

HB 643-FN-A - AS INTRODUCED

2023 SESSION

23-0516

04/08

HOUSE BILL **643-FN-A**
AN ACT relative to legalizing marijuana.
SPONSORS: Rep. Damon, Sull. 8
COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill legalizes marijuana for persons 21 years of age and older.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to legalizing marijuana.

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

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

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

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

7 (a) Individuals will be required to show proof of age before purchasing cannabis, and
8 that the state shall protect the privacy of an individual's personally identifiable information in
9 cannabis transactions.

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

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

14 (d) All retail cannabis stores shall be operated by the state of New Hampshire.

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

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

19 2 New Subparagraph; Application of Receipts; Cannabis Control Fund. Amend RSA 6:12, I(b)
20 by inserting after subparagraph (382) the following new subparagraph:

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

22 3 Alcoholic Beverages; Statement From Purchaser as to Age. Amend RSA 179:8, I(d) to read as
23 follows:

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

26 4 Model Drug Dealer Liability Act; Definition of Illegal Drug. Amend RSA 318-C:4, I to read as
27 follows:

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

1 VIII. "Cannabis testing facility" or "testing facility" means an entity registered to test
2 cannabis for potency and contaminants.

3 IX. "Cannabis transporter" means an entity registered to transport cannabis between
4 cannabis establishments.

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

7 XI. "Commission" means the liquor commission, division of cannabis enforcement and
8 licensing.

9 XII. "Department" means the department of health and human services.

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

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

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

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

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

20 XVI. "Possession limit" means:

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

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

23 (c) Cannabis products containing THC purchased from a retail cannabis store which
24 shall be limited to therapeutic use only, for which the purchaser presents documentation permitting
25 use of cannabis for therapeutic purposes pursuant to RSA 126-X, and which shall not contain more
26 than 2 grams of THC.

27 (d) For a person 21 years of age or older, cannabis-infused food or drink products,
28 including but not limited to, cannabis-infused edibles such as candies, gummies, brownies, or
29 cookies, or cannabis-infused alcoholic or non-alcoholic drinks or beverages of any kind, which contain
30 a total of no more than 300 milligrams of tetrahydrocannabinol.

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

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

33 XVIII. "Retail cannabis store" or "retail store" means a state-operated facility that purchases
34 cannabis from a cannabis cultivation facility, or purchases cannabis and cannabis products from a
35 cannabis product manufacturing facility, and sells, transfers, and delivers cannabis and cannabis
36 products to consumers.

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

1 (a) Is domiciled in New Hampshire; and

2 (b) Has maintained a place of abode in New Hampshire for at least the past 2 years,
3 unless the individual was homeless and residing in New Hampshire for at least 51 percent of the last
4 2 years.

5 318-F:2 Personal Use of Cannabis.

6 I. Except as otherwise provided in this chapter, the following acts, if undertaken by a person
7 21 years of age or older, shall not be illegal under New Hampshire law or the law of any political
8 subdivision of the state or be a basis for seizure or forfeiture of assets under New Hampshire law:

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

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

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

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

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

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

31 318-F:3 Personal Cultivation Prohibited. No person shall cultivate cannabis plants unless
32 authorized by law to do so.

33 318-F:4 Smoking or Vaporizing of Cannabis in Public Prohibited; Penalty. No person shall
34 smoke or vaporize cannabis in an area accessible to the public. Any person who violates this section
35 shall be guilty of a violation, may be fined not more than \$500, and shall forfeit all cannabis and
36 cannabis products.

37 318-F:5 Smoking or Vaporizing of Cannabis in a Moving Vehicle Prohibited; Penalty.

1 I. No person shall consume, smoke, or vaporize cannabis or knowingly permit a passenger in
2 their motor vehicle to consume, smoke, or vaporize cannabis while operating or attempting to
3 operate a motor vehicle on a way, or while operating or attempting to operate an off highway
4 recreational vehicle, snowmobile, boat, vessel, aircraft, or other motorized device used for
5 transportation on a way.

