

HB 1705-FN-A – AS INTRODUCED

2012 SESSION

12-2231

09/04

HOUSE BILL **1705-FN-A**

AN ACT allowing purchase and use of marijuana by adults, regulating the purchase and use of marijuana, and imposing taxes on the wholesale and retail sale of marijuana.

SPONSORS: Rep. Pratt, Hills 7; Rep. Comerford, Rock 9; Rep. Warden, Hills 7

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill allows the purchase and use of marijuana by adults, regulates the purchase and use of marijuana, and imposes taxes on the wholesale and retail sale of marijuana.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

12-2231

09/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT allowing purchase and use of marijuana by adults, regulating the purchase and use of marijuana, and imposing taxes on the wholesale and retail sale of marijuana.

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

1 Findings. The general court finds that:

I. There were more than 840,000 arrests for marijuana offenses in the United States in 2008, which is more than half of the population of New Hampshire;

II. Because decades of arresting millions of marijuana users has failed to prevent teenagers, or anyone else, from using marijuana, the state of New Hampshire should take a new approach by strictly regulating marijuana with the goal of reducing teenage access to marijuana;

III. Rather than spending millions of taxpayer dollars arresting marijuana users, the state of New Hampshire should instead generate millions of dollars by taxing and regulating marijuana, and earmark part of these revenues to prevent and treat the abuse of marijuana, tobacco, alcohol, and other drugs;

IV. By allowing adults aged 21 and older to use marijuana legally in the privacy of the home, police will be able to spend more time preventing and investigating serious crimes like murder, rape, assault, robbery, burglary, and driving under the influence of alcohol and other drugs; and

V. If certain portions of this act are found to be inoperable or unconstitutional, it is the intent of the people of the state of New Hampshire to implement as much of the act as possible.

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

CHAPTER 318-F

REGULATION OF MARIJUANA

318-F:1 Definitions. In this chapter:

- I. "Marijuana" means a plant of the genus Cannabis or its product, but the term does not include hashish.
- II. "Marijuana paraphernalia" means equipment, products, and materials which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing marijuana into the human body.
- III. "Retailer" means an establishment licensed pursuant to RSA 77-G to purchase marijuana and marijuana paraphernalia from a wholesaler and to sell marijuana and marijuana paraphernalia to the customer.
- IV. "State prosecution" means prosecution initiated or maintained by the state of New Hampshire or an agency or political subdivision of the state of New Hampshire.
- V. "Wholesaler" means an establishment licensed pursuant to RSA 77-G to cultivate, prepare, package, and sell marijuana to a retailer or another wholesaler, but not to sell marijuana to the customer or general public.

318-F:2 Authorized Activities. Except as otherwise provided in this chapter:

- I. A person who is 21 years of age or older and who acts in compliance with the provisions of this chapter shall be exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board, or state prosecution for the following acts:
 - (a) Using, obtaining, purchasing, transporting, or possessing, actually or constructively, one ounce or less of marijuana.
 - (b) Controlling any premises or vehicle where up to one ounce of marijuana is possessed or deposited.
 - (c) Selling marijuana seeds to a wholesaler.
 - (d) Possession or use of marijuana paraphernalia.
 - (e) Transfer of one ounce or less of marijuana without remuneration to a person who is 21 years of age or older.
 - (f) Aiding and abetting another person who is 21 years of age or older in the possession or use of one ounce or less of marijuana.

(g) Aiding and abetting another person who is 21 years of age or older in the possession or use of marijuana paraphernalia.

(h) Any combination of the acts described in subparagraphs (a) to (g), inclusive.

II. A retailer or any person who is 21 years of age or older and acting in his or her capacity as an owner, employee, or agent of a retailer who acts in compliance with the provisions of this chapter shall be exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board, or state prosecution for the following acts:

(a) Transporting or possessing, actually or constructively, marijuana.

(b) Possession of marijuana paraphernalia.

(c) Obtaining or purchasing marijuana and marijuana paraphernalia from a wholesaler.

(d) Selling marijuana or marijuana paraphernalia to any person who is 21 years of age or older.

(e) Aiding and abetting any person who is 21 years of age or older in the possession or use of one ounce or less of marijuana.

