (c) Procedures and forms to apply for or renew a license.

23 (d) Safekeeping of licenses.

24 (e) Authorized expansion of a licensed facility and procedures for authorization.

25 (f) Procedures to approve exceptions of license requirements, restrictions, and
26 limitations.

27 (g) Training and continuing education required or recommended for licensees

28 IX-b. Cannabis licensee operations, including:

29 (a) Procedures for on-premises and off-premises licensees to purchase cannabis.

30 (b) Credit and billing procedures, including fees for late payment.

31 (c) Bailment requirements, including fees.

32 (d) Restrictions on packaging, promotions, signage, and operating hours.

33 (e) Relations between types of licensees.

34 (f) Collection of additional fees required under RSA 178:6, VI, RSA 178:8, IV, and RSA
35 178:26.

36 10 Controlled Drug Act; Definitions. Amend the introductory paragraph in RSA 318-B:1, X-a (k)
37 to read as follows:

1 (k) Objects used or intended for use or customarily intended for use in ingesting,
2 inhaling, or otherwise introducing [~~marijuana,~~] cocaine[~~, hashish, or hashish oil~~] into the human
3 body, such as:

4 11 Controlled Drug Act; Penalties. Amend the introductory paragraph in RSA 318-B:26, I to
5 read as follows:

6 I. Any person who manufactures, sells, prescribes, administers, or transports or possesses
7 with intent to sell, dispense, or compound any controlled drug, controlled drug analog or any
8 preparation containing a controlled drug, except as authorized in this chapter **or as otherwise**
9 **authorized by law**; or manufactures, sells, or transports or possesses with intent to sell, dispense,
10 compound, package or repackage (1) any substance which he **or she** represents to be a controlled
11 drug, or controlled drug analog, or (2) any preparation containing a substance which he **or she**
12 represents to be a controlled drug, or controlled drug analog, shall be sentenced as follows, except as
13 otherwise provided in this section:

14 12 Controlled Drug Act; Penalties. Amend the introductory paragraph in RSA 318-B:26, II to
15 read as follows:

16 II. Any person who knowingly or purposely obtains, purchases, transports, or possesses
17 actually or constructively, or has under his control, any controlled drug or controlled drug analog, or
18 any preparation containing a controlled drug or controlled drug analog, except as authorized in this
19 chapter **or as otherwise authorized by law**, shall be sentenced as follows, except as otherwise
20 provided in this section:

21 13 Controlled Drug Act; Penalties. Amend RSA 318-B:26, II(c)-(e) to read as follows:

22 (c) In the case of more than 3/4 ounce of marijuana or more than 5 grams of hashish,
23 including any adulterants or dilutants[~~;~~] **is possessed by a person who is under 21 years of age,**
24 **or, in the case of an amount exceeding the possession limit defined in RSA 318-F:1**
25 **possessed by a person who is 21 years of age or older,** the person shall be guilty of a
26 misdemeanor. [~~In the case of marijuana-infused products possessed by persons under the age of 21~~
27 ~~or marijuana-infused products as defined in RSA 318-B:2-c, other than a personal-use amount of a~~
28 ~~regulated marijuana-infused product as defined in RSA 318-B:2-c, I(b), that are possessed by a~~
29 ~~person 21 years of age or older, the person shall be guilty of a misdemeanor.]~~

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

35 (e) In the case of a residual amount of a controlled [~~substance;~~] **drug, other than**
36 **marijuana,** as defined in RSA 318-B:1, XXIX-a, a person shall be guilty of a misdemeanor if the
37 person is not part of a service syringe program under RSA 318-B:43.

1 14 Controlled Drug Act; Penalties. Amend RSA 318-B:26, III(a) to read as follows:

2 (a) ~~[Except as provided in RSA 318-B:2-c,]~~ Controls any premises or vehicle where he or
3 she knows a controlled drug or its analog, ***other than marijuana***, is illegally kept or deposited;

4 15 Personal Possession of Marijuana. Amend RSA 318-B:2-c to read as follows:

5 318-B:2-c ~~[Personal]~~ Possession of Marijuana ***by a Person Under 21 Years of Age***.

6 ~~[I.]~~ In this section:

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

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

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

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

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

30 ~~V.]~~(a) Except as provided in this paragraph, any person 18 years of age or older who is
31 convicted of violating paragraph II or III~~, or any person 21 years of age or older who is convicted of~~
32 ~~violating paragraph IV]~~ shall be subject to a fine of \$100 for a first or second offense under this
33 paragraph, or a fine of up to \$300 for any subsequent offense within any 3-year period; however, any
34 person convicted based upon a complaint which alleged that the person had 3 or more prior
35 convictions for violations of paragraph II~~] or III[-or IV],~~ or under reasonably equivalent offenses in
36 an out-of-state jurisdiction since the effective date of this paragraph, within a 3-year period
37 preceding the fourth offense shall be guilty of a class B misdemeanor. The offender shall forfeit the

1 marijuana~~[, regulated marijuana-infused products,]~~ or hashish to the state. A court shall waive the
2 fine for a single conviction within a 3-year period upon proof that person has completed a substance
3 abuse assessment by a licensed drug and alcohol counselor within 60 days of the conviction. A
4 person who intends to seek an assessment in lieu of the fine shall notify the court, which shall
5 schedule the matter for review after 180 days. Should proof of completion of an assessment be filed
6 by or before that time, the court shall vacate the fine without a hearing unless requested by a party.

