

HB 639-FN-A - AS AMENDED BY THE HOUSE

22Feb2023... 0543h

6Apr2023... 1231h

2023 SESSION

23-0528

04/10

HOUSE BILL

639-FN-A

AN ACT relative to the legalization and regulation of cannabis and making appropriations therefor.

SPONSORS: Rep. Osborne, Rock. 2; Rep. Layon, Rock. 13; Rep. Wilhelm, Hills. 40; Rep. C. McGuire, Merr. 27; Rep. DiLorenzo, Rock. 10; Rep. Berry, Hills. 39; Rep. McWilliams, Merr. 30; Rep. Wallace, Rock. 8; Sen. Whitley, Dist 15; Sen. Murphy, Dist 16; Sen. Fenton, Dist 10

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill establishes procedures for the legalization, regulation, and taxation of cannabis; the licensing and regulation of cannabis establishments; and makes appropriations therefor.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the legalization and regulation of cannabis and making appropriations therefor.

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 allowing law enforcement to focus on violent and property crimes,
3 generating revenue for education, prevention, treatment, and recovery related to the use of both
4 legal and illegal drugs and for other public purposes, and advancing individual freedom, the people
5 of the state of New Hampshire find and declare that the use of cannabis by a person 21 years of age
6 or older should be legal and subject to reasonable regulation and taxation.

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

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

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

13 (c) Driving under the influence of cannabis shall remain illegal.

14 (d) Moving cannabis production and sales from the underground, sometimes dangerous,
15 illicit market to legal, taxpaying businesses allows for appropriate regulations and control.

16 (e) Cannabis sold in this state will be tested, labeled, and subject to additional
17 regulations to ensure that consumers are informed and protected and to protect the environment.

18 (f) Some of the tax revenue generated from legal cannabis sales will be used to support
19 programs for education, prevention, treatment, and recovery related to the use of both legal and
20 illegal drugs.

21 2 New Subparagraphs; Application of Receipts; Cannabis Fund. Amend RSA 6:12, I(b) by
22 inserting after subparagraph (387) the following new subparagraphs:

23 (388) Moneys deposited in the cannabis fund established in RSA 318-F:21.

24 (389) Moneys in the substance abuse prevention and recovery fund established by
25 RSA 318-F:22.

26 3 New Subdivision; Substance Abuse Prevention and Recovery Funds. Amend RSA 126-A by
27 inserting after section 97 the following new subdivision:

28 Substance Abuse Prevention and Recovery Funds

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1 126-A:98 Substance Abuse Prevention and Recovery Funds; Management and Distribution of
2 Funds.

3 I. The commissioner of the department of health and human services, in coordination with
4 the governor's commission on alcohol and other drugs under RSA 12-J shall administer the
5 substance abuse prevention and recovery fund established in RSA 318-F:22.

6 II. Funds shall be deposited into the substance abuse prevention and recovery fund as
7 established by 318-F:25 to be distributed by the commissioner of the department of health and
8 human services in coordination with the governor's commission on alcohol and other drugs under
9 RSA 12-J. Funds may be awarded to a qualifying governmental entity or program for an approved
10 use. All funds shall be nonlapsing and continually appropriated for the purposes of this section.

11 III. The commissioner of the department of health and human services, in coordination with
12 the governor's commission on alcohol and other drugs per RSA 12-J, shall continue to make
13 distributions from the trust fund.

14 IV. The department of health and human services shall adopt rules pursuant to RSA 541-A
15 necessary to implement this section. Such rules shall include funding qualifications, application
16 procedures, time-lines for receiving, reviewing, and acting upon application requests, and reporting
17 requirements.

18 V. Allocations shall be used for one or more of the following:

19 (a) Evidence-based, voluntary programs for substance abuse-related education,
20 prevention, treatment, and recovery.

21 (b) Mental health treatment, with a focus on dual-diagnosis of both mental health and
22 substance misuse disorders.

23 (c) Funding and training to foster an informed, adequately paid behavioral health
24 workforce.

25 (d) Scientifically and medically accurate public education campaigns educating youth
26 and adults about the health and safety risks of alcohol, tobacco, cannabis, and other substances,
27 including education campaigns separately targeting youth and adults that provide medically and
28 scientifically accurate information about the health and safety risks posed by cannabis use, including
29 driving under the influence of cannabis.

30 VI. No later than 18 months after the effective date of this section, and every 2 years
31 thereafter, the commissioner of the department of health and human services shall submit an
32 annual report to the governor and fiscal committee of the general court detailing the activities of the
33 administration of the substance abuse prevention and recovery trust fund, the amount distributed in
34 the past year, the amount remaining in the trust fund, a summary of how funds were used in the
35 past year, and any recommendations for future legislation.

36 4 Alcoholic Beverages; Statement From Purchaser as to Age. Amend RSA 179:8, I(d) to read as
37 follows:

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

5 Controlled Drug Act; Drug Forfeiture Fund. Amend RSA 318-B:17-c, I to read as follows:

I. There is hereby established ~~[within the office of the state treasurer]~~ a special revolving fund to be designated as the drug forfeiture fund. This fund shall be administered by the attorney general and may be used to pay the costs of local, county and state drug related investigations, ***costs of collection of baseline data related to marijuana regulation,*** as well as drug control law enforcement programs within New Hampshire. The fund may also be used to pay extraordinary costs of local, county and state drug prosecutions and trial expenses.

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

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

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

CHAPTER 318-F

REGULATION OF CANNABIS

318-F:1 Definitions. In this chapter:

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

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

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

IV. "Cannabis accessory retailer" means an entity licensed to sell cannabis accessories and paraphernalia

V. "Cannabis cultivation facility" or "cultivation facility" means an entity registered to cultivate, prepare, and package cannabis, and sell cannabis to retail cannabis stores, to cannabis product manufacturing facilities, to alternative treatment centers, and to other cannabis cultivation

1 facilities, but not to consumers. A cannabis cultivation facility shall not produce cannabis
2 concentrates, tinctures, extracts, or other cannabis products.

3 VI. "Cannabis establishment" means a cannabis cultivation facility, a cannabis testing
4 facility, a cannabis product manufacturing facility, a retail cannabis store, a cannabis transporter, or
5 any other type of cannabis business authorized and licensed by the commission.

6 VII. "Cannabis product manufacturing facility" or "product manufacturing facility" means
7 an entity licensed to purchase cannabis, to manufacture, prepare, and package cannabis products,
8 and sell cannabis and cannabis products to other cannabis product manufacturing facilities, to
9 alternative treatment centers, and to retail cannabis stores, but not to consumers.

10 VIII. "Cannabis products" means any product that contains cannabis, including cannabis
11 extracts, concentrated cannabis products, and products that contain cannabis and other ingredients
12 and are intended for use or consumption, such as, but not limited to, edible products, ointments, and
13 tinctures. This term shall not include cannabis in its plant or flower form.

14 IX. "Cannabis testing facility" or "testing facility" means an entity licensed to test cannabis
15 for potency and contaminants.

16 X. "Cannabis transporter" means an entity licensed to transport cannabis between cannabis
17 establishments.

18 XI. "Commission" means the liquor and cannabis commission.

19 XII. "Consumer" means a person 21 years of age or older who purchases cannabis or
20 cannabis products for personal use by a person 21 years of age or older, but not for resale.
21 "Consumer" does not include a qualifying patient or designated caregiver purchasing cannabis from
22 an alternative treatment center pursuant to RSA 126-X.

23 XIII. "Department" means the department of health and human services.

24 XIV. "Documentation" means all records, in any form, including electronic records.

25 XV. "Dual use certificate" means a license allowing an alternative treatment center licensed
26 to operate pursuant to RSA 126-X to co-locate with and operate a retail cannabis store, cannabis
27 cultivation facility, cannabis product manufacturing facility, cannabis transporter, or any
28 combination of those licenses. A dual use certificate is required in addition to registration as an
29 alternative treatment center and the license required pursuant to this chapter for each type of
30 cannabis establishment operated by the alternative treatment center.

31 XVI. "Immature cannabis plant" means a cannabis plant that has not flowered and that
32 does not have buds that may be observed by visual examination.

33 XVII. "Inflation" means the 12-month percentage change in the consumer price index for all
34 urban consumers, northeast region as published by the Bureau of Labor Statistics, United States
35 Department of Labor.

36 XVIII. "Mature cannabis plant" means a cannabis plant that has flowered and has buds that
37 may be observed by visual examination.

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1 XIX. "Municipality" means a city, town, or an unincorporated place.

2 XX. "Possession limit" means:

3 (a) Four ounces of cannabis in plant form; and

4 (b) Twenty grams of concentrated cannabis products, which includes hashish and pre-
5 filled cartridges of cannabis extracts intended for vaporization;

6 (c) Cannabis products other than concentrated cannabis products containing no more
7 than 2,000 milligrams of THC;

8 This paragraph shall not apply to the possession limits set forth in RSA 126-X:2.

9 XXI. "Public place" means any place to which the general public has access.

10 XXII. "Premises" means and includes all parts of the contiguous real estate occupied by a
11 licensee over which the licensee has direct or indirect control or interest and which the licensee uses
12 in the operation of the licensed business, and which have been approved by the commission as proper
13 places in which to exercise the licensee's privilege.

14 XXIII. "Retail cannabis store" or "retail store" means an entity licensed to purchase
15 cannabis from cannabis cultivation facilities, to purchase cannabis and cannabis products from
16 cannabis product manufacturing facilities, and to sell, transfer, and deliver cannabis and cannabis
17 products or cannabis accessories or cannabis paraphernalia to consumers.