(f) Aiding and abetting any person who is 21 years of age or older in the possession or use of marijuana paraphernalia.

(g) Controlling any premises or vehicle where up to one ounce of marijuana is possessed or deposited in accordance with this chapter and RSA 77-G.

(h) Any combination of the acts described in subparagraphs (a) to (g), inclusive.

III. A wholesaler or any person who is 21 years of age or older and acting in his or her capacity as an owner, employee, or agent of a wholesaler who acts in compliance with the provisions of this chapter shall be exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board, and state prosecution for the following acts:

(a) Cultivating, packing, processing, transporting, or manufacturing marijuana.

(b) Transporting or possessing, actually or constructively, marijuana.

(c) Possession of marijuana paraphernalia.

(c) Selling marijuana or marijuana paraphernalia to a retailer or a wholesaler.

- (d) Purchasing marijuana from a wholesaler.
- (e) Purchasing marijuana seeds from a resident of New Hampshire who is 21 years of age or older.
- (f) Aiding and abetting any person who is 21 years of age or older in the possession or use of one ounce or less of marijuana.
- (g) Controlling any premises or vehicle where up to one ounce of marijuana is possessed or deposited in accordance with this chapter and RSA 77-G.
- (h) Any combination of the acts described in subparagraphs (a) to (g), inclusive.

IV. Except as provided in paragraph V, in a prosecution for selling, giving, or otherwise furnishing marijuana or marijuana paraphernalia to any person who is under 21 years of age, it shall be an affirmative defense if:

- (a) The person who sold, gave, or otherwise furnished marijuana or marijuana paraphernalia to a person who is under 21 years of age was a retailer or was acting in his or her capacity as an owner, employee, or agent of a retailer at the time the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished to the person; and
- (b) Immediately before selling, giving, or otherwise furnishing marijuana or marijuana paraphernalia to a person who is under 21 years of age, the person who sold, gave, or otherwise furnished the marijuana or marijuana paraphernalia was shown a document which appeared to be issued by an agency of a federal, state, or local government and which indicated that the person to whom the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished was 21 years of age or older at the time the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished to the person.

V. The affirmative defense set forth in paragraph IV shall not apply if:

- (a) The document which was shown to the person who sold, gave, or otherwise furnished the marijuana or marijuana paraphernalia was counterfeit, forged, or altered, or was issued to a person other than the person to whom the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished; and
- (b) Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged, or altered, or was issued to a person other than the person to whom the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished.

318-F:3 Illegal Activities. The provisions of this chapter shall not authorize, and no person shall be exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board and state prosecution for, nor may he or she establish an affirmative defense to charges arising from, any of the following acts:

I. Driving, operating, or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of marijuana.

II. Possessing marijuana if the person is a prisoner.

III. Possessing marijuana or possessing drug paraphernalia, if the possession of the marijuana or drug paraphernalia is discovered because the person engaged or assisted in the use of marijuana in:

(a) Any public place or in any place open to the public.

(b) Any local detention facility, county jail, state prison, reformatory, or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.

(c) Any preschool, elementary school, junior high school, or high school.

IV. Possessing, using, transferring, selling, or cultivating marijuana or committing any other act involving marijuana in violation of the provisions of this chapter, unless such conduct is authorized by another provision of New Hampshire law.

318-F:4 Employers. The provisions of this chapter shall not require employers to accommodate the use, possession, or being under the influence of marijuana in a place of employment.

318-F:5 Penalty for Minors. Any minor who falsely represents himself to be 21 years of age or older in order to obtain any marijuana or marijuana paraphernalia pursuant to this chapter shall be guilty of a misdemeanor.

3 New Section; Controlled Drug Act; Limitation on Penalties. Amend RSA 318-B by inserting after section 26-a the following new section:

318-B:26-b Limitation on Penalties. The penalties provided for in this chapter shall not apply to those acting in accordance with RSA 318-F and RSA 77-G.