6 II. Any person who violates this section who is the operator of a motor vehicle on a way, or
7 while operating or attempting to operate an off-highway recreational vehicle, snowmobile, boat,
8 vessel, aircraft, or other motorized device used for transportation, shall be guilty of a violation, may
9 be fined not more than \$500, and shall have his or her driver's license suspended for up to 3 months
10 for the first offense, and shall be guilty of a misdemeanor, and may be fined not more than \$1,000
11 and have his or her driver's license suspended for up to 6 months, or both, for a second or subsequent
12 offense.

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

16 IV. When determining whether a person violated an offense under the section, the issue of
17 whether the operator of the motor vehicle is impaired shall not be an element of the offense. A
18 person who consumes, smokes, or vaporizes or permits another to consume, smoke, or vaporize
19 cannabis in a motor vehicle, recreational vehicle, snowmobile, boat, vessel, aircraft, or other
20 motorized device used for transportation he or she is operating shall be liable under this section
21 without regard to fault.

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

23 318-F:6 Cannabis Accessories Authorized.

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

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

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

36 318-F:7 Regulation of Cannabis. Not later than 8 months after the effective date of this chapter,
37 the commission shall adopt rules, pursuant to RSA 541-A relative to:

- 1 I. The registration, licensure, and regulation of all other cannabis establishments.
- 2 II. The manufacture and sale of cannabis accessories.
- 3 III. The requirements for the transportation of cannabis between cannabis establishments,
4 including documentation that shall accompany any cannabis being transported by cannabis
5 cultivation facilities.
- 6 IV. Procedures for the delivery of cannabis to consumers, including documentation that shall
7 accompany any cannabis being transported to consumers.
- 8 V. Procedures for hearings on civil fines and suspensions and revocations of licenses.
- 9 VI. Reasonable security requirements for each type of cannabis establishment, which may
10 be varied based on the size of the cannabis establishment.
- 11 VII. Health and safety rules, including regarding the packaging and preparing of cannabis
12 products, presence of contaminants, and restricting the use of pesticides that may be dangerous to
13 cannabis consumers.
- 14 VIII. Restrictions on the advertising, signage, marketing, and display of cannabis, including
15 prohibiting the design of advertising, signage, and marketing that would target or appeal to minors.
- 16 IX. Labeling requirements for cannabis products, including:
 - 17 (a) Mandating the disclosure of the THC content of each product.
 - 18 (b) Requirements for packaging to ensure it is not designed to appeal to minors.
 - 19 (c) Establishing the amount of THC that may be included in each serving of a cannabis
20 product.
- 21 X. Requirements for the testing of all cannabis products for potency and contaminants.
- 22 XI. Requirements for informational materials which shall be available at any retail cannabis
23 store which shall include:
 - 24 (a) Information about the risks of cannabis use during pregnancy and while
25 breastfeeding. Such information shall include the posting of an informational poster regarding the
26 risks of cannabis use during pregnancy and while breastfeeding in a conspicuous location. This may
27 be identical to that required under RSA 126-X:8, XVI(c)(7).
 - 28 (b) Information regarding safe storage and disposal of cannabis and paraphernalia to
29 prevent accidental poisonings, including the contact information for the Northern New England
30 Poison Control Center. This may be identical to that required under RSA 126-X:8, XVI(c)(8).
 - 31 (c) Information about the risks of cannabis use in adolescence. Such information shall
32 include the posting of an informational poster on the risks of cannabis use in adolescence in a
33 conspicuous location. This may be identical to that required under RSA 126-X:8, XVI(c)(9).
- 34 318-F:8 Registration Procedures for Cannabis Establishments.
 - 35 I. Each application for a registration to operate a cannabis establishment shall be submitted
36 to the commission.

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

3 III. The liquor commission shall:

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

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

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

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

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

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

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

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

25 VI. Notwithstanding RSA 126-X, an alternative treatment center registered to operate
26 pursuant to RSA 126-X may file an application to obtain a separate registration to operate as a for
27 profit cannabis cultivation facility, cannabis product manufacturing facility, or cannabis transporter,
28 pursuant to this chapter. Such applicant shall comply with the same application procedures set
29 forth in this section and shall be subject to the provisions of this chapter. If approved, the applicant
30 may operate as an alternative treatment center pursuant to RSA 126-X, and as a cannabis
31 cultivation facility, cannabis product manufacturing facility, or cannabis transporter, pursuant to
32 this chapter, as a separate entity.