18 XXIV. "Resident" means a natural person who:

19 (a) Is domiciled in New Hampshire; and

20 (b) Maintains a place of abode in New Hampshire, unless the individual was homeless
21 and residing in New Hampshire for at least 51 percent of the time.

22 318-F:2 Personal Use of Cannabis.

23 I. Except as otherwise provided in this chapter, the following acts, if undertaken by a person
24 21 years of age or older, shall not be illegal under New Hampshire law or the law of any political
25 subdivision of the state or be a basis for seizure or forfeiture of assets under New Hampshire law:

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

31 (b) Transferring an amount of cannabis that does not exceed the possession limit to a
32 person who is 21 years of age or older without remuneration. For purposes of this paragraph, a
33 transfer is for remuneration if cannabis is given away contemporaneously with another transaction
34 between the same parties, if a gift of cannabis is offered or advertised in conjunction with an offer for
35 sale of goods, services, or admission to an event, or if the gift of cannabis is contingent upon a
36 separate transaction for goods, services, or the price of admission to an event.

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

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

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

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

318-F:3 Smoking or Vaping Cannabis in Public Prohibited; Penalty. No person shall smoke or vape cannabis in a public place where the smoking or vaporizing of tobacco products is prohibited. Any person who violates this section shall be guilty of a violation and may be fined not more than \$50.

318-F:4 Consuming Cannabis While Operating a Moving Vehicle Prohibited; Penalty.

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

II. No person shall smoke or vaporize cannabis while the person is a passenger in a motor vehicle that is being driven on a way.

III. Any person who violates this section shall be guilty of a violation and shall be subject to a fine not to exceed \$150. In addition, any person who violates paragraph I of this section may have his or her driver's license, if a resident, or driving privilege, if a nonresident, suspended for up to 60 days for a first offense and up to one year for a subsequent offense.

IV. In this section, "way" shall have the same meaning as in RSA 265-A:44.

V. A person may not be convicted of both a violation of this section and a violation of RSA 265-A:1 based on the same incident.

318-F:5 Odor and Personal Possession of Cannabis Not Grounds for a Search.

I. Except as provided in paragraph II of this section, the odor of cannabis or burnt cannabis, or the possession of a quantity of cannabis that the officer does not have probable cause to believe exceeds the possession limit of cannabis, shall not constitute in part or in whole probable cause or reasonable suspicion and shall not be used as a basis to support any stop or search of a person or motor vehicle.

II. Nothing in this section prevents a law enforcement official from conducting a test for impairment based in part on the odor of recently burnt cannabis if the law enforcement official would otherwise be permitted to do so under New Hampshire law.

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1 318-F:6 Enforcement Authority.

2 I. The commission shall have the primary responsibility for enforcing this chapter. Local,
3 county, and state law enforcement officers shall also have jurisdiction to enforce this chapter. Such
4 authority may be delegated to agents working under their authority.

5 II. The commission shall have the authority to interpret statutes and administrative rules
6 as they relate to this chapter.

7 III. The commission may transfer funds within and among all accounting units within the
8 commission's operating budget and to create accounting units and expenditure classes as required
9 and as the commissioner deems necessary and appropriate to address present or projected budget
10 deficits, or to respond to changes in federal law, regulations, or programs, and otherwise as
11 necessary for the efficient management of the liquor commission and cannabis funds. The provisions
12 of this section shall not be subject to RSA 9:16-a, RSA 9:17-a, and RSA 9:17-c.

13 IV. The commission may pay staff members working on both liquor and cannabis matters
14 increased wages until 18 months after the first retail cannabis establishment license is issued. A 10
15 percent stipend shall be established for commission staff based on their salary, when engaged in the
16 development and all administrative aspects of the program.

17 318-F:7 Regulation of Cannabis.

18 I. Not later than one year after the effective date of this section, the commission shall
19 initiate the rulemaking process pursuant to RSA 541-A for the licensing and regulation of cannabis
20 cultivation facilities and for the issuance of dual use certificates. Not later than 15 months after the
21 effective date of this section, the commission shall initiate the rulemaking process pursuant to RSA
22 541-A for the licensing and regulation of all other cannabis establishments and on the manufacture
23 and sale of cannabis accessories. The rules shall include the following:

24 (a) Procedures for the application for, issuance, transfer, approval, denial, renewal,
25 suspension, and revocation of a license for cannabis establishments, including procedures to hear
26 complaints and impose penalties if alternative treatment centers with dual use certificates fail to
27 provide an adequate supply and variety of therapeutic cannabis and cannabis products for qualifying
28 patients.

29 (b) A fee schedule of reasonable application, license, and annual renewal fees, provided:

30 (1) That the non-refundable portion of application fees shall not exceed \$1,000, with
31 this upper limit adjusted annually for inflation; and

32 (2) That cultivation facility licensing fees be tiered based on the size of the facilities.

33 (c) Qualifications for licensure that are directly and demonstrably related to the
34 operation of a cannabis establishment and which may not disqualify applicants solely for cannabis
35 offenses prior to the effective date of this chapter.

36 (d) Criteria for selection among applicants when there are more qualified applicants
37 than there are number of licenses available in a particular municipality.

(e) Regulations to create at least 2-4 tiers of cultivation facilities, based on the size of the facility or the number of plants cultivated and providing:

(1) That outdoor cultivation facilities shall be allowed to cultivate 3 times the square footage of canopy as indoor cultivation facilities of the same tier;

(2) That security regulations and licensing fees shall vary based on the size of the cultivation facility and that regulatory burdens shall be no more onerous than is reasonably necessary; and

(3) That cultivation facilities may move up to a higher tier at least once per year if they meet the security requirements and pay the associated fee, except that the commission may suspend this provision in the event of an oversupply.

(f) Record keeping requirements for cannabis establishments, including requirements for implementation and compliance with the tracking system.

(g) Requirements for the transportation of cannabis and cannabis products between cannabis establishments, including documentation that shall accompany any cannabis being transported.

(h) A schedule of fines as are authorized in this chapter for violations of statutory requirements, provided that, not later than 18 months after the effective date of this chapter the commission shall report to the chairpersons of the house and senate ways and means committees its proposal for a fine schedule and for legislation needed to implement the schedule.

(i) Procedures for hearings on penalties to include but not limited to administrative fines, suspensions, and revocations of licenses.

(j) Reasonable security requirements for each type of cannabis establishment, which may be varied based on the size of the cannabis establishment.

(k) Health and safety rules, including but not limited to the packaging and preparing of cannabis products, restricting the use of pesticides and other chemicals during cultivation and processing that may be dangerous to cannabis consumers, and sanitation requirements;

(l) Restrictions on the advertising, signage, marketing, and display of cannabis and cannabis products, including but not limited to:

(1) A prohibition on mass-market campaigns that have a likelihood of reaching minors;

(2) A prohibition on marketing to minors, including marketing specifically related to social media;

(3) A prohibition on cannabis products that are named, packaged, marketed, or designed in a way that mimics or is likely to cause confusion with commercially available, trademarked non-cannabis products, including relating to their logos, the sound of the product or brand, packaging, taste, appearance, and commercial impression;

1 (4) A prohibition on giveaways of cannabis, cannabis products, or cannabis
2 accessories, including samples;

3 (5) A prohibition on billboard advertising, sound trucks, or outdoor internally
4 illuminated screen displays consistent with alcohol advertising prohibitions in RSA 179:31; and

5 (6) A requirement for any advertising to include a standard, recognizable symbol
6 that a product contains cannabis or THC.

7 (m) Restrictions on where a cannabis establishment may be located, consistent with the
8 provisions of this chapter.

9 (n) Restrictions on the hours of sale when a retail cannabis store may sell cannabis and
10 cannabis products, provided the regulations shall not allow retail stores to begin sales before 6:00
11 a.m. or to sell cannabis or cannabis products after 11:45 p.m.

12 (o) Packaging, product manufacturing, and labeling requirements for cannabis and
13 cannabis products, including:

14 (1) Mandating the disclosure of the THC content of each product;

15 (2) Requirements to ensure cannabis products and their packaging are not designed
16 to appeal to or be attractive to minors, including providing that they cannot be in the shape of
17 cartoons, toys, animals, or people; and

18 (3) Establishing the maximum amount of THC that may be included in each
19 cannabis product serving as 20 milligrams, except that the commission may change this amount
20 through rulemaking;

21 (4) Prohibiting flavors and designs of cannabis-infused beverages, oils, and edibles
22 that resemble or imitate candy flavors that are marketed to minors;

23 (5) Warnings, including but not limited to, those described in RSA 318F:16;

24 (6) A requirement for any label, an for certain products where appropriate, to
25 include a standard, recognizable symbol that a product contains cannabis or THC; and

26 (7) Potency limits for cannabis products.

27 (p) Health and safety rules and standards for the cultivation of cannabis and
28 manufacture of cannabis products, including:

29 (1) Prohibitions on additives to products that are toxic, misleading to consumers, or
30 designed to make the product more appealing to children;

31 (2) Safety standards regulating the manufacture of cannabis extracts and
32 concentrated cannabis products; and

33 (3) A prohibition on the inclusion of nicotine and other additives to cannabis
34 products that are designed to make the product more addictive or more intoxicating.

35 (q) Standards for the operation of testing laboratories, including requirements for
36 equipment and qualifications for personnel.

