

HB 492-FN-LOCAL – AS AMENDED BY THE HOUSE

15Jan2014... 2334h

2013 SESSION

13-0443
04/03

HOUSE BILL ***492-FN-LOCAL***

AN ACT relative to the legalization and regulation of marijuana.

SPONSORS: Rep. Vaillancourt, Hills 15; Rep. Warden, Hills 39; Rep. Winters, Hills 18;
Rep. Lambert, Hills 44; Rep. Robertson, Ches 6

COMMITTEE: Criminal Justice and Public Safety

AMENDED ANALYSIS

This bill:

- I. Legalizes the personal use of up to one ounce of marijuana by persons 21 years of age or older.
- II. Authorizes the licensing of marijuana wholesale, retail, cultivation, and testing facilities.
- III. Imposes a tax on the sale of marijuana.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to the legalization and regulation of marijuana.

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. In the interest of the efficient use of law enforcement resources, enhancing revenue for
3 public purposes, and individual freedom, the people of the state of New Hampshire find and declare
4 that the use of marijuana should be legal for a person 21 years of age or older and taxed in a manner
5 similar to alcohol.

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

9 (a) Individuals will have to show proof of age before purchasing marijuana;

10 (b) Selling, distributing, or transferring marijuana to minors and other individuals
11 under the age of 21 shall remain illegal;

12 (c) Driving under the influence of marijuana shall remain illegal;

13 (d) Legitimate, taxpaying business people, and not criminal actors, will conduct sales of
14 marijuana; and

15 (e) Marijuana sold in this state will be labeled and subject to additional regulations to
16 ensure that consumers are informed and protected.

17 III. It is necessary to ensure consistency and fairness in the application of this act
18 throughout the state and that, therefore, the matters addressed by this act are, except as specified
19 herein, matters of statewide concern.

20 2 New Chapter; Regulation of Marijuana. Amend RSA by inserting after chapter 318-E the
21 following new chapter:

22 CHAPTER 318-F

23 REGULATION OF MARIJUANA

24 318-F:1 Definitions. In this chapter:

25 I. "Consumer" means a person 21 years of age or older who purchases marijuana or
26 marijuana products for personal use by a person 21 years of age or older, but not for resale to others.

27 II. "Department" means the department of revenue administration.

28 III. "Marijuana" means all parts of the plant of the genus cannabis whether growing or not,
29 the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture,
30 salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana

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1 concentrate. "Marijuana" shall not include fiber produced from the stalks, oil, or cake made from the
2 seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any
3 other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or
4 other product.

5 IV. "Marijuana accessories" means any equipment, products, or materials of any kind which
6 are used, intended for use, or designed for use for ingesting, inhaling, or otherwise introducing
7 marijuana into the human body.

8 V. "Marijuana cultivation facility" means an entity licensed to cultivate, prepare, package,
9 and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to
10 other marijuana cultivation facilities, but not to consumers.

11 VI. "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing
12 facility, a marijuana product manufacturing facility, or a retail marijuana store.

13 VII. "Marijuana product manufacturing facility" means an entity licensed to purchase
14 marijuana and to manufacture, prepare, package, and sell marijuana and marijuana products to
15 other marijuana product manufacturing facilities and to retail marijuana stores, but not to
16 consumers.

17 VIII. "Marijuana products" means concentrated marijuana products and marijuana products
18 that are comprised of marijuana and other ingredients and are intended for use or consumption,
19 such as, but not limited to, edible products, ointments, and tinctures.

20 IX. "Marijuana testing facility" means an entity licensed to analyze and certify the safety
21 and potency of marijuana.

22 X. "Retail marijuana store" means an entity licensed to purchase marijuana from marijuana
23 cultivation facilities, to purchase marijuana and marijuana products from marijuana product
24 manufacturing facilities, and to sell marijuana and marijuana products to consumers.

25 318-F:2 Personal Use of Marijuana. If undertaken by a person 21 years of age or older, the
26 following acts shall not be illegal under New Hampshire law or be a basis for seizure or forfeiture of
27 assets under New Hampshire law:

28 I. Possessing, consuming, using, displaying, obtaining, purchasing, or transporting
29 marijuana accessories, or marijuana in the amount of one ounce or less including up to 5 grams of
30 hashish.