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

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

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

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

17 (d) Any person *under 21 years of age who is* in possession of an identification card,
18 license, or other form of identification issued by the state or any state, country, city, or town, or any
19 college or university, who fails to produce the same upon request of a police officer or who refuses to
20 truthfully provide his or her name, address, and date of birth to a police officer who has informed the
21 person that he or she has been found to be in possession of what appears to the officer to be 3/4 of an
22 ounce or less of marijuana~~[, a personal-use amount of a regulated marijuana-infused product,]~~ or 5
23 grams or less of hashish, may be arrested for a violation of paragraph II~~[,]~~ *or* III~~[, or IV]~~.

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

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

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

35 16 Alcohol or Drug Impairment; Possession of Drugs. Amend RSA 265-A:43 to read as follows:

36 265-A:43 Possession of Drugs. Any person who drives on any way a vehicle while knowingly
37 having in his or her possession or in any part of the vehicle a controlled drug or controlled drug

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1 analog in violation of the provisions of RSA 318-B shall be guilty of a misdemeanor, and his or her
2 license shall be revoked or his or her right to drive denied for a period of 60 days and at the
3 discretion of the court for a period not to exceed 2 years. This section shall not apply to the
4 possession of marijuana or hashish as provided in RSA 318-B:2-c[~~or a personal use amount of a~~
5 ~~regulated marijuana-infused product as defined in RSA 318-B:2-e, I(b)~~].

6 17 Compensation of Certain State Officers; Liquor Commission; Division Directors. Amend RSA
7 94:1-a, I(b) as follows:

8 GG Liquor commission director of *liquor* enforcement and licensing

9 18 Compensation of Certain State Officers; Liquor Commission; Division Directors. Amend RSA
10 94:1-a, I(b) by inserting the following:

11 GG Liquor commission director of cannabis enforcement and licensing

12 19 Liquor Commission; Appropriation. The sum of \$5,000,000 for the biennium ending June 30,
13 2023 is hereby appropriated to the liquor commission for the cost of administration of RSA 318-F.
14 The governor is authorized to draw a warrant for said sum from any money in the treasury not
15 otherwise appropriated.

16 20 Repeal. RSA 318-B:1, X-a(g), relative to separation gins and sifters used or intended for use
17 with cannabis, is repealed.

18 21 Effective Date. This act shall take effect July 1, 2022.

**HB 1598-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT legalizing the possession and use of cannabis.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$5,000,000	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input checked="" type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Cannabis Control Fund, Various State Funds			

COUNTY:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

LOCAL:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill legalizes the possession and use of cannabis for persons 21 years of age and older.

The Liquor Commission indicates this bill would assign cannabis sale and licensure responsibilities to the Liquor Commission including the responsibility to set up a retail store operations system, regulate the licensing and enforcement of the provisions within the bill and provide the revenues that will be earmarked for various agencies and public health and law enforcement functions. The bill appropriates the sum of \$5,000,000 for the biennium ending June 30, 2023 to the Commission for the administration of RSA 318-F. The Commission believes the \$5,000,000 appropriation is not adequate to accomplish the expectations set out in the bill. The Commission has provided a proposed budget reflecting the projected costs to implement a retail operation and license and enforce the provisions of the bill. This budget is based on the following assumptions:

- The Commission assumes it will open and operate 10 separate retail locations for the sale of cannabis. These stores would not be located within existing liquor and wine outlets and be separately branded to keep the cannabis operations separate from alcohol operations. This would involve leasing locations in communities with ordinances that allow for cannabis store operations; equipping locations with furniture and equipment necessary for the operation of retail outlets and the enforcement of the requirements of the bill.
- Since the Commission would not use existing liquor stores to sell cannabis the program would require new staff dedicated to the cannabis mission. The Commission's best staffing estimate assumes a total of 70 new positions within the agency at an annual salary and benefit cost of \$5.1 million in FY 2023, \$5.3 million in FY 2024 and \$5.5 million in FY 2024. Fifty of the positions would be in store operations and 20 positions would be in administration, finance, markets and enforcement and marketing.
- The Commission would expand and build within the existing warehouse owned by the Commission to accommodate new administrative personnel.
- Because the sale of cannabis is not currently lawful in New Hampshire the Commission has no historical data to use for revenue projections. At this time the Commission is not able to predict what revenues would be generated.
- The budget figures for the first year will be significantly larger due the costs associated with acquiring facilities, equipment and personnel.
- The Commission has not proposed the days or hours of operations of the cannabis outlets but anticipates they would closely mirror the liquor and wine outlet days and hours of operation.
- The Commission proposes to enter into a contract with an organization with expertise to advise the commission on product selection, aid in training cannabis store personnel and purchase the cannabis on behalf of the commission for resale and distribution to the 10 state owned stores. The duties and responsibilities would be subject to the terms and conditions established in a published RFP and subject to approval by Governor and the Executive Council.
- While the bill would establish a new 4th division of cannabis enforcement and licensing, the Commission believes the existing 3 division organization is a viable and preferred organizational model for this bill and would place these new duties and personnel within the existing 3 division system. The Commission's proposed budget assumes the new duties and personnel would be integrated into the existing divisions of Administration, Enforcement and Licensing, and Marketing, Merchandising and Warehouse.
- Based on the experienced gained from operating of liquor and wine outlets, the cannabis outlets would be staffed by 5 full-time personnel consisting of a manager, assistant

manager and three clerks. The commission would not use part time personnel until such time as retail sales operations warrant.