37 (r) Requirements for the testing of cannabis and cannabis products, including:

1 (1) Requirements to ensure at a minimum that cannabis and cannabis products sold
2 for human consumption do not contain contaminants that are injurious to health and to ensure
3 correct labeling;

4 (2) That testing shall include, but not be limited to, analysis for residual solvents,
5 poisons, or toxins; harmful chemicals; dangerous molds or mildew; filth; dangerous herbicides,
6 pesticides, and fungicides, heavy metals, and harmful microbials, such as E. coli or salmonella;

7 (3) Threshold levels for each contaminant listed in subparagraph (2);

8 (4) Providing that in the event that test results indicate the presence of quantities of
9 any substance determined to be injurious to health, such cannabis or cannabis products shall be
10 immediately quarantined and immediate notification to the commission shall be made. The
11 contaminated product shall be documented and properly destroyed;

12 (5) That testing shall also verify THC and other cannabis potency representations
13 for correct labeling;

14 (6) That the commission shall determine an acceptable variance for potency
15 representations and procedures to address potency misrepresentations;

16 (7) That the commission shall determine the protocols and frequency of cannabis
17 testing by a cannabis testing facility.

18 (8) Allowances for remediation of cannabis and cannabis products whose test results
19 are in excess of established thresholds; and

20 (9) Minimum testing requirements for an effective cannabis and cannabis product
21 quality assurance program for cannabis cultivation facilities and cannabis product manufacturing
22 facilities.

23 (s) Reasonable health and safety restrictions on cannabis accessories that may be
24 manufactured or sold in New Hampshire, including a prohibition on any vaporization device that
25 includes toxic or addictive additives. The commission may prohibit types of vaporizers that are
26 particularly likely to be utilized by minors without detection, but may not completely ban or
27 unreasonably restrict the manufacture or sale of vaporization devices.

28 (t) Training and continuing education required or recommended for licensees, which
29 shall include training on checking photo identification and for false identification.

30 (u) Requirements that cannabis retail stores stock cannabis products, including flower,
31 with low and moderate amounts of THC and that they be at least as prominently displayed as high
32 potency products.

33 II.(a) In order to ensure that individual privacy is protected, the commission shall not
34 require a consumer to provide a retail cannabis store with personal information other than
35 government-issued identification to determine the consumer's age, and a retail cannabis store shall
36 not be required to acquire and record personal information about consumers.

1 (b) In order to ensure that individual privacy is protected, no cannabis establishment
2 may record or store a consumer's name, address, purchases, or contact information unless the
3 consumer consents in writing. No cannabis establishment may make granting permission for the
4 collection or storage of such information a condition of a consumer purchasing cannabis from the
5 establishment.

6 III. Not later than 18 months after the effective date of this chapter, the commission, in
7 consultation with the department, shall develop an informational handout, which retail stores shall
8 make available to all consumers, and which shall include information detailed in RSA 318-F:14.

9 IV. The commission shall require all cannabis establishments to utilize an inventory
10 tracking system, including use of a universal product code, for tracking the transfer of cannabis and
11 cannabis products between licensed cannabis establishments and the sale of cannabis and cannabis
12 products to consumers. The system shall ensure an accurate accounting of the production,
13 processing, and sale of cannabis and cannabis products and shall enable separate tracking of
14 cannabis flowers, immature cannabis plants, and other parts of cannabis sold from cannabis
15 cultivation facilities. The system shall allow for the tracking of lab testing results for all cannabis
16 and shall be capable of swiftly identifying all products involved in a product recall. The commission
17 may develop and maintain a system that satisfies the requirements of this section, or it may select a
18 vendor to develop and maintain a system.

19 V. No later than 24 months after the effective date of this chapter, and every year
20 thereafter, the commission shall reevaluate the fines and penalties established in RSA 318-F, and
21 shall report in writing on its findings and recommendations to the chairpersons of the house and
22 senate ways and means committees.

23 VI. The commission may regulate synthetic cannabinoids and intoxicating products derived
24 from hemp.

25 VII. No later than 36 months after the effective date of this section, the commission shall
26 make written recommendations to the general court regarding the regulation of hemp including:

27 (a) What hemp products the commission would regulate;

28 (b) How the products would be regulated, including whether a license would be required
29 and whether hemp processors and manufacturers should be licensed and regulated by the
30 commission;

31 (c) Any license fees or other charges that would be assessed on hemp products and
32 license fees assessed on hemp processors and manufacturers; and

33 (d) The resources required to regulate hemp processors, product manufacturers, hemp
34 products, and the retail sale of intoxicating hemp products.

35 VIII. A prohibition on the manufacturing and sale of cannabis alcoholic beverages.
36 318-F:8 Dual Use Certificates.

1 I. No later than 18 months after the effective date of this chapter, the commission, after
2 consulting with the department of health and human services and the therapeutic cannabis medical
3 oversight board and holding at least one public hearing, shall develop regulations allowing
4 alternative treatment centers registered to operate pursuant to RSA 126-X to apply for a dual use
5 certificate.

6 II. A separate dual use certificate is required for each alternative treatment center
7 dispensing location.

8 III. The commission shall grant or deny any application for a dual use certificate within 90
9 days.

10 IV. The regulations for a dual use certificate shall include, but are not limited to:

11 (a) Providing for separation of cannabis sales to qualifying patients and consumers, such
12 as by requiring separate counters;

13 (b) Requiring dual-use cannabis establishments to prioritize therapeutic cannabis
14 access;

15 (c) Requiring dual-use cannabis establishments to maintain or increase the diversity of
16 therapeutic cannabis products available for qualifying patients;

17 (d) Requiring dual-use cannabis establishments to avoid raising prices for qualifying
18 patients beyond the rate of inflation, for at least 2 years after dual use licensure;

19 (e) A requirement that in the event of crowding, inadequate parking, or similar issues
20 limiting therapeutic cannabis access, the dual-use cannabis establishment shall take measures to
21 prioritize therapeutic cannabis access, such as setting aside certain business hours when the
22 establishment will only serve qualifying patients and their designated caregivers; and

23 (f) Providing for the suspension of sales of cannabis to adult-use consumers in the event
24 of a product shortage.

25 V.(a) Cannabis sold by alternative treatment centers holding dual use certificates to
26 qualifying patients directly or via their designated caregivers shall meet the requirements of RSA
27 126-X:8 and rules issued pursuant to chapter RSA 126-X.

28 (b) Cannabis sold by alternative treatment centers holding dual use certificates to
29 qualifying patients directly or via their designated caregivers may have higher THC per serving than
30 is permitted by rules governing cannabis establishments that are issued pursuant to RSA 318-F:10.

31 VI. Cannabis stores affiliated with alternative treatment centers holding dual use
32 certificates may sell cannabis grown and processed by those alternative treatment centers to
33 consumers provided they comply with rules issued pursuant to this section and RSA 318-F:10

34 318-F:9 Transition of Therapeutic Cannabis Program.

35 I. No later than 20 months after the effective date of this chapter, the commission, jointly
36 with the department of health and human services, shall make a recommendation to the health and

1 human services oversight committee whether to transfer the department's therapeutic cannabis
2 program to the commission.

3 II. The proposal shall include a plan to allow cannabis retail stores to obtain a therapeutic
4 cannabis endorsement that would allow them to serve qualifying patients without imposing the
5 excise tax in RSA 318-F:23.

6 318-F:10 Licensure Procedures for Cannabis Establishments.

7 I. Each application for a license to operate a cannabis establishment shall be submitted to
8 the commission.

9 II. Each application shall include both the fee established by the commission and a \$500 fee
10 for the municipality to review the application, except that the municipal fee shall be \$75 in the case
11 of the smallest tier of cultivation facilities.

12 III. The commission shall:

13 (a) Immediately forward a copy of each application and the municipal fee to the
14 municipality in which the applicant desires to operate the cannabis establishment; and

15 (b) Issue a license to the applicant within 90 days after receipt of an application unless:

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

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

21 (3) More qualified applicants have applied than the number of licenses available in
22 the municipality, and the applicant was not selected.

23 (c) Accept and process applications on an ongoing basis.

24 318-F:11 Enactment of Municipal Ordinances.

25 I. A municipality may enact an ordinance prohibiting or limiting the number and type of
26 cannabis establishments that may be permitted within the municipality and regulating the time,
27 place, and manner of operation of a cannabis establishment, which is permitted within the
28 municipality. A locality's prohibition on cannabis establishments may not prohibit transportation
29 through the locality or deliveries within the locality by cannabis establishments located in other
30 jurisdictions.

31 II. A municipality may enact an ordinance specifying the entity within the municipality that
32 shall be responsible for reviewing applications submitted for a license to operate a cannabis
33 establishment within the municipality. The entity designated by the municipality shall be
34 responsible for indicating whether the application is in compliance with municipal ordinances.

35 III. A municipality may not negotiate or enter into an agreement with a cannabis
36 establishment or a cannabis establishment applicant requiring that the cannabis establishment or

1 applicant provide money, donations, in-kind contributions, services, or anything of value to the
2 locality.

3 318-F:12 Residency Required.

4 I. Except as provided in this section, any person applying for a cannabis establishment
5 license shall be a resident, or shall have at least one director, officer, or partner who is a New
6 Hampshire resident.

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

8 318-F:13 Restrictions on Location Near Schools. No cannabis establishment shall operate, nor
9 shall a prospective cannabis establishment apply for a license, if the establishment would be located
10 within 1,000 feet of the property line of a pre-existing public or private pre-school, elementary, or
11 secondary school.

12 318-F:14 Informational Materials and Warning Labels.

13 I. The commission, in consultation with the department, shall design at least 2 versions of
14 informational handout, one of which is specific to high potency products.

