

HB 1694-FN-A-LOCAL - AS INTRODUCED

2016 SESSION

16-2340

04/09

HOUSE BILL

1694-FN-A-LOCAL

AN ACT relative to the legalization and regulation of marijuana.

SPONSORS: Rep. Hirsch, Merr. 6; Rep. Lachance, Hills. 8; Rep. O'Connor, Rock. 6; Rep. Ratzki, Merr. 1

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill:

- I. Legalizes the personal use of marijuana by persons 21 years of age or older.
- II. Legalizes the cultivation, possession, and use of hemp.
- III. Authorizes the licensing of marijuana wholesale, retail, cultivation, and testing facilities.
- IV. Imposes a tax on the sale of marijuana.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Sixteen

AN ACT relative to the legalization and regulation of 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. In the interest of allowing law enforcement to focus on violent and property crimes,
3 generating revenue for education and other public purposes, and individual freedom, the people of
4 the state of New Hampshire find and declare that the use of marijuana should be legal for a person
5 21 years of age or older and taxed in a manner similar to alcohol.

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

9 (a) Individuals will have to show proof of age before purchasing marijuana.

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

12 (c) Driving under the influence of marijuana shall remain illegal.

13 (d) Legitimate, taxpaying business people, and not criminal actors, will conduct sales of
14 marijuana.

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

17 (f) In the interest of enacting rational policies for the treatment of all variations of the
18 cannabis plant, hemp should be regulated separately from strains of cannabis with higher delta-9
19 tetrahydrocannabinol (THC) concentrations.

20 III. It is necessary to ensure consistency and fairness in the application of this act
21 throughout the state and that, therefore, the matters addressed by this act are, except as specified
22 herein, matters of statewide concern.

23 2 New Chapter; Regulation of Marijuana. Amend RSA by inserting after chapter 318-E the
24 following new chapter:

25 CHAPTER 318-F

26 REGULATION OF MARIJUANA

27 318-F:1 Definitions. In this chapter:

28 I. "Alternative treatment center" means a not-for-profit entity registered under RSA 126-
29 X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells,
30 supplies, and dispenses cannabis, and related supplies and educational materials, to qualifying
31 patients and alternative treatment centers.

1 II. "Consumer" means a person 21 years of age or older who purchases marijuana or
2 marijuana products for personal use by a person 21 years of age or older, but not for resale.

3 III. "Department" means the department of revenue administration, prior to the effective
4 date of this section.

5 IV. "Disqualifying offense" means:

6 (a) A violent crime as defined in RSA 651:5, XIII that was classified as a felony in the
7 jurisdiction in which the person was convicted; or

8 (b) A violation of a state or federal controlled substances law that was classified as a
9 felony in the jurisdiction in which the person was convicted, but not including:

10 (1) An offense for which the sentence, including any term of probation,
11 incarceration, or supervised release was completed 10 or more years earlier; or

12 (2) An offense that consisted of cultivation or possession of marijuana prior to the
13 effective date of this section.

14 V. "Hemp" means the plant of the genus cannabis and any part of such plant, whether
15 growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths
16 percent on a dry weight basis of any part of the plant cannabis, or per volume or weight of
17 marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and
18 tetrahydrocannabinolic acid in any part of the plant cannabis regardless of moisture content.

19 VI. "Immature marijuana plant" means a marijuana plant that has not flowered and which
20 does not have buds that may be observed by visual examination.

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

28 VIII. "Marijuana accessories" means any equipment, products, or materials of any kind
29 which are used, intended for use, or designed for use in planting, propagating, cultivating, growing,
30 harvesting, composting, manufacturing, compounding, converting, producing, processing,
31 preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana,
32 or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

33 IX. "Marijuana cultivation facility" means an entity registered to cultivate, prepare, and
34 package marijuana, and sell marijuana to retail marijuana stores, to marijuana product
35 manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers. A
36 marijuana cultivation facility may not produce marijuana concentrates, tinctures, extracts, or other
37 marijuana products.