33 318-F:9 Enactment of Municipal Ordinances.

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

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

5 318-F:10 Residency Required.

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

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

11 318-F:11 Background Checks Required.

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

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

18 318-F:12 Restrictions on Location. No cannabis establishment shall operate, nor shall a
19 prospective cannabis establishment apply for a registration, if the establishment would be located
20 within 1,000 feet of the property line of a pre-existing public or private elementary or secondary
21 school.

22 318-F:13 Proof of Purchaser's Identity.

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

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

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

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

33 318-F:14 Professional License Holder Immunity.

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

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

3 318-F:15 Cannabis Control Fund Established; Disbursement of Funds.

4 I.(a) There is established in the state treasury a nonlapsing fund to be known as the
5 cannabis control fund. The fund shall be kept distinct and separate from all other funds in the state
6 treasury, and the moneys credited to the fund shall be held distinct and separate from all other
7 funds over which the state treasurer has control. Moneys in the fund shall be deposited with any
8 financial institution as defined in RSA 383-A:2-201(a)(27-a), with a branch in the state.

9 (b) Notwithstanding any provision of law to the contrary, a financial institution with a
10 branch within this state may provide financial services, including receiving deposits, extending
11 credit, conducting fund transfers, or other financial services, to the state and the commission with
12 respect to moneys credited to the cannabis control fund, any other cannabis related funds over which
13 the state or a municipality has control regardless of the manner or fund in which such funds are
14 held, and with respect to the funds of any private entity authorized to conduct a cannabis-related
15 business activity pursuant to this chapter.

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

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

21 IV. Not later than June 30, 2027, the commission shall reimburse the general fund from the
22 cannabis control fund for any initial or start-up funds appropriated to the commission for the
23 administration and operation of this chapter, Any remaining fund moneys shall be disbursed each
24 fiscal year as follows:

25 (a) Fifty percent of remaining funds shall be transferred to the education trust fund
26 established in RSA 198:39. The comptroller shall notify the commissioner of the department of
27 revenue administration of the amount of the transfer. The funds shall be disbursed to municipalities
28 for the purpose of public education. Funds shall be disbursed to municipalities with the lowest total
29 valuation per pupil, calculated by determining the municipality's total valuation per pupil and
30 dividing by the average daily membership in residence, as defined in RSA 189:1-d, within each
31 municipality. Funds shall be disbursed in ascending order until exhausted.

32 (b) Fifty percent of remaining funds shall be distributed to the department of health
33 and human services to develop programs for increased access to mental health services.

34 6 The Liquor Commission; Liquor Investigator Training. Amend RSA 176:9 to read as follows:

35 176:9 Liquor Investigator; Training.

36 I. The commission may, subject to rules adopted by the director of personnel, employ and
37 dismiss liquor investigators. Liquor investigators shall, under the direction of the commission,

1 investigate any or all matters arising under this title. *The commission may select and retain*
2 *market consultants through a competitive bidding process approved by the governor and*
3 *the executive council. Any such contract with a third-party agent shall be for consulting*
4 *services relating to marketing and regulation of cannabis for purposes of cultivation,*
5 *manufacturing, testing, and retail sale.*

6 II. Any new liquor investigator employed by the commission under this section after August
7 13, 1985, shall, within 6 months of employment, satisfactorily complete a preparatory police training
8 program as provided by RSA 106-L:6, unless he or she has already completed such a program.

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

14 7 New Paragraph; The Liquor Commission; Commission to Sell. Amend RSA 176:11 by
15 inserting after paragraph II the following new paragraph:

16 III.(a) It shall be the duty of the commission to buy and have in its possession cannabis and
17 cannabis products as defined in RSA 318-F:1 for sale in the manner provided in RSA 318-F, and to
18 sell cannabis for therapeutic purposes as authorized under RSA 126-X. Such cannabis shall be free
19 from adulteration and misbranding within the meaning of the provisions of RSA 146. All cannabis
20 sold for therapeutic use shall conform to the standards and tests for such cannabis under New
21 Hampshire law at the time of sale. All purchases of cannabis shall be made by the commission
22 directly and not through the department of administrative services. The commission shall be subject
23 to all the provisions of RSA 9.