15 II. A retail cannabis store shall include an informational handout designed by the
16 commission in consultation with the department with all cannabis and cannabis products sold to
17 consumers, and shall include the high potency version in all cannabis concentrates and other high
18 potency sales. The informational handouts shall include scientifically accurate information,
19 including:

20 (a) Advice about the potential risks of cannabis, and, in the case of the high potency
21 handout, risks specific to high potency products, including:

22 (1) The risks of driving under the influence of cannabis, and the fact that doing so is
23 illegal;

24 (2) Any adverse effects unique to adolescents or young adults, including effects
25 related to the developing mind;

26 (3) Potential adverse events and other risks, including related to mental health; and

27 (4) Risks of using cannabis during pregnancy or breastfeeding. This may be
28 identical to that required under RSA 126-X:8, XVI(c)(7).

29 (b) Information about methods for administering cannabis;

30 (c) How long cannabis may impair a person after it is ingested in each manner; and

31 (d) How to recognize problematic usage of cannabis and how to obtain appropriate
32 services or treatment;

33 (e) Information regarding safe storage and disposal of cannabis and paraphernalia to
34 prevent accidental poisonings, including the contact information for the Northern New England
35 Poison Control Center. This may be identical to that required under RSA 126-X:8, XVI(c)(8); and

36 (f) Unless federal statutory law or case law has changed and such a warning is no longer
37 accurate, a disclosure that:

(1) Cannabis is illegal under U.S. federal law, and

(2) Under the United States government's 1986 Gun Control Act, any 'unlawful' user of a controlled substance is prohibited from purchasing or owning a gun.

III. The commission may require retail stores to display informational posters in conspicuous locations about the risks of cannabis use, including regarding risks during pregnancy and breastfeeding and risks of cannabis use in adolescents or by younger adults. The posters shall be scientifically accurate.

IV. All cannabis and cannabis products sold by a retail cannabis store shall include warning labels that provide the following information: "Warning: This product has intoxicating effects. For use by adults 21 and older. Keep out of reach of children." The department may require a standard, recognizable symbol on all cannabis packaging to signify that THC or other cannabinoids are included in the product.

V. All cannabis products sold by retail cannabis stores shall include:

(a) A warning label that provides, "Caution: When eaten or swallowed, the intoxicating effects of this product may be delayed by up to 2 hours," unless the commission determines that a different time frame should be specified.

(b) A disclosure of ingredients and possible allergens.

(c) A nutritional fact panel.

(d) Opaque, child-resistant packaging, which shall be designed or constructed to be significantly difficult for children under 5 years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. section 1700.20.

318-F:15 Lawful Operation of Cannabis-Related Facilities. If undertaken by a person 21 years of age or older, the following acts shall not be illegal under New Hampshire law or be a basis for seizure or forfeiture of assets under New Hampshire law:

I. Possessing, displaying, or transporting cannabis or cannabis products; obtaining or purchasing cannabis from a cannabis cultivation facility; delivering or transferring cannabis to a cannabis testing facility; obtaining or purchasing cannabis or cannabis products from a cannabis product manufacturing facility; or sale, delivery, or distribution of cannabis or cannabis products to an adult who is 21 years of age or older or to retail cannabis stores or alternative treatment centers, if the person or business entity conducting the activities described in this paragraph has obtained a current, valid license to operate a retail cannabis store or is acting in his or her capacity as an owner, employee, or agent of a licensed retail cannabis store.

II. Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing cannabis; obtaining or purchasing cannabis seeds or seedlings or immature cannabis plants from any adult 21 years of age or older; delivering or transferring cannabis to a cannabis testing facility; selling or transferring cannabis that has not been processed into extracts, concentrates, or other preparations to a cannabis cultivation facility, a cannabis product manufacturing facility, or a retail

1 cannabis store or alternative treatment center; or obtaining or purchasing cannabis from a cannabis
2 cultivation facility, if the person or business entity conducting the activities described in this
3 paragraph has obtained a current, valid license to operate a cannabis cultivation facility or is acting
4 in his or her capacity as an owner, employee, or agent of a licensed cannabis cultivation facility.

5 III. Packaging, processing, transporting, manufacturing, displaying, or possessing cannabis
6 or cannabis products; delivering or transferring cannabis or cannabis products to a cannabis testing
7 facility; selling cannabis or cannabis products to a retail cannabis store, alternative treatment
8 center, or a cannabis product manufacturing facility; purchasing or obtaining cannabis from a
9 cannabis cultivation facility; or purchasing or obtaining cannabis or cannabis products from a
10 cannabis product manufacturing facility, if the person or business entity conducting the activities
11 described in this paragraph has obtained a current, valid license to operate a cannabis product
12 manufacturing facility or is acting in his or her capacity as an owner, employee, or agent of a
13 licensed cannabis product manufacturing facility.

14 IV. Possessing, obtaining, cultivating, processing, storing, transporting, receiving, or
15 displaying cannabis or cannabis products if the person or business entity has obtained a current,
16 valid license to operate a cannabis testing facility or is acting in his or her capacity as an owner,
17 employee, or agent of a licensed cannabis testing facility.

18 V. Engaging in any activities involving cannabis or cannabis products if the person or
19 business entity conducting the activities has obtained a current, valid license to operate a cannabis
20 establishment or is acting in his or her capacity as an owner, employee, or agent of a licensed
21 cannabis establishment, and the activities are within the scope of activities allowed by the
22 commission for that type of cannabis establishment.

23 VI. Possessing, obtaining, cultivating, processing, storing, transporting, or receiving
24 cannabis obtained from a cannabis establishment or transporting, delivering, or transferring
25 cannabis to a cannabis establishment if the person or business entity has obtained a current, valid
26 license to operate a cannabis transporter or is acting in his or her capacity as an owner, employee, or
27 agent of a registered cannabis transporter.

28 VII. Obtaining or purchasing cannabis from a cannabis cultivation facility; delivering or
29 transferring cannabis to a cannabis testing facility; or obtaining or purchasing cannabis or cannabis
30 products from a cannabis product manufacturing facility if the person or business entity conducting
31 the activities described in this paragraph possesses a valid license to operate an alternative
32 treatment center or is acting in his or her capacity as an owner, employee, or agent of a licensed
33 alternative treatment center.

34 VIII. Leasing or otherwise allowing the use of property owned, occupied, or controlled by any
35 person, corporation, or other entity for any of the activities conducted lawfully in accordance with
36 this chapter.

IX. Selling, offering for sale, transferring, transporting, or delivering cannabis to establishments licensed to process or sell cannabis under the laws of other states if the person or business entity has obtained a current, valid license to operate a cannabis transporter, cannabis product manufacturing facility, or cannabis cultivation facility or is acting in his or her capacity as an owner, employee, or agent of a cannabis transporter, cannabis product manufacturing facility, or cannabis cultivation facility.

318-F:16 Proof of Purchaser's Identity.

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

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

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

(b) That the sale was made in good faith relying upon such documentation and appearance in the reasonable belief that the person was 21 years of age or older. No identification scanning or collection of personally identifiable information shall be required under this section.

318-F:17 Driving; Minors; and Control of Property.

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

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

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

IV.(a) Except as provided in this section, this chapter does not require any person, corporation, or any other entity that occupies, owns, or controls a property to allow the consumption, cultivation, display, sale, or transfer of cannabis on or in that property.

(b) In the case of the rental of a residential dwelling, a landlord shall not prohibit the possession of cannabis or the consumption of cannabis by non-smoked means unless:

(1) The tenant is a roomer who is not leasing the entire residential dwelling;

(2) The residence is incidental to the provision of educational, counseling, religious, or similar service;

(3) The residence is a transitional housing facility; or

(4) Failing to prohibit cannabis possession or consumption would violate federal law or regulations or cause the landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(c) This chapter shall not prevent a landlord from prohibiting cannabis smoking or cannabis cultivation.

(d) An adult who is 21 or older may use cannabis on privately owned real property only with permission of the property owner or, in the case of leased or rented property, with the permission of the tenant in possession of the property, except that a tenant shall not allow a person to smoke cannabis on rented property if smoking on the property violates the lease or the lessor's rental policies that apply to all tenants at the property. However, a tenant may permit an adult who is 21 or older to use cannabis on leased property by ingestion or inhalation through vaporization even if smoking is prohibited by the lease or rental policies. For purposes of this chapter, vaporization shall mean the inhalation of cannabis without the combustion of the cannabis.

318-F:18 Enforcement of Contracts. Contracts related to the operation of a cannabis establishment licensed pursuant to this chapter shall be enforceable. No contract entered into by a licensed cannabis establishment or its employees or agents as permitted pursuant to a valid license, or by those who allow property to be used by an establishment, its employees, or its agents as permitted pursuant to a valid license, shall be unenforceable on the basis that cultivating, obtaining, manufacturing, distributing, dispensing, transporting, selling, possessing, or using cannabis is prohibited by federal law.

318-F:19 Non-Discrimination for State-Legal Cannabis Activities and Prior Convictions.

I. Except as provided in this section, a holder of a professional or occupational license may not be subject to professional discipline for:

(a) Providing advice or services related to cannabis establishments or applications to operate cannabis establishments on the basis that cannabis is illegal under federal law; or

(b) Engaging in activities allowed by this chapter.

II. An applicant for a professional or occupational license may not be denied a license based on:

(a) Previous employment related to cannabis establishments operating in accordance with state law;

(b) A prior conviction for a non-violent cannabis offense that does not involve distribution to minors, or

(c) Engaging in activities allowed by this chapter.