38 X. "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing

1 facility, a marijuana product manufacturing facility, or a retail marijuana store.

2 XI. "Marijuana product manufacturing facility" means an entity registered to purchase
3 marijuana and to manufacture, prepare, and package marijuana products, and sell marijuana and
4 marijuana products to other marijuana product manufacturing facilities and to retail marijuana
5 stores, but not to consumers.

6 XII. "Marijuana products" means concentrated marijuana products and marijuana
7 products that are comprised of marijuana and other ingredients and are intended for use or
8 consumption, such as, but not limited to, edible products, ointments, and tincture.

9 XIII. "Marijuana testing facility" means an entity registered to test marijuana for potency
10 and contaminants.

11 XIV. "Public place" means any place to which the general public has access.

12 XV. "Regulatory agency" means:

13 (a) The liquor commission, in the context of a retail marijuana store or a prospective
14 retail marijuana store; or

15 (b) The department of agriculture, markets, and food, in the context of a marijuana
16 cultivation facility or a prospective marijuana cultivation facility; or

17 (c) The department of health and human services, in the context of a marijuana testing
18 facility, a prospective marijuana testing facility, a marijuana product manufacturing facility, or a
19 prospective marijuana product manufacturing facility.

20 XVI. "Retail marijuana store" means an entity registered to purchase marijuana from
21 marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana
22 product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

23 318-F:2 Personal Use of Marijuana. Except as otherwise provided in this chapter, the following
24 acts, if undertaken by a person 21 years of age or older, shall not be illegal under New Hampshire
25 law or the law of any political subdivision of the state or be a basis for seizure or forfeiture of assets
26 under New Hampshire law:

27 I. Possessing, consuming, using, displaying, obtaining, purchasing, or transporting
28 marijuana accessories, or marijuana in the amount of one ounce or less including up to 5 grams of
29 hashish, and the equivalent amount in marijuana products.

30 II. Possessing, growing, processing, or transporting no more than 6 marijuana plants, with
31 3 or fewer being mature, flowering plants, and possession of the marijuana produced by the plants
32 on the premises where the plants were grown.

33 III. Transferring one ounce or less of marijuana and up to 6 immature marijuana plants to
34 a person who is 21 years of age or older without remuneration.

35 IV. Transferring or selling marijuana seeds or up to 6 marijuana seedlings to marijuana
36 cultivation facilities.

37 V. Transferring marijuana or marijuana products to a marijuana testing facility.

38 VI. Controlling property where the acts described by this section occur.

VII. Assisting another person who is 21 years of age or older in any of the acts described in this section.

318-F:3 Restrictions on Personal Cultivation; Penalty.

I. Except as allowed under RSA 126-X, no person who is 21 years of age or older shall cultivate marijuana plants except as provided in this section.

II. Marijuana plants shall not be cultivated in a location where the plants are subject to public view without the use of binoculars, aircraft, or other optical aids.

III. A person who cultivates marijuana shall take reasonable precautions to ensure the plants are secure from access by a person under 21 years of age. Cultivating marijuana in an enclosed, locked space to which unauthorized persons do not have access, or other similar security precautions, shall be prima facie evidence of reasonable precautions.

IV. Marijuana cultivation shall only occur on property the cultivator legally owns, leases, or controls, or with the consent of the person who legally owns, leases, or controls the property.

V. Any person who violates this section shall be guilty of a violation and may be fined not more than \$1,000.

318-F:4 Public Smoking of Marijuana Prohibited.

I. No person shall smoke marijuana in a public place.

II. Any person who violates this section shall be guilty of a violation and may be fined not more than \$200.

318-F:5 Consuming Marijuana in a Moving Vehicle Prohibited.

I. No person shall consume marijuana while operating or driving a motor vehicle, boat, vessel, aircraft, or other motorized device used for transportation.

II. Any person who violates this section shall be guilty of a violation and may be fined not more than \$500, or have his or her driver's license suspended for up to 6 months, or both, for the first violation.

