

HB 1548-FN – AS AMENDED BY THE HOUSE

5Mar2014... 0159h

2014 SESSION

14-2530  
04/03

HOUSE BILL        ***1548-FN***

AN ACT            eliminating separate penalties for crack cocaine.

SPONSORS:        Rep. Winters, Hills 18; Rep. Michael Garcia, Hills 34; Rep. O'Flaherty, Hills 12

COMMITTEE:      Criminal Justice and Public Safety

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ANALYSIS

This bill amends the definition of cocaine in the controlled drug act to include crack cocaine and eliminates separate penalties for crack cocaine.

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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT                   eliminating separate penalties for crack cocaine.

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

1           1 Controlled Drug Act; Definitions. Amend RSA 318-B:1, V to read as follows:

2           V. “Cocaine-type drugs” means coca leaves, cocaine, ecgonine, and chemical compounds  
3 which are similar thereto in chemical structure or which are similar thereto in physiological effect  
4 and which show a like potential for abuse. **“Cocaine-type drugs” shall also include crack**  
5 **cocaine, also known as cocaine base or rock cocaine, which is the free base form of cocaine**  
6 **in which the molecule is not chemically combined as an acid salt.**

7           2 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(a)(1)(B) to read as follows:

8                           (B) Cocaine [~~other than crack cocaine~~], its salts, optical and geometric isomers,  
9 and salts of isomers; or

10          3 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(a)(3) to read as follows:

11                           (3) Heroin or its analog [~~or crack cocaine~~] in a quantity of 5 grams or more,  
12 including any adulterants or dilutants.

13          4 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(b)(1) to read as follows:

14                           (1) A substance or mixture referred to in subparagraph I(a)(1) of this section [~~other~~  
15 ~~than crack cocaine~~], in a quantity of 1/2 ounce or more, including any adulterants or dilutants;

16          5 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(b)(4) to read as follows:

17                           (4) Heroin or its analog [~~or crack cocaine~~] in a quantity of one gram or more,  
18 including any adulterants or dilutants;

19          6 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(c)(1) to read as follows:

20                           (1) A substance or mixture referred to in subparagraph I(a)(1) of this section [~~other~~  
21 ~~than crack cocaine~~], in a quantity less than 1/2 ounce including any adulterants or dilutants;

22          7 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(c)(4) to read as follows:

23                           (4) Heroin or its analog [~~or crack cocaine~~] in a quantity of less than one gram,  
24 including any adulterants or dilutants;

25          8 Repeal. RSA 318-B:1, VI-b, relative to the definition of crack cocaine, is repealed.

26          9 Effective Date. This act shall take effect 60 days after its passage.

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**HB 1548-FN FISCAL NOTE**

AN ACT                   eliminating separate penalties for crack cocaine.

**FISCAL IMPACT:**

The Department of Corrections and New Hampshire Association of Counties state this bill, as amended by the House (Amendment #2014-0159h), may increase state and county expenditures by an indeterminable amount in FY 2014 and each year thereafter. There will be no fiscal impact on local expenditures, or state, county, and local revenue.

**METHODOLOGY:**

The Judicial Branch states this bill amends the definition of “cocaine-type drugs” in RSA 318-B:1, V to include crack cocaine. It also amends the drug penalties in RSA 318-B:26, I(a), (b) and (c) to be consistent with the single definition. The Branch assumes prosecutors will continue to bring charges involving crack cocaine at the same rate, therefore this bill will have no fiscal impact on the Branch as it does not increase or decrease the caseload. The result of this bill is that it will take a greater quantity of crack cocaine to obtain a longer sentence than under the current law.

The Department of Corrections states it is not able to determine the fiscal impact of this bill because it does not have sufficient detail to predict the number of individuals who would be subject to this legislation. The Department states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2013 was \$32,872. The cost to supervise an individual by the Department’s division of field services for the fiscal year ending June 30, 2013 was \$570.

The New Hampshire Association of Counties states to the extent more individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties will have increased expenditures. The Association is unable to determine the number of individuals who may 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 and Judicial Council state this bill will have no fiscal impact because it does not increase or decrease the number of cases, only addresses the penalties upon conviction.