III. Except as provided in this section, neither the state nor any of its political subdivisions may impose any penalty or deny any benefit or entitlement for conduct permitted under this chapter or for the presence of cannabinoids or cannabinoid metabolites in the urine, blood, saliva, breath, hair, or other tissue or fluid of a person who is 21 years of age or older.

1 IV. Except as provided in this section, neither the state nor any of its political subdivisions
2 may deny a driver's license, a professional license, housing assistance, social services, or other
3 benefits based on cannabis use or for the presence of cannabinoids or cannabinoid metabolites in the
4 urine, blood, saliva, breath, hair, or other tissue or fluid of a person who is 21 years of age or older.

5 V. A person shall not be denied custody of or visitation with a minor for acting in accordance
6 with this chapter, unless the person's behavior is such that it creates an unreasonable danger to the
7 minor that can be clearly articulated and substantiated.

8 VI. Except as provided in this section, neither the state nor any of its political subdivisions
9 may discriminate against a person in hiring, termination, or any term or condition of employment, or
10 otherwise penalize a person in employment or contracting, if the discrimination is based upon either
11 of the following:

12 (a) Engaging in activities allowed by this chapter;

13 (b) A prior conviction for a non-violent cannabis offense that does not involve
14 distribution to minors; or

15 (c) Testing positive for the presence of cannabinoids or cannabinoid metabolites in the
16 urine, blood, saliva, breath, hair, or other tissue or fluid of the individual's body.

17 VII.(a) This section does not prevent an employer from disciplining an employee or
18 contractor for ingesting cannabis in the workplace or for working while impaired by cannabis.

19 (b) The protections provided by this section do not apply to the extent that they conflict
20 with a governmental employer's obligations under federal law or regulations or to the extent that
21 they would disqualify the entity from a monetary or licensing-related benefit under federal law or
22 regulations.

23 (c) This section does not authorize any person to engage in, and does not prevent the
24 imposition of any civil, criminal, disciplinary, or other penalties, including discipline or termination
25 by a governmental employer, any task while under the influence of cannabis, when doing so would
26 constitute negligence or professional malpractice.

27 VIII. For the purposes of medical care, including organ and tissue transplants, the use of
28 cannabis does not constitute the use of an illicit substance or otherwise disqualify a person from
29 needed medical care and may only be considered with respect to evidence-based clinical criteria.

30 IX. Notwithstanding any other provision of law, unless there is a specific finding that the
31 individual's use, cultivation, or possession of cannabis could create a danger to the individual or
32 another person, it shall not be a violation of conditions of parole, probation, or pre-trial release to:

33 (a) Engage in conduct allowed by this chapter; or

34 (b) Test positive for cannabis, tetrahydrocannabinol, or any other cannabinoid or
35 metabolite of cannabis.

36 X. This section does not authorize any person to engage in, and does not prevent the
37 imposition of any penalties for engaging in, the following conduct:

1 (a) Undertaking any task under the influence of cannabis, when doing so would
2 constitute negligence or professional malpractice.

3 (b) Operating, navigating, or being in actual physical control of any motor vehicle,
4 aircraft, train, or motorboat while under the influence of cannabis.

5 318-F:20 Data Collection Related to Cannabis Legalization and Regulation.

6 I. No later than 6 months after the effective date of this chapter and every 2 years
7 thereafter, the department of safety, information and analysis center, drug monitoring initiative,
8 shall produce and publish a report that includes baseline data and the most current data regarding
9 health and welfare outcomes since cannabis became legal and regulated for adults' use, including but
10 not limited to high school graduation rates; youth and adult rates of alcohol, cannabis, and illegal
11 drug use; rates of maladaptive use of cannabis; rates of alcohol abuse; opiate use and abuse rates;
12 the number and type of youth and adult convictions for cannabis offenses; and the rates of
13 individuals needing but not receiving substance abuse treatment. The report shall also include
14 information on treatment and prevention services provided, education campaigns undertaken, and
15 funding allocated under RSA 318-F:21.

16 II. No later than 6 months after the effective date of this chapter, and again 18 months after
17 the effective date of this chapter, the Judicial Branch shall produce and publish a report that
18 includes the number of cases dismissed pursuant to RSA 651:5-e.

19 318-F:21 Cannabis Fund Established.

20 I. There is established a nonlapsing fund to be known as the cannabis fund. The fund shall
21 be kept distinct and separate from all other funds in the state treasury, and the moneys credited to
22 the fund shall be held distinct and separate from all other funds over which the state treasurer has
23 control. Moneys in the fund shall be deposited with any financial institution as defined in RSA 383-
24 A:2-201(a)(27-a), with a branch in the state. Moneys credited to the fund shall include deposits into
25 the fund by the commission pursuant to this chapter and deposits into the fund by the commissioner
26 of the department of revenue administration.

27 II. For the biennium ending June 30, 2025, and every biennium thereafter, the commission
28 shall include the cost of administration of this chapter in the commission's efficiency expenditure
29 request pursuant to RSA 9:4.

30 III. For the biennium ending June 30, 2025, the sum of \$15,000,000 is hereby appropriated
31 to the cannabis commission for the cost of administration of this chapter. Said sum shall be a charge
32 against the fund.

33 IV. For the biennium ending June 30, 2025, the sum of \$500,000 is hereby appropriated to
34 the substance use prevention and recovery fund established in RSA 318-F:22 for the cost of
35 developing and implementing a public education campaign prior to initiation of retail sales. Said
36 sum shall be a charge against the fund.

1 V. After deducting appropriations charged to the fund for the cost of administration of this
2 chapter, the remaining funds shall be appropriated and distributed on a quarterly basis as follows:

3 (a) The sum of \$100,000 annually to the department of safety, information and analysis
4 center, drug monitoring initiative, for data collection and reporting related to the health impacts of
5 cannabis prohibition and cannabis regulation; and

6 (b) Of the remaining funds:

7 (1) Fifty percent of remaining funds shall be disbursed to the education trust fund
8 established in RSA 198:39. The comptroller shall notify the commissioner of the department of
9 revenue administration of the amount of the transfer. For the purpose of setting the education tax
10 rate under RSA 76:3, the amount of revenue required to be collected pursuant to RSA 76:3 shall be
11 reduced by the amount transferred to the education trust fund as required in this subparagraph, and
12 the commissioner shall set the rate at a level sufficient to generate the reduced amount. This rate
13 shall be effective for the following fiscal year.

14 (2) Thirty percent of remaining funds shall be disbursed to the department of
15 administrative services to be credited to the New Hampshire retirement system to offset the
16 retirement system's unfunded accrued liability. Upon certification by the commissioner of the
17 department of administrative services that the retirement system has no remaining unfunded
18 accrued liability, this disbursement of funds shall be credited to the education trust fund established
19 in RSA 198:39.

20 (3) Ten percent of remaining funds, or \$25,000,000, whichever is less, shall be
21 credited to the substance abuse prevention and recovery fund in RSA 318-F:22 for use by the
22 department of health and human services, bureau of drug and alcohol services, in evidence-based,
23 voluntary programs for substance use-related education, prevention, treatment, and recovery that
24 includes mental health treatment that is contributing to substance misuse, and for scientifically and
25 medically accurate public education campaigns educating youth and adults about the health and
26 safety risks of alcohol, tobacco, cannabis, and other substances, including education campaigns
27 separately targeting youth and adults that provide medically and scientifically accurate information
28 about the health and safety risks posed by cannabis use, including driving under the influence of
29 cannabis.

30 (4) Five percent of remaining funds shall be disbursed to public safety agencies,
31 including police, fire, and rescue agencies, for the hiring and training of additional drug recognition
32 experts, for advanced roadside impaired driving enforcement training, and to assist in responding to
33 drug overdose incidents.

34 (5) Five percent of remaining funds shall be disbursed to the department of health
35 and human services, division for behavioral health, bureau of children's behavioral health, to be used
36 for children's behavioral health services.

1 318-F:22 Substance Abuse Prevention and Recovery Fund Established. There is hereby
2 established in the state treasury the substance abuse prevention and recovery fund that shall be
3 kept distinct and separate from all other funds. All proceeds allocated to the fund pursuant to RSA
4 318-F:21 shall be deposited in the fund. The state treasurer shall invest the fund in accordance with
5 RSA 6:8. Any earnings on fund moneys shall be added to the fund. All moneys in the fund shall be
6 nonlapsing and shall be continually appropriated to the commissioner of the department of health
7 and human services for the purposes and in the manner set forth in RSA 126-A:98.

8 318-F:23 Excise Tax Imposed.

9 I. An excise tax on the monthly total gross revenue derived from sales or transfers to a retail
10 cannabis store of either cannabis or cannabis products in their final form by either a licensed
11 cannabis cultivation facility or a cannabis product manufacturing facility is imposed at the rate of
12 12.5 percent.

13 II. Each licensed cannabis cultivation facility or cannabis product manufacturing facility
14 shall pay 100 percent of the assessment in paragraph I for the assessment period no later than the
15 15th day of the month following the assessment period.

16 III. If a licensed cannabis cultivation facility or cannabis product manufacturing facility does
17 not pay the monthly tax as required under this section, a fine of 10 percent of the tax owed shall be
18 applied to the payment and collected by the commission from the licensee.

19 IV. The commission shall ascertain the selling or transfer price of the cannabis or cannabis
20 products when the seller and purchaser are affiliated persons or entities and when the sale or
21 transfer of the cannabis or cannabis product is not an arm's length transaction.

22 V. The commission shall adopt rules under RSA 541-A relative to the tax rate and
23 procedures needed to implement the provisions of this section.