31 II. Possessing, growing, processing, or transporting no more than 6 marijuana plants, with 3
32 or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on
33 the premises where the plants were grown.

34 III. Transferring one ounce or less of marijuana and up to 6 immature marijuana plants to a
35 person who is 21 years of age or older without remuneration.

36 IV. Transferring or selling marijuana seeds or up to 6 marijuana seedlings to marijuana
37 cultivation facilities.

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1 V. Assisting another person who is 21 years of age or older in any of the acts described in
2 this section.

3 318-F:3 Restrictions on Personal Cultivation; Penalty.

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

6 II. Marijuana plants shall not be cultivated in a location where the plants are subject to
7 public view without the use of binoculars, aircraft, or other optical aids.

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

12 IV. Marijuana cultivation shall only occur on property the cultivator legally owns, leases, or
13 controls, or with the consent of the person who legally owns, leases, or controls the property.

14 V. A person who violates this section shall be guilty of a violation and may be fined not more
15 than \$750.

16 318-F:4 Public Smoking of Marijuana Prohibited; Penalty.

17 I. No person shall smoke marijuana in a public place.

18 II. A person who violates this section shall be guilty of a violation and may be punished by a
19 fine of not more than \$100.

20 318-F:5 Lawful Operation of Marijuana-Related Facilities. If undertaken by a person 21 years
21 of age or older, the following acts shall not be illegal under New Hampshire law or be a basis for
22 seizure or forfeiture of assets under New Hampshire law:

23 I. Possessing, displaying, or transporting marijuana or marijuana products; obtaining or
24 purchasing marijuana from a marijuana cultivation facility; obtaining or purchasing marijuana or
25 marijuana products from a marijuana product manufacturing facility; or sale of marijuana or
26 marijuana products to an adult who is 21 years of age or older, if the person conducting the activities
27 described in this paragraph has obtained a current, valid license to operate a retail marijuana store
28 or is acting in his or her capacity as an owner, employee, or agent of a licensed retail marijuana
29 store.

30 II. Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing
31 marijuana; obtaining or purchasing marijuana seeds or seedlings from any adult 21 years of age or
32 older; delivery or transfer of marijuana to a marijuana testing facility; selling or transferring
33 marijuana that has not been processed into extracts, concentrates, or other preparations to a
34 marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana
35 store; or obtaining or purchasing marijuana from a marijuana cultivation facility, if the person
36 conducting the activities described in this paragraph has obtained a current, valid license to operate
37 a marijuana cultivation facility or is acting in his or her capacity as an owner, employee, or agent of

1 a licensed marijuana cultivation facility.

2 III. Packaging, processing, transporting, manufacturing, displaying, or possessing
3 marijuana or marijuana products; delivery or transfer of marijuana or marijuana products to a
4 marijuana testing facility; selling marijuana or marijuana products to a retail marijuana store or a
5 marijuana product manufacturing facility; purchasing or obtaining marijuana from a marijuana
6 cultivation facility; or purchasing or obtaining marijuana or marijuana products from a marijuana
7 product manufacturing facility, if the person conducting the activities described in this paragraph
8 has obtained a current, valid license to operate a marijuana product manufacturing facility or is
9 acting in his or her capacity as an owner, employee, or agent of a licensed marijuana product
10 manufacturing facility.

11 IV. Possessing, obtaining, cultivating, processing, repackaging, storing, transporting,
12 displaying, transferring, or delivering marijuana or marijuana products if the person has obtained a
13 current, valid license to operate a marijuana testing facility or is acting in his or her capacity as an
14 owner, employee, or agent of a licensed marijuana testing facility.

15 V. Leasing or otherwise allowing the use of property owned, occupied, or controlled by any
16 person, corporation, or other entity for any of the activities conducted lawfully in accordance with
17 this section.

18 318-F:6 Marijuana Accessories Authorized.