III. Any person who violates this section shall be guilty of a violation and may be fined not more than \$1,000 or have his or her driver's license suspended for up to one year, or both, for a second or subsequent violation.

318-F:6 False Identification Prohibited.

I. A person who is under 21 years of age shall not present or offer to a marijuana establishment or the marijuana establishment's agent or employee any written or oral evidence of age that is false, fraudulent, or not actually the minor's own, for the purpose of:

(a) Purchasing, attempting to purchase, or otherwise procuring or attempting to procure marijuana; or

(b) Gaining access to a marijuana establishment.

II. Any person who violates this section shall be guilty of a violation and may be fined not less than \$400 and not more than \$800.

318-F:7 Unlawful Marijuana Extraction Prohibited.

1 I. No person, other than a marijuana product manufacturer complying with this chapter
2 and department regulations, shall perform solvent-based extractions on marijuana using solvents
3 other than water or vegetable glycerin.

4 II. Any person who violates this section shall be guilty of a class B felony and shall be
5 subject to imprisonment for not more than 3 years, a fine of up to \$5,000, or both.

6 318-F:8 Lawful Operation of Marijuana-Related Facilities. If undertaken by a person 21 years
7 of age or older, the following acts shall not be illegal under New Hampshire law or be a basis for
8 seizure or forfeiture of assets under New Hampshire law:

9 I. Possessing, displaying, or transporting marijuana or marijuana products; obtaining or
10 purchasing marijuana from a marijuana cultivation facility; delivering or transferring marijuana to
11 a marijuana testing facility; obtaining or purchasing marijuana or marijuana products from a
12 marijuana product manufacturing facility; or sale, delivery, or distribution of marijuana or
13 marijuana products to an adult who is 21 years of age or older or to retail marijuana stores, if the
14 person conducting the activities described in this paragraph has obtained a current, valid
15 registration to operate a retail marijuana store or is acting in his or her capacity as an owner,
16 employee, or agent of a registered retail marijuana store.

17 II. Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing
18 marijuana; obtaining or purchasing marijuana seeds or seedlings or immature marijuana plants
19 from any adult 21 years of age or older; delivery or transfer of marijuana to a marijuana testing
20 facility; selling or transferring marijuana that has not been processed into extracts, concentrates, or
21 other preparations to a marijuana cultivation facility, a marijuana product manufacturing facility,
22 or a retail marijuana store; or obtaining or purchasing marijuana from a marijuana cultivation
23 facility, if the person conducting the activities described in this paragraph has obtained a current,
24 valid registration to operate a marijuana cultivation facility or is acting in his or her capacity as an
25 owner, employee, or agent of a registered marijuana cultivation facility.

26 III. Packaging, processing, transporting, manufacturing, displaying, or possessing
27 marijuana or marijuana products; delivery or transfer of marijuana or marijuana products to a
28 marijuana testing facility; selling marijuana or marijuana products to a retail marijuana store or a
29 marijuana product manufacturing facility; purchasing or obtaining marijuana from a marijuana
30 cultivation facility; or purchasing or obtaining marijuana or marijuana products from a marijuana
31 product manufacturing facility, if the person conducting the activities described in this paragraph
32 has obtained a current, valid registration to operate a marijuana product manufacturing facility or
33 is acting in his or her capacity as an owner, employee, or agent of a registered marijuana product
34 manufacturing facility.

35 IV. Possessing, obtaining, cultivating, processing, storing, transporting, receiving, or
36 displaying marijuana or marijuana products if the person has obtained a current, valid registration
37 to operate a marijuana testing facility or is acting in his or her capacity as an owner, employee, or
38 agent of a registered marijuana testing facility.

1 V. Leasing or otherwise allowing the use of property owned, occupied, or controlled by any
2 person, corporation, or other entity for any of the activities conducted lawfully in accordance with
3 this section.

4 VI. Obtaining or purchasing marijuana from a marijuana cultivation facility; delivering or
5 transferring marijuana to a marijuana testing facility; or obtaining or purchasing marijuana or
6 marijuana products from a marijuana product manufacturing facility if the person conducting the
7 activities described in this paragraph possesses a valid registration to operate an alternative
8 treatment center or is acting in his or her capacity as an owner, employee, or agent of a registered
9 alternative treatment center.