- Cannabis staff would undergo training to be able to answer questions and the contract expert would assume the duties to train or obtain training for all cannabis personnel.
- Additional personnel within the Division of Enforcement and Licensing would be responsible for management oversight of the cannabis outlets and monitoring of cannabis outlet operations to ensure the continuing public integrity of the operations.

Based on the assumptions above, the Commission prepared the budget estimates below. Due to timing, the estimated annual costs will not necessarily align with State fiscal years as it will take time to locate and fit up retail and office space and hire and train staff.

Estimated Start-up Costs (4,000 square foot store)	Cost Per Location	Cost for 10 Stores
Fit-up construction	\$300,000	\$3,000,000
Security (alarms, cameras, detectors)	\$90,000	\$900,000
Signage (store front & interior)	\$50,000	\$500,000
Furnishings (shelving, cabinet, display cases)	\$50,000	\$500,000
Point of Sale start-up costs	\$10,000	\$100,000
Advertising	\$100,000	\$1,000,000
Training	\$15,000	\$150,000
Initial Inventory	\$70,000	\$700,000
Sub-Total Store Start-up Costs:	\$685,000	\$6,850,000
Start-up Office Costs	Per Unit	Total
Temporary office space pending completion of HQ office space		\$50,000
Office Construction at the HQ building		\$500,000
Equipment for 20 people (laptops, printers, phones)	\$5,000	\$100,000
Office Furniture	\$10,000	\$200,000
Six automobiles	\$30,000	\$180,000
Sub-Total office start-up:		\$1,030,000
Total Start-up Costs:		\$7,880,000

It is assumed that the ongoing operating costs will increase based on inflation in the future years.

Ongoing Operating Costs	Monthly	Annual
Point of Service System (\$1,000 per location)	\$10,000	\$120,000
Store rent (\$25/square foot)	\$83,333	\$1,000,000
Operating expense (Utilities, supplies, service contracts)	N/A	\$1,000,000
Smart safes (\$850/month per location)	\$8,500	\$102,000
Advertising	N/A	\$1,000,000
Training	N/A	\$150,000
Total Ongoing Operating Costs:		\$3,372,000

Personnel Costs (rounded)	Year 1	Year 2	Year 3
Salaries	\$3,012,000	\$3,147,000	\$3,281,000
Benefits	\$2,037,000	\$2,143,000	\$2,253,000

Total Personnel Costs:	\$5,049,000	\$5,290,000	\$5,534,000
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The Department of Safety, Division of State Police indicates the impact to law enforcement in general would increase. The bill would likely result in an increase in impaired drivers, toxicology testing, black market sales and the investigation of crimes related to Cannabis Establishments. The Division assumes an increase in marijuana use would lead to increases in crimes such as robbery, burglary, and theft. These enforcement issues would impact local and state law enforcement and lead to a need for increases in manpower and training.

This bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges, or fewer charges, would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Council	FY 2022	FY 2023
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). Beginning in March of 2021, the public defender program has had to close intake to new cases due to excessive caseloads. Due to these closures, the contract and assigned counsel program have had to absorb significantly more cases. The system is experiencing significant delays in appointing counsel and the costs of representation have increased due to travel time and multiple appointments.		
Department of Corrections	FY 2022	FY 2023
FY 2021 Average Cost of Incarcerating an Individual	\$54,386	\$54,386
FY 2021 Annual Marginal Cost of a General Population Inmate	\$5,715	\$5,715
FY 2021 Average Cost of Supervising an Individual on Parole/Probation	\$603	\$603
NH Association of Counties	FY 2022	FY 2023
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

This bill contains penalties that will have an indeterminable impact on the Judicial Branch system. There is no method to determine how many charges, or how many fewer charges, would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. In the past the Judicial Branch has used averaged caseload data based on time studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine criminal cases currently available to the Judicial Branch are based on studies of judicial and clerical weighted caseload times for processing average routine criminal cases that are more than fifteen years old so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department may be able to absorb the cost within its existing budget. However, if the Department needs to prosecute significantly more cases or handle more appeals, then costs will increase by an indeterminable amount.

The bill appropriates the sum of \$5,000,000 for the biennium ending June 30, 2023 to the Liquor Commission for the administration of RSA 318-F.

AGENCIES CONTACTED:

Liquor Commission, Judicial Branch, Judicial Council, New Hampshire Association of Counties, and the Departments of Safety and Corrections