

HB 1326 – AS INTRODUCED

2014 SESSION

14-2529  
04/10

HOUSE BILL            **1326**

AN ACT                establishing the affirmative defense of unwitting possession of a controlled drug.

SPONSORS:            Rep. Winters, Hills 18; Rep. Warden, Hills 39; Rep. Comerford, Rock 33; Rep.  
Michael Garcia, Hills 34

COMMITTEE:          Criminal Justice and Public Safety

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ANALYSIS

This bill establishes the affirmative defense of unwitting possession of a controlled drug.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Fourteen*

AN ACT                    establishing the affirmative defense of unwitting possession of a controlled drug.

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

1            1    New Section; Controlled Drug Act; Affirmative Defense of Unwitting Possession. Amend  
2    RSA 318-B by inserting after section 2-b the following new section:

3            318-B:2-c    Affirmative Defense; Unwitting Possession. It shall be an affirmative defense to  
4    prosecution under this chapter if the possession of a controlled drug is unwitting. Possession of a  
5    controlled drug is unwitting if the actor did not know that the drug was in his or her possession or  
6    did not know the nature of the drug. A defendant who claims unwitting possession shall prove, by a  
7    preponderance of the evidence, that the drug was possessed unwittingly.

8            2    Effective Date. This act shall take effect January 1, 2015.