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

28 8 New Paragraph; The Liquor Commission; Rulemaking. Amend RSA 176:14 by inserting after
29 paragraph IX the following new paragraph:

30 IX-a. Cannabis licenses, including:

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

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

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

35 (d) Safekeeping of licenses.

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

1 (f) Procedures to approve exceptions of license requirements, restrictions, and
2 limitations.

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

4 IX-b. Cannabis licensee operations, including:

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

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

7 (c) Bailment requirements, including fees.

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

9 (e) Relations between types of licensees.

10 (f) Collection of additional fees required under RSA 178:6, VI, RSA 178:8, IV, and RSA
11 178:26.

12 9 Controlled Drug Act; Definitions. Amend the introductory paragraph in RSA 318-B:1, X-a(k)
13 to read as follows:

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

17 10 Controlled Drug Act; Penalties. Amend the introductory paragraph in RSA 318-B:26, I to
18 read as follows:

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

27 11 Controlled Drug Act; Penalties. Amend the introductory paragraph in RSA 318-B:26, II to
28 read as follows:

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

34 12 Controlled Drug Act; Penalties. Amend RSA 318-B:26, II(c)-(e) to read as follows:

35 (c) In the case of more than 3/4 ounce of marijuana or more than 5 grams of hashish,
36 including any adulterants or dilutants[~~;~~] **is possessed by a person who is under 21 years of age,**
37 **or, in the case of an amount exceeding the possession limit defined in RSA 318-F:1**

1 *possessed by a person who is 21 years of age or older, except if possessed by a person*
2 *authorized pursuant to RSA 126-X*, the person shall be guilty of a misdemeanor. [~~In the case of~~
3 ~~marijuana-infused products possessed by persons under the age of 21 or marijuana-infused products~~
4 ~~as defined in RSA 318-B:2-c, other than a personal-use amount of a regulated marijuana-infused~~
5 ~~product as defined in RSA 318-B:2-c, I(b), that are possessed by a person 21 years of age or older, the~~
6 ~~person shall be guilty of a misdemeanor.~~]

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

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

15 13 Controlled Drug Act; Penalties. Amend RSA 318-B:26, III(a) to read as follows:

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

18 14 Personal Possession of Marijuana. Amend RSA 318-B:2-c to read as follows:

19 318-B:2-c [~~Personal~~] Possession of Marijuana *by a Person Under 21 Years of Age*.

20 [~~F.~~] In this section:

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

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

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

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

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

8 ~~V.]~~(a) Except as provided in this paragraph, any person 18 years of age or older who is
9 convicted of violating paragraph II or III~~[, or any person 21 years of age or older who is convicted of~~
10 ~~violating paragraph IV]~~ shall be subject to a fine of \$100 for a first or second offense under this
11 paragraph, or a fine of up to \$300 for any subsequent offense within any 3-year period; however, any
12 person convicted based upon a complaint which alleged that the person had 3 or more prior
13 convictions for violations of paragraph II~~[, or III[or IV]~~, or under reasonably equivalent offenses in
14 an out-of-state jurisdiction since the effective date of this paragraph, within a 3-year period
15 preceding the fourth offense shall be guilty of a class B misdemeanor. The offender shall forfeit the
16 marijuana~~[, regulated marijuana-infused products,]~~ or hashish to the state. A court shall waive the
17 fine for a single conviction within a 3-year period upon proof that person has completed a substance
18 abuse assessment by a licensed drug and alcohol counselor within 60 days of the conviction. A
19 person who intends to seek an assessment in lieu of the fine shall notify the court, which shall
20 schedule the matter for review after 180 days. Should proof of completion of an assessment be filed
21 by or before that time, the court shall vacate the fine without a hearing unless requested by a party.