4 New Chapter; Taxation of Marijuana. Amend RSA by inserting after chapter 77-F the following new chapter:

CHAPTER 77-G

TAXATION OF MARIJUANA

77-G:1 In this chapter:

- I. "Department" means the department of revenue administration.
- II. "Marijuana" means a plant of the genus Cannabis or its product, but the term does not include hashish.
- III. "Retailer" means an establishment licensed pursuant to this chapter to purchase marijuana and marijuana paraphernalia from a wholesaler and to sell marijuana and marijuana paraphernalia to the customer.
- IV. "Wholesaler" means an establishment licensed pursuant to this chapter to cultivate, prepare, package, and sell marijuana to a retailer or another wholesaler.

77-G:2 Retailer Licenses. Except as otherwise provided in RSA 77-G:4:

- I. An entity may apply, in accordance with the provisions of this chapter and the rules adopted pursuant to this chapter, for the issuance of a license authorizing the entity to act as a retailer pursuant to the provisions of this chapter.
- II. The department shall issue a license authorizing an entity to act as a retailer pursuant to the provisions of this chapter if the department determines that the applicant satisfies the requirements set forth in this chapter and the rules adopted pursuant to this chapter. The department shall approve each qualified applicant within 90 days of its submission of its application.
- III. The fee for the initial issuance of a license as a retailer is \$1,000. A license as a retailer shall be renewed annually. The fee for renewal of a license as a retailer is \$1,000.
- IV. If the department fails to issue a retailer license to a qualified applicant within 90 days of its submission of its application and the applicant holds a valid retail tobacco license pursuant to RSA 178:19-a, the applicant shall be deemed to be a retailer as defined in this chapter.

V. In this section, "qualified applicant" means any entity that:

- (a) Complies with any rules adopted pursuant to RSA 77-G:11 relative to application for and issuance of a license; and
- (b) Satisfies the requirements set forth in this chapter and the rules adopted pursuant to this chapter.

77-G:3 Wholesaler Licenses. Except as otherwise provided in RSA 77-G:4:

I. An entity may apply, in accordance with the provisions of this chapter and the rules adopted pursuant to this chapter, for the issuance of a license authorizing the entity to act as a wholesaler pursuant to the provisions of this chapter.

II. The department shall issue a license authorizing an entity to act as a wholesaler pursuant to the provisions of this chapter if the department determines that the applicant satisfies the requirements set forth in this chapter and the rules adopted pursuant to this chapter. The department shall approve each qualified applicant within 90 days of its submission of its application.

III. The fee for the initial issuance of a license as a wholesaler is \$1,000. A license as a wholesaler shall be renewed annually. The fee for renewal of a license as a wholesaler is \$1,000.

IV. If the department fails to issue a wholesaler license to a qualified applicant within 90 days of its submission of its application and the applicant is a person who holds a valid retail tobacco wholesale license pursuant to RSA 78:2, the applicant shall be deemed to be a wholesaler as defined in this chapter.

V. In this section, “qualified applicant” means any entity that:

(a) Complies with any rules adopted pursuant to RSA 77-G:11 concerning application for and issuance of a license; and

(b) Satisfies the requirements set forth in this chapter and the rules adopted pursuant to this chapter.

77-G:4 Prohibition on Licenses. The department shall not issue a license as a retailer or wholesaler to an entity:

I. That is located within 500 feet of the property line of a preschool, elementary school, junior high school, or high school, or structure used primarily for religious services or worship;

II. That is engaged in business as a gas station, convenience store, grocery store, night club, dance hall, or licensed gaming establishment; or

III. That sells intoxicating liquor for consumption on or off the premises.

77-G:5 Prohibited Activities by Retailers.

I. A retailer shall not:

- (a) Sell, give, or otherwise furnish marijuana or marijuana paraphernalia to any person who is under 21 years of age.
- (b) Allow any person who is under 21 years of age to be present on the premises of its establishment.
- (c) Knowingly sell, give, or otherwise furnish an amount of marijuana to a person that would cause that person to possess more than one ounce of marijuana.
- (d) Purchase marijuana from any person other than a wholesaler.
- (e) Purchase or sell, give, or otherwise furnish marijuana in any manner other than as authorized pursuant to the provisions of this chapter and any rules adopted pursuant to this chapter.
- (f) Sell marijuana that has been adulterated or contaminated by any controlled substance or illegal additive or pesticide.