19 I. It shall not be illegal under New Hampshire law or be a basis for seizure or forfeiture of
20 assets under New Hampshire law for a person 21 years of age or older to manufacture, possess, or
21 purchase marijuana accessories, or to distribute or sell marijuana accessories to a person who is 21
22 years of age or older.

23 II. A person who is 21 years of age or older may manufacture, possess, obtain, and purchase
24 marijuana accessories, and may distribute, deliver, or sell marijuana accessories to a person who is
25 21 years of age or older.

26 318-F:7 Regulation of Marijuana.

27 I. Not later than June 1, 2015, the department shall adopt rules pursuant to RSA 541-A
28 necessary for implementation of this chapter. Such rules shall include:

29 (a) Procedures for the issuance, renewal, suspension, and revocation of a license to
30 operate a marijuana establishment.

31 (b) A schedule of application, licensing, and renewal fees, provided, application fees shall
32 not exceed \$1,000, adjusted annually for inflation.

33 (c) Qualifications for licensure that are directly and demonstrably related to the
34 operation of a marijuana establishment.

35 (d) Security requirements for marijuana establishments.

36 (e) Establishing the number of each type of marijuana establishment license that will be
37 issued, provided that:

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1 (1) The total number of cultivation facility licenses shall not be less than 10.

2 (2) The number of retail marijuana stores shall be no fewer than one retail
3 marijuana store for every 10 retail liquor stores, except that the number may be reduced by an
4 amount that is proportionate to the population of any municipalities that do not allow retail
5 marijuana stores within their borders.

6 (3) The total number of testing facilities may not be less than 4.

7 (4) The department may establish the number of marijuana retail stores allowed in
8 each county or municipality that has not prohibited marijuana retail stores or established a lower
9 numerical limit on marijuana retail stores.

10 (f) Labeling requirements for marijuana and marijuana products sold or distributed by a
11 marijuana establishment.

12 (g) Health and safety regulations and standards for the manufacture of marijuana
13 products and the cultivation of marijuana.

14 (h) Restrictions on the advertising, signage, and display of marijuana and marijuana
15 products, including restrictions to prevent marijuana from being marketed to minors.

16 (i) Restrictions on where marijuana establishments may be located, which shall include
17 a prohibition such establishments being located within 1,000 feet of a school.

18 II. The department shall not require a consumer to provide a retail marijuana store with
19 personal information other than government-issued identification to determine the consumer's age,
20 and a retail marijuana store shall not be required to acquire and record personal information about
21 consumers other than information typically acquired in a financial transaction conducted at a retail
22 liquor store.

23 318-F:8 Sales to Persons Under 21 Years of Age. The establishment of all the following facts by
24 a retail marijuana store or an agent or employee of a retail marijuana store making a sale of
25 marijuana or marijuana accessories to a person under the age of 21 shall constitute an affirmative
26 defense to any prosecution for such sale:

27 I. That the person falsely represented in writing and supported by official documentation
28 that he or she was 21 years of age or over;

29 II. That the appearance of the person was such that an ordinary and prudent person would
30 believe him or her to be 21 years of age or over; and

31 III. That the sale was made in good faith relying upon such written representation and
32 appearance in the reasonable belief that the person was 21 years of age or over.

33 318-F:9 Proof of Purchaser's Identity.

34 I. For the purposes of RSA 318-F:8, any person making the sale of marijuana or marijuana
35 accessories to any purchaser whose age is in question may accept any of the following documentation
36 as proof that the purchaser is 21 years of age or over:

37 (a) A valid motor vehicle driver's license issued by the state of New Hampshire, or a

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1 valid driver's license issued by another state, or province of Canada, which bears the name, address,
2 date of birth, and photograph of the purchaser.

3 (b) A valid identification card issued by the director of motor vehicles under the
4 provisions of RSA 260:21, or any picture identification card issued by another state which bears the
5 name, address, and date of birth of the purchaser.

6 (c) A valid armed services identification card showing the purchaser's name and date of
7 birth.

8 (d) A valid passport from a country with which the United States maintains diplomatic
9 relations showing the purchaser's name, address, and date of birth.

10 II. The appearance of the purchaser shall be consistent with the photographic identification
11 presented under this section and the proof of identification shall be free of alteration, erasure,
12 blemish, or other impairment.