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

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

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

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

32 (d) Any person *under 21 years of age who is* in possession of an identification card,
33 license, or other form of identification issued by the state or any state, country, city, or town, or any
34 college or university, who fails to produce the same upon request of a police officer or who refuses to
35 truthfully provide his or her name, address, and date of birth to a police officer who has informed the
36 person that he or she has been found to be in possession of what appears to the officer to be 3/4 of an

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1 ounce or less of marijuana~~[, a personal-use amount of a regulated marijuana-infused product,]~~ or 5
2 grams or less of hashish, may be arrested for a violation of paragraph II~~[,]~~ **or** III~~[, or IV]~~.

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

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

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

14 15 Alcohol or Drug Impairment; Possession of Drugs. Amend RSA 265-A:43 to read as follows:

15 265-A:43 Possession of Drugs. Any person who drives on any way a vehicle while knowingly
16 having in his or her possession or in any part of the vehicle a controlled drug or controlled drug
17 analog in violation of the provisions of RSA 318-B shall be guilty of a misdemeanor, and his or her
18 license shall be revoked or his or her right to drive denied for a period of 60 days and at the
19 discretion of the court for a period not to exceed 2 years. This section shall not apply to the
20 possession of marijuana or hashish as provided in RSA 318-B:2-c~~[, or a personal-use amount of a~~
21 ~~regulated marijuana-infused product as defined in RSA 318-B:2-e, I(b)].~~

22 16 Appropriation; Liquor Commission. The sum of \$4,600,000 for the fiscal year ending June
23 30, 2023 is hereby appropriated to the liquor commission for the cost of administration of RSA 318-F.
24 The governor is authorized to draw a warrant for said sum from any money in the treasury not
25 otherwise appropriated.

26 17 Appropriation; Department of Health and Human Services. The sum of \$150,000 for the
27 fiscal year ending June 30, 2023 is hereby appropriated to the department of health and human
28 services to create public media and social media campaigns which would be launched prior to the
29 availability of cannabis for purchase from a cannabis retail store to address growing false
30 perceptions of harmlessness and the impact of cannabis use for youth, safe storage of cannabis and
31 use around children, increased motor vehicle accident risks, increased risk of psychosis, and
32 potential risks of use during pregnancy.

33 18 Repeal. RSA 318-B:1, X-a(g), relative to separation gins and sifters used or intended for use
34 with cannabis, is repealed .

35 19 Effective Date. This act shall take effect upon its passage.

HB 643-FN-A- FISCAL NOTE
AS INTRODUCED

AN ACT relative to legalizing marijuana.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$4,750,000	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General <input checked="" type="checkbox"/> Education <input checked="" type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Cannabis Control Fund, Alcohol Abuse Prevention and Treatment Fund, Education Trust Fund, Various Government Funds			

COUNTY:

Revenue	\$0	\$0	\$0	\$0
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

METHODOLOGY:

This bill legalizes marijuana for persons 21 years of age and older.

The Liquor Commission provided the following information and assumptions concerning the fiscal impact of this bill:

Time line

Regarding the time line, the bill requires the Liquor Commission to adopt rules and regulations not later than 8 months after the effective date and accept and process applications beginning no later than May 1, 2023 for cannabis cultivation facilities, and no later than August 1, 2023 for cannabis product manufacturing facilities, cannabis transporters, and cannabis testing facilities. The Commission believes this time line is too short considering the scope of the bill and the anticipated challenges in bringing a new program of this type to the public. Regarding the time line, the Commission expects the first year will be needed to:

- Promulgate the necessary administrative rules and seek approval from the Joint Legislative Committee on Administrative Rules.
- Develop requests for proposals (RFPs) evaluating the need for point-of-sale system (POS) upgrades and integration with the Commission's existing POS system.
- Hire a consultant with cannabis expertise and assign staff to projects needed to achieve the initial implementation of the program.
- Prepare for licensure and retail operations, including RFP development.
- The Commission will need legislative authority to pay senior staffers working on both liquor and cannabis matters increased wages until such time as the program is well established and all necessary new staff have been hired for program administration. A 10% stipend would be established for existing staff engaged in the development and all administrative aspects of the program.
- The Commission believes the first retail store could be operational in FY 2025 if the necessary funding is available to open a 12,000 sq. ft. store. The Commission has developed a marquee reputation among consumers and, to not alienate or confuse consumers, the Liquor Commission is proposing to open separate retail locations for the sale of cannabis. This approach would involve purchasing or leasing locations; equipping locations with the necessary furniture and equipment and the enforcement of the requirements laid out in the bill.
- Based upon the timing, tasks and requirements of the bill, the Commission suggests the State is not likely to realize revenue until the FY 2026-27 biennium. The Commission is concerned that not enough product will be available for retail sale.