II. In addition to any other penalty provided pursuant to specific statute, a person who violates this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000. The department may also suspend or terminate the license of a retailer who commits multiple or serious violations of this section or rules issued pursuant to it.

III. Except as otherwise provided in this paragraph, in a prosecution for a violation of subparagraph I(b), it is an affirmative defense that immediately before allowing the person who is under 21 years of age onto the premises, the person who allowed the person onto the premises was shown a document which appeared to be issued by an agency of a federal, state, or local government and which indicated that the person who was allowed onto the premises of the retailer was 21 years of age or older at the time the person was allowed onto the premises of the retailer. The affirmative defense set forth in this paragraph shall not apply if:

- (a) The document which was shown to the person who allowed the person who is under 21 years of age onto the premises of the retailer was counterfeit, forged, or altered, or was issued to a person other than the person who was allowed onto the premises of the retailer; and
- (b) Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged, or altered, or was issued to a person other than the person who was allowed onto the premises.

IV. In this section, “marijuana paraphernalia” shall have the same meaning as in RSA 318-F:1, II.

77-G:6 Prohibited Activities by Wholesalers.

I. A wholesaler shall not:

- (a) Allow any person who is under 21 years of age to be present on the premises of its establishment.
- (b) Sell, give, or otherwise furnish marijuana to any person other than a retailer or wholesaler.
- (c) Purchase marijuana from any person other than a wholesaler.
- (d) Purchase or sell, give, or otherwise furnish marijuana in any manner other than as authorized pursuant to the provisions of this chapter and any rules adopted pursuant to this chapter.
- (e) Sell marijuana that has been adulterated or contaminated by any controlled substance or illegal additive or pesticide.

II. In addition to any other penalty provided pursuant to specific statute, a person who violates this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000. The department may also suspend or terminate the license of a wholesaler who commits multiple or serious violations of this section or rules issued pursuant to it.

III. Except as otherwise provided in this paragraph, in a prosecution for a violation of subparagraph I(a), it is an affirmative defense that immediately before allowing the person who is under 21 years of age onto the premises, the person who allowed the person onto the premises was shown a document which appeared to be issued by an agency of a federal, state, or local government and which indicated that the person who was allowed onto the premises of the wholesaler was 21 years of age or older at the time the person was allowed onto the premises of the wholesaler. The affirmative defense set forth in this paragraph shall not apply if:

- (a) The document which was shown to the person who allowed the person who is under 21 years of age onto the premises of the wholesaler was counterfeit, forged, or altered, or was issued to a person other than the person who was allowed onto the premises of the wholesaler; and
- (b) Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged, or altered, or was issued to a person other than the person who was allowed onto the premises.

77-G:7 Rate of Tax.

I. An excise tax is hereby imposed upon wholesalers and shall be collected on all marijuana sold to retailers at the rate of \$45 per ounce or proportionate part thereof.

II. For the purpose of determining the tax for the retail sale of marijuana pursuant to this chapter, the tax for the sale of marijuana shall be at a rate of 19 percent of the wholesaler price.

77-G:8 Distribution of Taxes. The department shall apportion the money remitted to the department from license fees and taxes collected pursuant to this chapter in the following manner:

I. The department shall retain sufficient money to defray the entire cost of administration of this chapter.

II. After retaining sufficient money to defray the entire cost of administration of this chapter pursuant to paragraph I, the department shall remit the remaining money to the state treasurer for deposit in the general fund, 50 percent of which shall be distributed to the department of health and human services through the operating budget for use in voluntary programs for the prevention or treatment of the abuse of alcohol, tobacco, or controlled substances.

77-G:9 Advertising Prohibited. No person shall advertise the sale of marijuana through television, radio, newspapers, magazines, billboards, the Internet, or any other written or oral commercial media.

77-G:10 Transporting Marijuana. The provisions of this chapter shall not authorize any person to transport marijuana into or outside the state of New Hampshire, unless federal law permits such transport.

77-G:11 Administration; Rulemaking.

I. The department shall be responsible for administering and carrying out the provisions of this chapter.

II. The department shall adopt rules that:

(a) Establish procedures for the application for and issuance of licenses to retailers and wholesalers, including, without limitation, the content and form for an application to be licensed as a retailer or wholesaler.