13 318-F:10 Employers, Driving, Minors, and Control of Property.

14 I. Nothing in this chapter shall be construed to require an employer to permit or
15 accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of
16 marijuana in the workplace or to affect the ability of employers to have policies restricting the use of
17 marijuana by employees.

18 II. Nothing in this chapter shall be construed to permit driving or operating under the
19 influence of drugs or liquor pursuant to RSA 265-A, nor shall this section prevent the state from
20 enacting and imposing penalties for driving under the influence of or while impaired by marijuana.

21 III. Nothing in this chapter shall be construed to permit the transfer of marijuana, with or
22 without remuneration, to a person under the age of 21, or to allow a person under the age of 21 to
23 purchase, possess, use, transport, grow, or consume marijuana.

24 IV. Nothing in this chapter shall prohibit a state or county correctional facility from
25 prohibiting the possession, consumption, use, display, transfer, distribution, sale, transportation, or
26 growing of marijuana on or in the correctional facility's property.

27 V. Nothing in this chapter shall prohibit a person or other entity that legally owns, leases, or
28 controls any property from prohibiting or otherwise regulating the sale, use, or growing of marijuana
29 on or in the property.

30 3 New Chapter; Taxation of Marijuana. Amend RSA by inserting after chapter 77-G the
31 following new chapter:

32 CHAPTER 77-H

33 TAXATION OF MARIJUANA

34 77-H:1 Definitions. In this chapter, the definitions set forth in RSA 318-F:1 shall apply.

35 77-H:2 Tax Imposed.

36 I. A tax shall be levied upon marijuana sold or otherwise transferred by a marijuana
37 cultivation facility to a marijuana product manufacturing facility or to a retail marijuana store at a

1 rate of \$30 per ounce of marijuana or proportionate part thereof. The department shall collect such
2 tax and adjust the rate annually to account for inflation or deflation based on the United States
3 Department of Labor, Bureau of Labor Standards, Consumer Price Index.

4 II. A tax shall be levied upon marijuana sold or otherwise transferred by a retail marijuana
5 store at a rate of 15 percent of the sale price. The department shall collect such tax as provided in
6 this chapter.

7 III. The commissioner of the department of revenue administration shall quarterly deposit
8 all tax revenues collected under this chapter into the general fund.

9 IV. The department shall adopt rules, pursuant to RSA 541-A relative to the procedures for
10 collection of tax revenues under this chapter.

11 77-H:3 Administration.

12 I. Each application for a license to operate a marijuana establishment shall be submitted to
13 the department. The department shall:

14 (a) Accept and process applications beginning on June 1, 2015;

15 (b) Immediately forward a copy of each application and half of the license application fee
16 to the municipality in which the applicant desires to operate the marijuana establishment;

17 (c) Issue a license to the applicant between 45 and 90 days after receipt of an application
18 unless the department finds the applicant is not in compliance with the requirements of this section
19 or the department is notified by the relevant municipality that the applicant is not in compliance
20 with an ordinance adopted pursuant to this section and in effect at the time of application, provided,
21 where the department or a municipality has enacted a numerical limit on the number of marijuana
22 establishments and a greater number of applicants seek licenses in such municipality, the
23 department shall solicit and consider input from the municipality as to the municipality's preference
24 for licensure; and

25 (1) Whether the applicant has experience operating as an alternative treatment
26 center pursuant to RSA 126-X.

27 (2) The suitability of the proposed location, including compliance with any local
28 zoning laws.

29 (3) The proposed marijuana establishment's plan for operations and whether it has
30 sufficient capital to operate.

31 (4) The principal officers' and board members' character and relevant experience,
32 including any training or professional licensing related to botany and their experience operating a
33 nonprofit organization or business.

34 (5) The sufficiency of the applicant's plans for recordkeeping and inventory control.

35 (6) The sufficiency of the applicant's plans for safety and security, including
36 proposed location and security devices employed.

37 (7) Whether the entity possesses or has the right to use land, buildings, and

1 equipment sufficient to properly carry out its duties as a marijuana establishment.

2 (8) Any input provided by the municipality in which the applicant seeks to operate.