The bill appropriates the sum of \$4,600,000 from the general fund for the fiscal year ending June 30, 2023, to the Liquor Commission for the administration of RSA 318-F. There are no appropriations beyond FY 2023 and lacking language that would make the appropriation non-lapsing it would lapse on June 30, 2023. The Commission provided the follow information on the fiscal impact of the bill:

Revenue:

Whereas the sale of cannabis is not currently lawful in the State of New Hampshire the Commission has no historical data upon which to build projected revenue figures. The Commission would need to look at other states that have legalized the sale and use of cannabis but none of these states utilize a model where the State is the retailer of cannabis. At this time the Liquor Commission is unable to predict what additional revenues would be generated from the bill or the length of time needed to achieve any fiscal milestones.

New Cannabis Store Operations and Marketing:

- The Commission assumes 9 positions marketing, merchandising and warehouse staff would be added headquarters.
- Cannabis stores would be branded separately from liquor and wine outlets with separate marketing and promotion strategies.
- The Commission does not anticipate the opening of a retail store until FY 2025 after receiving the necessary funding to do so.
- The Commission would operate retail cannabis operations 7 days a week and from 9 am to 9 pm.
- For the first store, the Commission assumes 35 new full-time positions would be needed consisting of managers, assistant managers and store clerks to staff and take care of all operational needs.
- The Commission would enter into a contract with a person described as a market consultant with expertise to advise the Commission on product selection, training of cannabis store personnel and would purchase the cannabis on behalf of the Commission for resale and distribution to state-owned stores. The duties and responsibilities this consultant would be subject to contractual terms and conditions established in a published RFP and subject to approval by Governor and the Executive Council.
- Cannabis staff would undergo the necessary training and be able to answer questions and the Commission would look to the consultant to train or obtain training for cannabis personnel.
- The Commission would either build or lease space for cannabis stores in communities in which ordinances that allow for cannabis store operations.

Administration and Finance:

- The Commission would require 9 additional administrative and finance personnel within the division of administration and finance to discretely and separately track all transactions, purchases, and legal and fiscal matters associated with the program.
- The Commission will purchase or develop a dedicated financial and point of sale system. The cannabis program should be a discrete function of the Commission with appropriate dedicated personnel and apparatuses needed for the program.
- Additional personnel would need to be hired to perform the newly assigned duties and responsibilities.

Enforcement, Licensing and Regulation:

- New Enforcement personnel will be necessary to prepare for the licensure and oversight responsibilities of cannabis enforcement.
- The Division would add 11 new positions: eight sworn personnel, two examiners, and one licensing specialist.

- In addition to the management oversight of the cannabis outlets, the Division would involve the new enforcement personnel in monitoring of cannabis outlet operations and licensure to ensure the continuing public integrity of the operations.

Based on the assumptions above, the Commission has provided the following estimate of the fiscal impact for the first two years of the Program:

	FY 2024	FY 2025
Addition compensation for current staff 10% of base salary	\$170,247	\$172,676
Cannabis market consultant	\$250,000	\$250,000
New Staffing for 8 Months of FY 2025	\$0	\$3,136,158
New Financial Institution and Point of Sale system	\$0	\$1,500,000
Cost to build a new 12,000 square foot State-owned store.	\$0	\$9,377,225
Totals:	\$420,247	\$14,436,060

In FY 2025 expenses reflected above are the costs to build one new store and do not include ongoing operating costs for the store or the cost of inventory to stock the store.