(b) Specify the procedures for the collection of taxes levied pursuant to this chapter.

(c) Specify the content, form, and timing of reports which shall be submitted to the department by a retailer or wholesaler, including, without limitation, the

requirement that information on sales, expenses, inventory, and taxes collected be reported to the department.

- (d) Establish the requirements concerning the records that shall be created and maintained by a retailer or wholesaler.
- (e) Establish reasonable security requirements that shall be adhered to by retailers or wholesalers.
- (f) Specify the requirements for the packaging and labeling of marijuana.
- (g) Require the posting or display of the license of a retailer or wholesaler.
- (h) Establish the procedures for inspecting and auditing the records or premises of a retailer or wholesaler.
- (i) Establish the procedures for hearings to contest the denial of an application for a license as a retailer or wholesaler.
- (j) Establish the procedures for hearings to contest the suspension or revocation of a license as a retailer or wholesaler for a violation of any provision of this chapter or the rules adopted pursuant to this chapter.

5 Rulemaking Required; Retailers and Wholesalers.

I. The commissioner of the department of revenue administration shall adopt rules under RSA 77-G:11 to implement this act and shall begin processing applications for retailers and wholesalers within 180 days of the effective date of this act.

II. If the department fails to adopt such rules within 180 days of the effective date of this act, any person who holds a valid retail tobacco license pursuant to RSA 178:19-a shall be deemed to be a retailer if such person:

- (a) Notifies the department in writing of its readiness to apply;
- (b) Pays the department the \$1,000 license fee; and
- (c) Satisfies the requirements set forth in RSA 77-G:1 to 77-G:11.

III. If the department fails to issue such rules within 180 days of the effective date of this act, any person who holds a tobacco wholesale license pursuant to RSA 78:2 shall be deemed to be a licensed wholesaler if such establishment:

- (a) Notifies the department in writing of its readiness to apply;

- (b) Pays the department the \$1,000 license fee; and
- (c) Satisfies the requirements set forth in RSA 77-G:1 to 77-G:11.

IV. If the department fails to adopt rules to implement this act and fails to begin processing applications for retailers and wholesalers within 180 days of the effective date of this act, a retailer, wholesaler, or person who desires to purchase marijuana pursuant to this act may commence an action in a court of competent jurisdiction to compel the department to perform the actions mandated pursuant to the provisions of this act.

6 Severability. If any provision of this act, or the application thereof to any person, thing, or circumstance is held invalid, such invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

7 Effective Date. This act shall take effect January 1, 2013.

LBAO

12-2231

01/03/12

HB 1705-FN-A - FISCAL NOTE

AN ACT allowing purchase and use of marijuana by adults, regulating the purchase and use of marijuana, and imposing taxes on the wholesale and retail sale of marijuana.

FISCAL IMPACT:

The Judicial Branch, Judicial Council, New Hampshire Association of Counties, and the Departments of Revenue Administration, Justice, and Corrections state this bill will have an indeterminable fiscal impact on state, county, and local revenue and expenditures.

METHODOLOGY:

The Judicial Branch states this bill adds laws to regulate and tax marijuana. The Branch indicates there would be potential savings and potential costs to the Branch.

The potential savings include:

- Possession of marijuana is currently a class A misdemeanor and offenses such as controlling premises or a vehicle in which up to an ounce of marijuana is found are misdemeanors. The proposed bill legalizes possession of up to one ounce of marijuana by persons over 21 years of age.
- The manufacture and sale of marijuana are currently felonies. The proposed bill legalizes these acts by wholesalers and retailers.

The potential costs include:

- Proposed RSA 318-F:5 makes it a misdemeanor for a minor to falsely represent himself or herself to be 21 years of age or older in order to buy marijuana or marijuana paraphernalia. The proposed RSA 77-G:5,II and G:6,II makes it a misdemeanor for wholesalers and retailers to violate certain provisions of the proposed bill.

- The proposed RSA 77-G:11 requires the Department of Revenue Administration to adopt rules for administering provisions concerning the taxation of marijuana. The possibility exists for appeals of administrative decisions made by the Department to the Supreme Court.
- Section 5 of the bill allows for an action in a court of competent jurisdiction to compel the Department of Revenue Administration to perform the actions mandated by the bill.