3 II. A municipality may enact an ordinance specifying the entity within the municipality that
4 shall be responsible for reviewing applications submitted for a license to operate a marijuana
5 establishment within the boundaries of the municipality.

6 III. A municipality may enact an ordinance, consistent with this section, RSA 318-F, and
7 any rules adopted, regulating the time, place, manner, and number of marijuana establishment
8 operations.

9 IV. A municipality may enact an ordinance prohibiting or limiting the number of any type of
10 marijuana establishment that may be permitted within the municipality.

11 4 Controlled Drug Act; Definitions. Amend the introductory paragraph in RSA 318-B:1, X-a (k)
12 to read as follows:

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

16 5 Controlled Drug Act; Penalties. Amend the introductory paragraph in RSA 318-B:26, I to read
17 as follows:

18 I. Any person who manufactures, sells, prescribes, administers, or transports or possesses
19 with intent to sell, dispense, or compound any controlled drug, controlled drug analog or any
20 preparation containing a controlled drug, except as authorized in this chapter **or as otherwise**
21 **authorized by law**; or manufactures, sells, or transports or possesses with intent to sell, dispense,
22 compound, package or repackage (1) any substance which he **or she** represents to be a controlled
23 drug, or controlled drug analog, or (2) any preparation containing a substance which he **or she**
24 represents to be a controlled drug, or controlled drug analog, shall be sentenced as follows, except as
25 otherwise provided in this section:

26 6 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(c)(5) to read as follows:

27 (5) Marijuana in a quantity of **more than** one ounce [~~or more~~] including any
28 adulterants or dilutants, or hashish in a quantity of **more than** 5 grams [~~or more~~] including any
29 adulterants or dilutants;

30 7 Controlled Drug Act; Penalties. Amend the introductory paragraph in RSA 318-B:26, II to
31 read as follows:

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

37 8 Controlled Drug Act; Penalties. Amend RSA 318-B:26, II(d) to read as follows:

1 (d) In the case of *more than one ounce of* marijuana, [~~including any adulterants or~~
2 ~~dilutants, or 5 grams or less of hashish~~] *not including the weight of any ingredients combined*
3 *with the marijuana*, the person shall be guilty of a class A misdemeanor.

4 9 New Subparagraphs; Controlled Drug Act; Penalties. Amend RSA 318-B:26, II by inserting
5 after subparagraph (d) the following new subparagraphs:

6 (e) In the case of a person over the age of 18 and under the age of 21 who possesses not
7 more than one ounce of marijuana, or 5 grams of hashish, the person shall be guilty of a violation
8 and may be fined up to \$100.

9 (f) In the case of a person under the age of 18 who possesses not more than one ounce of
10 marijuana, or 5 grams of hashish, the person shall be guilty of a violation and fined not more than
11 \$100. The fine shall be suspended pending completion of a drug awareness course within 6 months
12 of the violation. If the person fails to complete the course within the time allotted, the court shall
13 impose the fine.

14 10 Model Drug Dealer Liability Act; Definitions. Amend RSA 318-C:1, I to read as follows:

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

18 11 Repeal. The following are repealed:

19 I. RSA 318-B:1, X-a (g), relative to separation gins and sifters used or intended for use with
20 marijuana.

21 II. RSA 318-B:26, I(d)(1), relative to the penalty for possession of up to one ounce of
22 marijuana.

23 12 Effective Date. This act shall take effect July 1, 2014.

HB 492 FISCAL NOTE

AN ACT relative to the legalization and regulation of marijuana.

FISCAL IMPACT:

The Department of Revenue Administration, New Hampshire Municipal Association, Department of Health and Human Services, Judicial Council, New Hampshire Association of Counties, and Department of Justice state this bill, as introduced, will have an indeterminable fiscal impact on state, local, and county revenue and expenditures in FY 2014 and each year thereafter.

The Office of Legislative Budget Assistant is awaiting information from the Judicial Branch relative to the potential fiscal impact of this bill. The Branch was initially contacted on 01/11/13 and most recently contacted on 08/23/13.