The Department of Safety indicates the fiscal impact of this bill is indeterminable as it is impossible to predict criminal activities related to cannabis legalization. Based on information from impact reports provided by High Intensity Drug Trafficking Areas (HIDTA) program in the states of Illinois and Colorado where marijuana is legal, the Department has provided the following information and assumptions:

- Due to the nature of THC metabolization, especially for chronic users, there is no national standard for determining impairment by drivers using marijuana.
- Marijuana use in both states has increased significantly since its legalization including among minors.
- The average THC level in marijuana products has risen from 3 percent to 23 percent in smokable marijuana and from 56 percent to 99 percent for other forms (waxes, oils, and edibles)
- Despite legalization, marijuana trafficking and black market marijuana continue to be enforcement challenges in both states.
- Traffic deaths involving drivers who tested positive for marijuana and incidents of driving under the influence have increased.
- Treatment for marijuana use in Colorado has decreased and suicide incidents in which toxicology results were positive for marijuana have increased.

The Department states while they cannot predict the financial impact to New Hampshire, the Department assumes, based on the experiences from Illinois and Colorado, the financial impact due to the increased enforcement issues could be significant. In addition, the Department assumes, the enforcement issues may increase in crimes such as robbery, burglary, and theft. These enforcement issues will impact local and state law enforcement and lead to a need for increases in manpower and training.

The Department of Health and Human Services indicates the bill makes a general fund appropriation \$150,000 in FY 2024 to the Department to create a public and social media campaign for recreational use in New Hampshire. The information would provide education on impact for youth, safe storage of cannabis, risks of use of cannabis around children, increased incidents of motor vehicle accidents, risks of use during pregnancy, increased risks of mental health conditions including psychosis. The Department estimates the appropriation of \$150,000 may not be sufficient to cover the cost of a comprehensive public and social media campaign. The Department assumes the bill may impact the Department's Therapeutic Cannabis Program and the state's licensed Alternative Treatment Centers (ATCs). Nearly every state that has legalized adult-use cannabis has been able to maintain the viability of its medical/therapeutic cannabis program. Typically with adult-use legalization, a medical cannabis program will experience a decrease in patient registration as a certain number of patients choose to access the non-State Registry-based market. This bill does not include any taxes on adult-use sales, which will encourage therapeutic patients to purchase from the lowest cost option and further drive patients away from the therapeutic cannabis ATCs, threatening their viability. The Department states the bill requires the sale of cannabis for therapeutic purposes and allows direct sales of certain cannabis products to therapeutic patients, which are not available to non-therapeutic patients, creating direct competition with the state's licensed ATCs. The Department assumes the bill creates a duplication of regulatory effort by requiring the state stores to sell cannabis for therapeutic purposes. Any cannabis sold for therapeutic use at the state stores shall comply with existing state standards and testing requirements, which would be the standards established in RSA Chapter 126-X and He-C 400 relative to the Department's Therapeutic Cannabis Program. This sets up a dual regulatory structure and different, perhaps conflicting, standards for cultivation, production, testing, packaging, labeling, and dispensing. Removing the provisions that require state stores to sell cannabis for therapeutic use would eliminate this issue.

The distribution of funds to the Department of Health and Human Services to develop programs for increased access to mental health services would result in an indeterminable increase in expenditure for such programs. The amount of the distribution from the Cannabis Control Fund and the additional expenditures are indeterminable.

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 are not transported for treatment at 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 it is unclear how much revenue can realistically be expected above and beyond those offsetting operating expenses as that will depend on a variety of business decisions made by the Liquor Commission, and, while there will likely be a positive revenue stream, it is unclear whether that will offset any municipal expenses associated with this legislation.

The bill provides, that any remaining funds in the cannabis control funds after reimbursing the general fund for any initial or start-up funds appropriated to the commission for administration

and operation shall be allocated 50% to the Education Trust Fund 50% to the Department of Health and Human Services to develop programs for increased access to mental health services.

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

Judicial 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 \$100 incarceration fee (If applicable)		\$300/Case \$70 administrative fee \$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
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		\$688	\$688

Parole/Probation		
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

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

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

AGENCIES CONTACTED:

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