The Branch has no information to estimate how many misdemeanor prosecutions may be avoided or added by this bill, but it does have information on the average cost of processing these cases in the trial court. The cost of an average misdemeanor A in the district division of the circuit court is estimated to be \$59.11 in FY 2013 and \$61.31 in FY 2014. The average cost for a misdemeanor B is estimated to be \$43.19 in FY 2013 and \$44.54 in FY 2014. In addition, fines up to \$2,000 and for class A misdemeanors and up to \$1,000 for class B misdemeanors may be assessed. Fine revenue for drug offenses is deposited in the general fund making a decrease in state revenue likely. The Branch does not have information on how many fewer felonies will be prosecuted, but states the cost to the Branch of an average routine criminal case in the superior court is estimated to be \$389.84 in FY 2013 and \$401.48 in FY 2014. These amounts do not include the cost of possible appeals. The Branch states the Supreme Court has discretionary review of administrative appeals. The Supreme Court may accept the appeal for full appellate review, for a more limited review, or deny the appeal. The Branch is not able to speculate on the fiscal impact possible of administrative appeals. Concerning the cost of potential actions in court to compel the Department of Revenue Administration to perform the actions mandated by the bill, the Branch indicates such action would be considered a complex equity case in the superior court. The Branch has no information on which to estimate the number of these cases that may arise, but estimates the average cost of processing a complex equity case in the superior court will be \$576.05 in FY 2013 and \$602.60 in FY 2014. These amounts do not include the cost of potential appeals. The Branch is not able to estimate the total fiscal impact, but assumes the savings would exceed the additional costs to the Judicial Branch.

The Judicial Council states this bill will have an indeterminable fiscal impact on state expenditures. The Council states the decrease in charges for possession may be lessened by two issues. First, possession of marijuana is typically connected to other offenses which would remain chargeable. Possession often becomes apparent after a motor

vehicle stop, a criminal event, or in conjunction with a sale. Secondly, the regulations included in the bill could possibly increase the overall number of criminal charges for violations of the proposed statute. In addition, unspecified misdemeanors are presumed to be class B misdemeanors unless a prosecutor files a statement of intent to seek class A penalties. There is no right to counsel for class B misdemeanors but, there is a right to counsel for class A misdemeanors. The Council indicates the need to provide counsel for unspecified misdemeanors would not be known until arraignment.

The New Hampshire Association of Counties states to the extent fewer individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties may have decreased expenditures. The Association is unable to determine the number of individuals who may not be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Department of Revenue Administration states this bill will have an indeterminable fiscal impact on state revenue and expenditures. The Department states it could not administer the provisions of this bill without significant costs to:

- Study, develop and implement a licensing certification process and establish enforcement mechanisms.
- Implement the new tax and collections process.
- Establish appeals, auditing, and hearing procedures.

The Department indicates it could not be ready to administer the tax by the January 1, 2013 effective date of the bill. The Department assumes its involvement with this tax would impart legal burdens on other agencies such as the NH Attorney General's Office and county attorney's offices. The Department attempted to estimate the potential revenue by reviewing data on the production and usage of marijuana, and by reviewing proposed legislation from other states that considered legalizing and taxing marijuana. Based on this review, the Department determined the available data was outdated and lead to too many questions to be used for a revenue projection, and the legislation from other states was significantly different and could not offer reliable comparisons.

The Department of Justice states the Criminal Justice Bureau handles major drug crimes, typically involving large quantities of drugs and wide ranging distribution schemes. The Department states less than 10 percent of the investigations and prosecutions involve the sale or distribution of marijuana and an average of 26 percent of forfeiture cases involve marijuana. The Department does not expect the fiscal impact of this bill to be significant as efforts previously focused on marijuana related crimes would be shifted to criminal activity involving other controlled drugs. The Department assumes the Civil Bureau would provide additional legal counsel to the Department of Revenue Administration. The support required would be approximately one-fourth of an assistant attorney general's time.

The Department of Corrections is not able to determine the fiscal impact of this bill because it does not have information to predict possible decrease in the number of felonies. The Department of Corrections states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2010 was \$32,492. The average cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2010 was \$659.