24 VI. The commission shall study the efficacy of the rate and scope of the cannabis tax
25 imposed by this section, including whether adjustments may be needed in said rate and scope, and
26 shall, no later than October 1, 2024, and on or before October 1 of every year thereafter, certify its
27 findings and recommendations in a report to the general court and the governor. The commission
28 shall include in said report the dollar amounts of all fees and tax revenues assessed and collected
29 pursuant to the provisions of this chapter during the period covered by the report. The commission
30 shall provide copies of said report to the chairs and minority leaders of the house and senate
31 committees on ways and means, on finance, and on commerce.

32 8 Controlled Drug Act; Definitions. Amend the introductory paragraph in RSA 318-B:1, X-a(k)
33 to read as follows:

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

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

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

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

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

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

(c) In the case of more than 3/4 ounce of marijuana or more than 5 grams of hashish, including any adulterants or dilutants~~;~~ ***is possessed by a person who is under 21 years of age, or, in the case of an amount exceeding the possession limit defined in RSA 318-F:1 possessed by a person who is 21 years of age or older, except if possessed by a person authorized pursuant to RSA 126-X,*** the person shall be guilty of a misdemeanor. ~~[In the case of marijuana-infused products possessed by persons under the age of 21 or marijuana-infused products as defined in RSA 318-B:2-e, other than a personal use amount of a regulated marijuana-infused product as defined in RSA 318-B:2-c, I(b), that are possessed by a person 21 years of age or older, the person shall be guilty of a misdemeanor.]~~

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

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

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

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

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

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

[I.] In this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

265-A:43 Possession of Drugs. Any person who drives on any way a vehicle while knowingly having in his or her possession or in any part of the vehicle a controlled drug or controlled drug analog in violation of the provisions of RSA 318-B shall be guilty of a misdemeanor, and his or her

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

15 New Section; Sentences; Annulment of Certain Arrests and Convictions for Cannabis. Amend RSA 651 by inserting after section 5-b the following new section:

651:5-c Certain Crimes Not to be Pursued; Dismissal.

I. As used in this section:

(a) "Cannabis" means "cannabis" as defined in RSA 318-F:1, II.

(b) "Possession limit" means "possession limit" as defined in RSA 318-F:1, XVIII.

II.(a) Except to the extent required to dismiss, withdraw, or terminate the charge, no prosecutor shall pursue any charge based on crimes or offenses pending with a court that occurred prior to the effective date of RSA 318-F, involving a person 21 years of age or older knowingly or purposely obtaining, purchasing, transporting, manufacturing or possessing, actually or constructively, or having under his or her control, no more than the possession limit of cannabis where the offense occurred before the effective date of RSA 318-F.

(b) The existence of convictions in other counts within the same case that are not eligible for dismissal pursuant to this section or other applicable laws shall not prevent any conviction otherwise eligible for dismissal under this section from being dismissed pursuant to this section.

III. On the first day of the fifth month next following the effective date of RSA 318-F, any guilty verdict, plea, placement in a diversionary program, or other entry of guilt on a matter that was entered prior to that effective date, but the judgment of conviction or final disposition on the matter was not entered prior to that date, and the guilty verdict, plea, placement in a diversionary program, or other entry of guilt solely involved one or more crimes or offenses involving a person 21 years of age or older knowingly or purposely obtaining, purchasing, transporting, manufacturing or possessing, actually or constructively, or having under his or her control, no more than the possession limit of cannabis, shall be vacated by operation of law. The judicial branch, in consultation with the attorney general, may take any administrative action as may be necessary to vacate the guilty verdict, plea, placement in a diversionary program, or other entry of guilt.

16 Assessment; Education Tax. Amend RSA 76:3 to read as follows:

76:3 Education Tax. Beginning July 1, 2005, and every fiscal year thereafter, the commissioner of the department of revenue administration shall set the education tax rate at a level sufficient to generate revenue of \$363,000,000, ***less any amount credited to the education trust fund pursuant to RSA 318-F:25***, when imposed on all persons and property taxable pursuant to RSA 76:8, except property subject to tax under RSA 82 and RSA 83-F. The education property tax rate shall be effective for the following fiscal year. The rate shall be set to the nearest 1/2 cent necessary to generate the revenue required in this section.

17 Use of Cannabis for Therapeutic Purposes; Definition of Alternative Treatment Center.
Amend RSA 126-X:1, I to read as follows:

I. "Alternative treatment center" means a ***domestic business corporation organized under RSA 293-A, a domestic limited liability company organized under RSA 304-C, or a not-for-profit [entity] voluntary corporation organized under RSA 292 that is*** registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and educational materials, to qualifying patients, designated caregivers, other alternative treatment centers, and visiting qualifying patients.

18 Use of Cannabis for Therapeutic Purposes; Departmental Administration. Amend RSA 126-X:7, IV(a)(4) to read as follows:

(4) The name, address, and date of birth of each principal officer and board member of the alternative treatment center. The board of ***directors, or board of managers as applicable,*** for the [~~nonprofit~~] ***alternative treatment center*** shall include at least one physician, advance practice registered nurse, or pharmacist licensed to practice in New Hampshire and at least one patient qualified to register as a qualifying patient. The majority of board members, ***or managers as applicable,*** shall be New Hampshire residents. A medical professional listed in this subparagraph may be a member of the alternative treatment center board ***or directors, or managers as applicable,*** but shall not maintain an ownership interest in the center.

19 Use of Cannabis for Therapeutic Purposes; Alternative Treatment Center Requirements. Amend RSA 126-X:8, I to read as follows:

I. An alternative treatment center shall be operated on a ***for profit or*** not-for-profit basis for the benefit of its patients. An alternative treatment center need not be recognized as a tax-exempt organization by the Internal Revenue Service.

20 New Paragraphs; Use of Cannabis for Therapeutic Purposes; Alternative Treatment Center Requirements. Amend RSA 126-X:8 by inserting after paragraph XVIII the following new paragraphs:

XIX. Except as otherwise provided in this chapter, an alternative treatment center shall be subject to RSA 293-A if organized as a domestic business corporation, RSA 304-C if organized as a domestic limited liability company, and RSA 292 if organized as a voluntary corporation.

XX. An alternative treatment center organized as a voluntary corporation under RSA 292 may, on or before December 31, 2024, convert from a voluntary corporation under RSA 292 to either a domestic business corporation organized under RSA 293-A or a limited liability company organized under RSA 304-C in any of the following ways:

(a) By adopting a plan of entity conversion in accordance with RSA 293-A or RSA 304-C, as applicable, that includes a provision prohibiting the sale of memberships or shares to a foreign corporation for a period of 3 years, provided that each such conversion shall be authorized by a vote

1 of 2/3 of the members of the board of directors at a meeting duly called for the purpose or by
2 unanimous written consent.

3 (b) By adopting a plan of merger in accordance with RSA 293-A that includes a provision
4 prohibiting the sale of memberships or shares to a foreign corporation for a period of 3 years, for
5 which the domestic business corporation shall be the surviving entity, provided that, such merger
6 shall be authorized by a vote of 2/3 of the members of the board of directors of the alternative
7 treatment center at a meeting duly called for the purpose or by unanimous written consent.

8 (c) By adopting a plan of merger in accordance with RSA 304-C that includes a provision
9 prohibiting the sale of memberships or shares to a foreign corporation for a period of 3 years, for
10 which the domestic limited liability company shall be the surviving entity, provided that, such
11 merger shall be authorized by a vote of 2/3 of the members of the board of directors at a meeting duly
12 called for the purpose or by unanimous written consent.

13 XXI. Articles of entity conversion or articles of merger, as applicable, shall be signed and
14 submitted to the secretary of state pursuant to RSA 293-A or RSA 304-C, as applicable, and the
15 secretary of state shall approve all such filings submitted pursuant to this section.

16 XXII. The secretary of state shall certify such articles of entity conversion or articles of
17 merger and shall provide them to the department. Upon receipt, the department shall update the
18 existing licenses held by the converted or merged alternative treatment center.

19 XXIII. For the purposes of converting or merging an alternative treatment center pursuant
20 to this section, notwithstanding any provision in the articles of agreement or alternative treatment
21 center license applications to the contrary, the members of an alternative treatment center's board of
22 directors may determine that a plan of entity conversion or merger is consistent with its corporate
23 charter, and such voluntary corporation may surrender its articles of agreement in connection with
24 the plan of entity conversion or merger.

25 XXIV.(a) Any alternative treatment center choosing to convert or merge pursuant to this
26 section shall obtain an independent fair market valuation of its total assets as of June 30, 2024. The
27 valuation of the total assets of such alternative treatment center, if positive, shall be distributed to
28 one or more charitable organizations solely for charitable purposes. The director of charitable trusts
29 shall receive a copy of the valuation and may file any objection relating thereto with the court within
30 60 days. Except as set forth in this section and notwithstanding any other law to the contrary, no
31 portion of the assets of such alternative treatment center after the conversion or merger, as
32 applicable, shall be deemed to be charitable assets.

33 (b) Any alternative treatment center choosing to convert or merge pursuant to this
34 section shall submit a copy of the plan of conversion or merger to the director of charitable trusts.
35 The director may file an objection relating to the plan with the court within 60 days.

(c) Any alternative treatment center that has converted or merged pursuant to this section shall, on December 31, 2024 and thereafter for 2 years, annually file a letter with the director of charitable trusts certifying compliance with the requirements of RSA 126-X:8, XX.

21 Voluntary Corporations; Change of Name. Amend RSA 292:7 to read as follows:

292:7 Change of Name; Amending Articles.

