

HB 198-FN - AS INTRODUCED

2025 SESSION

25-0170
09/05HOUSE BILL ***198-FN***

AN ACT relative to legalizing certain quantities of cannabis and establishing penalties for the smoking or vaping of cannabis in public.

SPONSORS: Rep. J. Sullivan, Graf. 2; Rep. Wheeler, Hills. 33; Rep. H. Howard, Straf. 4

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill legalizes the possession of a certain amount of cannabis for persons 21 years or older and prohibits public consumption of cannabis.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struck through]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

25-0170
09/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to legalizing certain quantities of cannabis and establishing penalties for the smoking or vaping of cannabis in public.

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

1 Purpose and Findings. In the interest of allowing law enforcement to focus on violent and property crimes, and advancing individual freedom, the people of the state of New Hampshire find and declare that the possession and use of cannabis by a person 21 years of age or older should be legal.

2 Personal Possession and Growing of Cannabis; Public Consumption. RSA 318-B:2-c is repealed and reenacted to read as follows:

318-B:2-c Personal Possession of Marijuana.

I. In this section:

(a) "Cannabis" includes the leaves, stems, and flowers 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. "Cannabis" shall not include hemp grown, processed, marketed, or sold under RSA 439-A. Unless the context requires otherwise, "cannabis" includes cannabis products, cannabis trim, and cannabis concentrate.

(b) "Cannabis concentrate" means the resin extracted from a cannabis plant and every preparation that is composed primarily of such resin, including, but not limited to, hashish and cannabis oils for vaporization. "Cannabis concentrate" shall not include cannabis products made from cannabis concentrate where the majority of the content by weight is something other than cannabis such as, but not limited to, edible products, topical products, and tinctures.

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

(d) "Cannabis trim" means leaves, stems, trichomes, and other plant materials that are no longer attached to a cannabis plant. It does not include cannabinoids or resins extracted from cannabis.

(e)(1) "Possession limit" means:

(A) Two ounces of cannabis flower or cannabis trim or any combination thereof; (B) Ten grams of cannabis concentrate; and

(C) Cannabis products other than cannabis concentrates containing no more than 2,000 milligrams of THC.

(2) Subparagraph (e) shall not apply to the possession limits set forth in RSA 126-X:2.

II. Except as provided in paragraph III, if undertaken by a person 21 years of age or older, the following acts shall not be illegal under New Hampshire law, shall not be a criminal or civil offense under New Hampshire law or the law of any political subdivision of New Hampshire, and shall not be a basis for seizure or forfeiture of assets under New Hampshire law:

(a) Possessing, consuming, processing, or transporting an amount of cannabis that does not exceed the possession limit; or

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

(c) Possessing or purchasing cannabis paraphernalia.

III. No person shall smoke or vaporize cannabis in any public place.

(a) First offense: any person who violates this paragraph shall be guilty of a violation for the first offense and shall be fined not more than \$100, and shall forfeit all cannabis and cannabis products on their person.

(b) Second offense: any person who violates this paragraph a second time within 5 years of the first violation under paragraph III(a) shall be guilty of a violation and shall be fined not more than \$500, and shall forfeit all cannabis and cannabis products on their person.

(c) Subsequent offense: any person who violates this paragraph, a third or more times, when having 2 prior violations or convictions within 5 years of the third or subsequent offense, shall be guilty of a misdemeanor.

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

V. 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 VI.

VI.(a) Except as provided in this paragraph, any person 18 years of age or older who is convicted of violating paragraph IV or V 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 IV or V, 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 cannabis 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 IV or V shall forfeit the cannabis or hashish and shall be subject to a delinquency petition under RSA 169-B:6.

VII.(a) Except as provided in this section, no person shall be subject to arrest for a violation of paragraph IV or V 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 IV or V.

(d) Any person under 21 years of age 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 ounce or less of cannabis or 5 grams or less of hashish, may be arrested for a violation of paragraph IV or V.

VIII. 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.

IX.(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 IV or V.

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.

X. Nothing in this section shall:

(a) Be construed to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of cannabis in the workplace or to affect the ability of employers to have policies restricting the use of cannabis by employees.

(b) Be construed to permit driving or operating under the influence of drugs or liquor pursuant to RSA 265-A, nor prevent the state from enacting and imposing penalties for driving under the influence of or while impaired by cannabis.

(c) Be construed to permit the transfer of cannabis, with or without remuneration, to a person under 21 years of age, or to allow a person under 21 years of age to purchase, possess, use, transport, grow, or consume cannabis.

(d) 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.

(e) Prohibit a person or other entity that legally owns, leases, or controls any property from prohibiting or otherwise regulating the sale, use, or growing of cannabis on or in the property.

3 Controlled Drug Act; Penalties. Amend RSA 318-B:26, II(c) and (d) 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~~[]~~ ***possessed by a person who is under 21 years of age, or, in the case of an amount of cannabis exceeding the possession limit defined in RSA 318-B:2-c 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, **possessed by a person 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.]~~

4 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;

5 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]~~ **cannabis** 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-c, I(b)].~~

6 Effective Date. This act shall take effect upon its passage.

LBA
25-0170
11/19/24

HB 198-FN- FISCAL NOTE AS INTRODUCED



AN ACT relative to legalizing certain quantities of cannabis and establishing penalties for the smoking or vaping of cannabis in public.

FISCAL IMPACT:

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund</i>	None			
Expenditures*	Indeterminable			
<i>Funding Source</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of

bill

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	Indeterminable			
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	Indeterminable			

METHODOLOGY:

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

AGENCIES CONTACTED:

Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association