METHODOLOGY:

The Department of Revenue Administration states this bill legalizes the personal use of up to one ounce of marijuana by individuals 21 years of age or older, authorizes the licensing and operation of marijuana wholesale, retail, cultivation, and testing facilities, and imposes a tax on the sale of marijuana. The Department states it was unable to estimate revenue resulting from the bill given that much of the data on marijuana production and usage is outdated and would require numerous assumptions. The Department states it would incur significant costs to study, develop, and implement a licensing certification process, as well as enforcement mechanisms, a tax implementation and collections process, and auditing, appeals, and hearings procedures. In addition, the bill would require the Department to issue administrative rules relating to the licensure of marijuana establishments. For these reasons, the Department states the bill's fiscal impact is indeterminable.

The New Hampshire Municipal Association states that should the Department of Revenue Administration fail to adopt administrative rules pertaining to the licensure of marijuana establishments, municipalities are required to adopt ordinances regulating such facilities. Additionally, in the event that the Department fails to process and issue licenses, applicants for licenses may apply directly to municipalities. The bill provides that when an application is submitted to the Department, one half of the application fee will be paid to the municipality in which the facility is proposed to be located. If an application is submitted directly to a

municipality because the Department has failed to adopt rules or process and issue licenses, the entire fee would be paid to the municipality. The Association states that the adoption of ordinances and the processing of applications could presumably be accomplished without additional personnel. To the extent additional expenditures are required, they presumably would be more than offset by application and licensing fees. The Association states it appears likely that some municipalities will receive net additional revenues from application and licensing fees. The Association states, however, that it has no way to predict how many establishments would apply for licenses under the law, where they would locate, or whether circumstances would require them to apply directly to the municipality rather than the Department of Revenue Administration. The Association further states that it cannot predict the effect of marijuana legalization on law enforcement expenditures. For these reasons, the Association states the fiscal impact of the bill is indeterminable.

The Department of Health and Human Services, Bureau of Drug and Alcohol Services cites a study suggesting that marijuana legalization would lead to an increase in the number of individuals needing treatment for abuse or dependence. The Department states, however, that the bill does not appropriate additional money to the Department for the purpose of funding treatment. In addition, the Department does not expect to receive funding from any other sources. The bill would therefore have no impact on the Department's budget.

The Judicial Council states that currently, possession of less than one ounce of marijuana is punishable as a class A misdemeanor. The sale, distribution, transportation, and dispensation of marijuana is currently an unclassified felony offense. The bill would legalize the possession of less than one ounce of marijuana, and would eliminate the felony-level penalties that currently apply to large-scale black market manufacture and distribution of marijuana. The Council states that the bill, were it to result in fewer felony-level and misdemeanor-level drug offenses, would potentially mean fewer criminal cases brought requiring the appointment of counsel at state expense. This could result in savings of the flat fee of \$275 per misdemeanor and \$756.25 per felony. In cases in which an assigned counsel attorney would have been used, the savings would be the \$60 per hour fee (up to a total of \$1,300 for a misdemeanor charge and \$4,100 for a felony charge). In addition, public defender, contract attorney and assigned counsel rates for Supreme Court appeals are \$2,000 per case, an expense that would no longer be incurred. The Council states that to the extent marijuana possession charges are accompanied by other, more serious class A misdemeanor charges, the indigent accused would continue to enjoy the right to assistance of counsel at state expense.

The New Hampshire Association of Counties states it is unable to determine the number of individuals the bill may impact or the reduction in the number of individuals who may come

into contact with the criminal justice system, either through the sheriffs, the county attorneys, or the county correctional facilities. The Association of Counties states to the extent fewer individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties may have decreased expenditures. The Association is unable to determine the number of individuals that might not be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Department of Justice states that currently, the Attorney General's Drug Task Force investigates the possession and trafficking of controlled drugs, including marijuana. If the bill were to pass, the Task Force would shift any resources currently being spent on marijuana investigations to those involving other controlled drugs. Similarly, any prosecutorial resources being used in the Criminal Justice Bureau to prosecute cases or drug forfeiture actions involving the distribution of marijuana would be shifted to cases involving other controlled drugs. For these reasons, the Department states the bill will have no fiscal impact.