I. Any corporation now or hereafter organized or registered in accordance with the provisions of this chapter, and any existing corporation which may have been so organized or registered, may change its name, increase or decrease its capital stock or membership certificates, merge with or acquire any other corporation formed pursuant to this chapter, or amend its articles of agreement, by a majority vote of such corporation's board of directors or trustees, at a meeting duly called for that purpose, and by recording a certified copy of such vote in the office of the secretary of state and in the office of the clerk of the town or city in this state which is its principal place of business. In the case of a foreign nonprofit corporation registered in New Hampshire, a copy of the amendment or plan of merger, certified by the proper officer of the state of incorporation, shall be filed with the secretary of state, together with the fee provided in RSA 292:5. The surviving corporation in a merger shall continue to have all the authority and powers vested in the merging corporations, including any powers previously conferred upon them by the legislature.

II. *An alternative treatment center registered pursuant to RSA 126-X and organized under this chapter may, pursuant to RSA 126-X:8, XX, convert to either a domestic corporation organized under RSA 293-A or a limited liability company organized under to RSA 304-C, and may merge with a domestic business corporation organized under RSA 293-A or a limited liability company organized under RSA 304-C.*

22 New Subparagraph; New Hampshire Business Corporations Act; Entity Conversion Authorized. Amend RSA 293-A:9.50 by inserting after subparagraph (f) the following new subparagraph:

(g) Alternative treatment centers registered pursuant to RSA 126-X and organized pursuant to RSA 292 may become a domestic corporation pursuant to a plan of conversion in accordance with RSA 126-X:8, XX and this subdivision. The alternative treatment center shall be deemed to be a domestic unincorporated entity for purposes of applying RSA 293-A:9.50 through RSA 293-A:9.56, except that approval of the conversion shall be as outlined in RSA 126-X:8, XX.

23 Limited Liability Companies; Statutory Conversions. Amend RSA 304-C:149, I to read as follows:

I. Any other business entity, ***including alternative treatment centers pursuant to RSA 126-X:8, XX***, may make a statutory conversion of its business organization form to the limited liability company business organization form under this act by complying with the requirements of this section and with applicable law governing the other business entity. ***Approval of a***

conversion of an alternative treatment center pursuant to this paragraph shall be as outlined in RSA 126-X:8, XX.

24 New Paragraph; Limited Liability Companies; Statutory Conversions. Amend RSA 304-C:149 by inserting after paragraph VIII the following new paragraph:

IX. In the case of the conversion of an alternative treatment center registered under RSA 126-X and organized pursuant to RSA 292, such conversion shall be approved by the board of directors in accordance with RSA 126-X:8, XX.

25 Liquor Investigation; Training. Amend RSA 176:9 to read as follows:

I. The commission may, subject to rules adopted by the director of personnel, employ and dismiss liquor investigators. Liquor investigators shall, under the direction of the commission, investigate any or all matters arising under this title *and under RSA 318-F*.

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

III. The commissioner, deputy commissioner, assistant, or liquor investigator may enter any place where liquor, beverages, tobacco products, e-cigarettes, *or cannabis* are sold, ~~or~~ manufactured, *or cultivated* at any time, and may examine any license or permit issued or purported to have been issued under the terms of this title. They shall make complaints for violations of this title.

26 Liquor Commission; Assistants and Employees. Amend RSA 176:7 to read as follows:

176:7 Assistants and Employees.

I. The state liquor commission may employ such assistants as are, in its opinion, necessary for the proper transaction of its business, and fix their compensation, subject to the rules of the director of personnel. It may secure any necessary technical or professional assistance.

II. The commission may select and retain market consultants through a competitive bidding process approved by the governor and the executive council. Any such contract with a third-party agent shall be for consulting services relating to marketing and regulation of cannabis for purposes of cultivation, manufacturing, testing, and retail sale.

27 Prosecutions. Amend RSA 179:59 to read as follows:

179:59 Prosecutions. The commission shall appoint liquor investigators whose primary function shall be the proper prosecution of this title *and RSA 318-F*. The liquor investigators shall have statewide jurisdiction, with reference to enforcement of all laws either in cooperation with, or independently of, the officers of any county or town. The commission shall have the primary responsibility for the enforcement of all liquor and beverage laws *and cannabis laws* upon premises where liquor, ~~and~~ beverages, *and cannabis* are lawfully sold, stored, distributed, or manufactured *or cultivated*. Any person violating the provisions of any law may be prosecuted by

the commission or any of its investigators as provided in this section, or by county or city attorneys, or by sheriffs or their deputies, or by police officials of towns.

28 New Paragraph; Commission to Sell. Amend RSA 176:11 by inserting after paragraph II the following new paragraph:

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

29 New Paragraph; Retail Tobacco License. Amend RSA 178:19-a by inserting after paragraph V the following new paragraph:

VI. A retail tobacco license is authorized to sell cannabis accessories and cannabis paraphernalia as defined in RSA 318-F.

30 Liquor Commission; Commission. Amend RSA 176:1 to read as follows:

176:1 Commission. There shall be a state liquor *and cannabis* commission under the executive direction of a liquor *and cannabis* commissioner, who shall also be known as the chairman of the liquor *and cannabis* commission, appointed by the governor with the consent of the council. The commissioner shall have significant business management experience and shall complete a criminal history records check prior to confirmation by the council. The liquor *and cannabis* commissioner shall hold office for a term of 4 years. If a vacancy shall occur, it shall be filled for the remainder of the term. The commissioner may be removed by the governor and council for cause.

31 New Paragraph; Rulemaking; Liquor and Cannabis Commission. Amend RSA 176:14 by inserting after paragraph IX the following new paragraph:

IX-a. Cannabis licenses, including:

(a) Procedures for the application for, issuance, transfer, denial, renewal, suspension, and revocation of a license for cannabis establishments.

(b) License operations for each cannabis license type.

(c) Collection of additional fees as required by statute.

32 Name Change; Liquor and Cannabis Commission. Amend the following RSAs by replacing "liquor commission" with "liquor and cannabis commission": 6:12, I(b)(285); 6:12-j, V(b)(2); 9:11, II(b)(5); 9-C:7, II; 12-J:1, III(a)(4); 12-O:18, II; 21:33-a, III(a); 21-G:6-b, IV(c); 21-I:18, I(b); 21-J:14, 5(d)(9); 21-P:64, I(a)(6); 78:7; 78:16, II; 78:23, 94:1-a; the introductory paragraph of 100-A:1, VII(a); 106-L:6, XVII; 110-B:28, VI; the introductory paragraph of 126-AA:3, VI; 126-K:2, II; 167:7-b, II(a); 175:1, XXIV; the chapter heading of RSA Chapter 176; 176:2; 176:2-a; the introductory paragraph of 176:3; 176:7; 176:16; 176:17; 176:18; 176-A:1, III-IV; 177:1; 177:1-a; the introductory paragraph 177:3; 177:13; 178:11, V; 178:12-a, XIV; 178:13, XIII; 178:22, V(h)(12); 178:27; 178:27-a; the introductory paragraph of 178:27-b, V; 179:21; 179:33, IV; 179:38; 179:56, III(b); 180:1, II; 279:1, XVI; 284:21-h, II(a); and 663:5.

HB 639-FN-A - AS AMENDED BY THE HOUSE
- Page 32 -

1 33 Appropriations.

2 I. The sum of \$100,000 for the fiscal year ending June 30, 2025 is hereby appropriated to the
3 department of safety, information and analysis center, drug monitoring initiative, for the purpose of
4 collecting baseline data to be used in the reports required pursuant to RSA 318-F:20. The governor
5 is authorized to draw a warrant for said sum out of any money in the treasury not otherwise
6 appropriated.

7 II. The sum of \$7,000,000 for the fiscal year ending June 30, 2024 is appropriated to the
8 liquor commission for the cost of administration of RSA 318-F. The governor is authorized to draw a
9 warrant for said sum from any money in the treasury not otherwise appropriated.

10 III. The sum of \$8,000,000 for the fiscal year ending June 30, 2025 is hereby appropriated to
11 the liquor commission for deposit into the cannabis fund established in RSA 318-F:21 for the
12 administration of RSA 318-F. The governor is authorized to draw a warrant for said sum out of any
13 money in the treasury not otherwise appropriated.

14 IV. The sum of \$500,000 for the biennium ending June 30, 2025 is hereby appropriated to
15 the substance use prevention and recovery fund established in RSA 318-F:22 for the cost of
16 developing and implementing a public education campaign prior to initiation of retail sales.

17 34 Repeal. RSA 318-B:1, X-a(g), relative to separation gins and sifters used or intended for use
18 with cannabis, is repealed.

19 35 Effective Date.

20 I. RSA 318-F:15, IX, as inserted by section 7 of this act, shall take effect upon certification
21 by the attorney general of New Hampshire to the director of the office of legislative services and the
22 secretary of state that the conduct allowed by that paragraph has become legal under the United
23 States Code.

24 II. The remainder of this act shall take effect upon its passage.

HB 639-FN-A- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2023-1231h)

AN ACT relative to the legalization and regulation of cannabis and making appropriations therefor.

FISCAL IMPACT: ☒ State ☒ County ☒ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$7,500,000	\$8,100,000	\$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 checked="" type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Drug Forfeiture Fund, Cannabis Fund, Substance Abuse Prevention and Recovery Fund, Alcohol Abuse Prevention and Treatment Fund, Judicial Branch IT Fund, New Hampshire Retirement System Unfunded Accrued Liability and Various Government Funds			

COUNTY:

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

LOCAL:

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

In addition to the general fund appropriations in the table above, the bill makes the following appropriations from the Cannabis Fund:

- \$15 million to the cannabis commission for the biennium ending June 30, 2025 for administration of the Chapter.
- \$500,000 to the Substance Use Prevention and Recovery Fund established in proposed RSA 318-F:22 for the biennium ending June 30, 2025 for the cost of developing and implementing a public education campaign prior to initiation of retail sales.
- \$100,000 annually to the Department of Safety for data collection and reporting related to the health impacts of cannabis prohibition and cannabis regulation.

The remaining amounts in the Cannabis Fund will be distributed:

- 50% to the education trust fund to reduce the education tax in RSA 76:3;
- 30% to offset the retirement system's unfunded accrued liability;

- the lesser of 10% or \$25 million shall be credited to the substance abuse prevention and recovery fund in RSA 318-F:22;
- 5% shall be disbursed to public safety agencies, including police, fire, and rescue agencies, and;
- 5% to the department of health and human services, division for behavioral health, bureau of children's behavioral health, to be used for children's behavioral health services.

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, as amended by the House, as it is awaiting information from the Liquor Commission. The Liquor Commission was originally contacted on April 12, 2023 and again with followup on May 2, 2023 for a fiscal note worksheet, which they have not provided as of May 8, 2023. When completed, the fiscal note will be forwarded to the Clerk's Office.

METHODOLOGY:

This bill establishes procedures for the legalization, regulation, and taxation of cannabis; the licensing and regulation of cannabis establishments; and makes appropriations therefor.

The Department of Corrections states the bill would have an indeterminable impact on the number of parole violations associated with the use of cannabis and may cause a decrease in violation rates. This bill may also reduce state expenditures as an indeterminable number of individuals that would have their sentences annulled for prior convictions.

The Department of Health and Human Services indicates this bill would have an indeterminable impact on state revenues and expenditures due to the potential variability of sales revenue and unknowns around the potential increase in consumption, treatment utilization, prevention needs, and associated costs. The Department's Bureau of Drug and Alcohol Services states there is considerable uncertainty about the impact that legalizing cannabis in New Hampshire would have on public budgets. The Department reports the science is currently unsettled on the causal effects of cannabis on psychoses, schizophrenia, and drugged driving. The Department is unable to determine if these areas would be impacted and create additional costs. Evidence supporting the treatment needs for cannabis use disorder, however, is documented, and it is assumed that treatment costs would increase with cannabis legalization, although such costs are also indeterminable. The Department assumes it will need an additional Program Specialist IV position starting in FY 2026 at cost of approximately \$93,000 for salary and benefits. This position would be responsible for:

- Coordination and management of the new Substance Abuse Prevention and Recovery Fund.
- Planning the development and modification of programs, policies, and procedures.

- Managing and evaluating the work product of state and local programs providing services.

The bill does not establish this position or an appropriation for the position.

The Department of Safety states calculating the fiscal impact of this bill is impossible because it is impossible to predict possible criminal activities related to cannabis legalization in New Hampshire. The Department is provided a \$100,000 general appropriation in FY 2025 for the purpose of collecting baseline data to be used in the reports required pursuant to RSA 318-F:20. The Department would also receive an annual appropriation from the Cannabis Fund for data collection and reporting related to the health impacts of cannabis prohibition and cannabis regulation.

The New Hampshire Municipal Association indicates this bill would increase local expenditures and local revenue by indeterminable amounts. Based on review of limited research available relative to changes in policing related to cannabis legalization in any forms by other states, the Association identified the potential fiscal impacts listed below.

- Greater access to cannabis may increase youth access and driving while under the influence incidents, leading to a shift in law enforcement focus and a need for additional training in detection, such as Drug Recognition Expert (DRE) training. These shifts may increase law enforcement costs, particularly in the field of specialized training for detection of impairment by cannabis.
- There may be reduced law enforcement costs associated with drug detection and prosecution for simple possession cases, freeing up funds for other uses.
- Border states where cannabis is illegal, and which border states where some amount of cannabis is legal, have experienced additional incidents related to driving while under the influence, particularly in counties near the border. As New Hampshire is bordered on all sides by legalized states it is likely that some additional enforcement costs are already being borne by municipal police departments.
- Most research funded by National Institute of Justice grants shows that legalization has minimal, if any, effects on violent crime.
- Generally, research in states that have legalized cannabis has shown more patients presenting in the emergency department with physical or psychological symptoms resultant from using marijuana or commercial cannabis products. While no research appears to exist relative to the number of patients arriving via ambulance, it stands to reason that some portion of patients do utilize ambulance services to arrive at emergency departments. Additionally, there may be some number of users who call for emergency medical assistance that are not transported for treatment to the emergency department.

Based on the information available, municipalities should expect some increase in costs associated with EMS, if limited legalization increases the incidence of individuals utilizing cannabis.

Regarding revenue, the Municipal Association is not able to provide an estimate of the revenue generated by the bill, but reports Vermont, which recently legalized both cannabis and cannabis products (such as, edibles) estimated between \$40-\$65 million in business profits, whereas Maine saw approximately \$58 million in profit on \$266 million in sales in 2020. It is possible that different approaches to marketing and businesses decisions relative to profit margins may result in state revenues that are significantly higher or lower than those provided above. Currently, 100% of the New Hampshire Retirement System's unfunded accrued liability sits on public employers, with municipalities seeing approximately 70% of their yearly employer contributions going toward the unfunded accrued liability. This bill contains language that provides funds from the cannabis fund to offset the Retirement System's unfunded accrued liability. The bill provides funds to public safety agencies, including police, fire, and rescue agencies. The Association indicates it is unclear how much additional revenue municipalities can expect.

This bill impacts penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many fewer charges would be brought because 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 Branch	FY 2023	FY 2024 through 12/31/23	FY 2024 (Starting 1/1/24 with repeal of Felonies First)
Violation and Misdemeanor Level Offense	\$119	\$122	\$122
Routine Criminal Case	\$644	\$657	\$779
Appeals	Varies	Varies	Varies
Judicial Council	FY 2023		FY 2024
Public Defender Program	Has contract with State to provide services.		Has contract with State to provide services.
Contract Attorney - Felony	\$825/Case \$105 administrative fee \$200 incarceration fee (If applicable)		\$825/Case \$105 administrative fee \$200 incarceration fee (If applicable)
Contract Attorney – Misdemeanor	\$300/Case \$70 administrative fee		\$300/Case \$70 administrative fee

	\$100 incarceration fee (If applicable)	\$100 incarceration fee (If applicable)
Assigned Counsel - Felony. Travel time to court does not count toward the cap.	\$90/Hour up to \$5,500	\$90/Hour up to \$5,500
Assigned Counsel- Misdemeanor. Travel time to court does not count toward the cap.	\$90/Hour up to \$2,000	\$90/Hour up to \$2,000
Assigned Counsel - Supreme Court Appeal	\$125/Hour up to \$10,000	\$125/Hour up to \$10,000
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 of 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 2023	FY 2024
FY 2022 Average Cost of Incarcerating an Individual	\$64,223	\$64,223
FY 2022 Annual Marginal Cost of a General Population Inmate	\$6,123	\$6,123
FY 2022 Average Cost of Supervising an Individual on Parole/Probation	\$688	\$688
The Department notes any increase in the incarcerated population will have a direct impact on overtime costs given the Department's history of challenges associated with recruitment. In addition, the NH State Prison for Men has a degrading infrastructure which will only be exacerbated if an increase in the incarcerated population were to occur.		
NH Association of Counties	FY 2023	FY 2024
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

The Judicial Branch indicates the fiscal impact on the Branch is indeterminable. It is assumed decriminalization of cannabis and hashish would result in a decrease in cannabis-related criminal filings in court. Because prosecutors file criminal charges that may involve cannabis under a wide variety of criminal statutes, most of which involve a wide range of drugs in addition to cannabis, the Branch is not able to determine on average how many cannabis-only related cases are currently filed in the courts. The bill would also provide for new criminal penalties and civil causes of action for violations under the new statute created by the bill, but the Judicial Branch is unable to determine how many additional cases would result from the bill.

In addition, concerning annulment of certain arrests and convictions for cannabis, the Judicial Branch does not have sufficient information as to the number of cases will be in this status as of

the effective date to estimate a fiscal impact of this provision. The bill would result in fewer criminal cases going forward for what is decriminalized under this bill and new criminal cases that would be filed under the penalty provisions in the bill.

Current law (RSA 106-L:10), provides that every court shall levy a penalty assessment of \$2 or 24 percent, whichever is greater, on each fine or penalty imposed by the court for certain criminal offenses. Penalty assessments collected are divided 66.67 percent to the general fund, 16.67 percent to the Victims' Assistance Fund, and 16.67 percent to the Judicial Branch Information Technology Fund. The Judicial Branch is unable to determine the change in penalty assessments collected if the bill passes.

The bill requires the Judicial Branch shall produce and publish a report that includes the number of cases dismissed pursuant to RSA 651:5-e. Said report shall be issued no later than 6 months after the effective date of the bill and again 12 months later. There will be additional costs to the Branch to produce the reports. The cost is indeterminable and will depend on the number of cases dismissed.

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 fewer cases or handle fewer appeals, then costs will decrease by an indeterminable amount.

It is assumed that any fiscal impact would occur after FY 2023.

This bill does not establish or authorize new positions.

AGENCIES CONTACTED:

Departments of Corrections, Health and Human Services, Justice, New Hampshire Liquor Commission, Judicial Branch, Judicial Council, New Hampshire Municipal Association and New Hampshire Association of Counties