10 318-F:9 Marijuana Establishments; Background Checks Required.

11 I. A marijuana establishment shall conduct a state and federal background check prior to
12 making a final offer of employment to a prospective employee, agent, manager, or operator.

13 II. No marijuana establishment shall employ any person who has been convicted of a
14 disqualifying offense. No person convicted of a disqualifying offense shall serve in any capacity, or
15 be affiliated in any manner, with a marijuana establishment.

16 318-F:10 Marijuana Accessories Authorized.

17 I. It shall not be illegal under New Hampshire law or be a basis for seizure or forfeiture of
18 assets under New Hampshire law for a person 21 years of age or older to manufacture, possess, or
19 purchase marijuana accessories, or to distribute or sell marijuana accessories to a person who is 21
20 years of age or older.

21 II. A person who is 21 years of age or older is authorized to manufacture, possess, obtain,
22 and purchase marijuana accessories, and may distribute, deliver, or sell marijuana accessories to a
23 person who is 21 years of age or older.

24 318-F:11 Common Carriers.

25 I. No common carrier or other person acting in a capacity as an employee or agent of a
26 common carrier shall be subject to state prosecution, including civil penalty or disciplinary action by
27 a court, business licensing board, or entity, or be denied a right or privilege, for transporting or
28 possessing marijuana or marijuana products from one marijuana establishment to another, from a
29 marijuana establishment to an alternative treatment center, or from a retail marijuana store or
30 alternative treatment center to consumers.

31 II. No common carrier or other person, acting in a capacity as an employee or agent of a
32 common carrier, shall be subject to state prosecution, including civil penalty or disciplinary action
33 by a court, business licensing board, or entity, or be denied a right or privilege, for transporting or
34 possessing marijuana seeds.

35 318-F:12 Financial Interests Prohibited.

36 I. No marijuana testing facility or owner of a marijuana testing facility shall have a direct
37 or indirect financial interest in a marijuana retail store, a marijuana cultivation facility, or a
38 marijuana product manufacturing facility.

1 II. No marijuana retail store or owner of a marijuana retail store shall have a direct or
2 indirect financial interest in a marijuana testing facility, a marijuana cultivation facility, or a
3 marijuana product manufacturing facility.

4 III. No marijuana cultivation facility or owner of a marijuana cultivation facility shall have
5 a direct or indirect financial interest in a marijuana testing facility, a marijuana retail store, or a
6 marijuana product manufacturing facility.

7 IV. No marijuana product manufacturing facility or owner of a marijuana product
8 manufacturing facility shall have a direct or indirect financial interest in a marijuana testing
9 facility, a marijuana retail store, or a marijuana cultivation facility.

10 318-F:13 Restrictions on Location. No marijuana establishment shall operate, nor shall a
11 prospective marijuana establishment apply for a registration, if it:

12 I. Would be located within 1,000 feet of the property line of a pre-existing public or private
13 school; or

14 II. The location sells alcohol for consumption.

15 318-F:14 Safety Inserts and Warning Labels.

16 I. A retail marijuana store shall include a safety insert designed by the department of
17 health and human services with all marijuana and marijuana products sold to consumers.

18 II. All marijuana and marijuana products sold by a retail marijuana store shall include
19 warning labels that provide the following information:

20 (a) "Warning: This product has intoxicating effects."

21 (b) "For use by adults 21 and older. Keep out of reach of children."

22 III. All marijuana products sold by a retail marijuana store shall include:

23 (a) A warning label that provides, "Caution: When eaten or swallowed, the intoxicating
24 effects of this product may be delayed by 2 or more hours."

25 (b) A disclosure of ingredients and possible allergens.

26 (c) A nutritional fact panel.

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

30 318-F:15 Enactment of Municipal Ordinances.

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

35 II. A municipality may enact an ordinance specifying the entity within the municipality
36 that shall be responsible for reviewing applications submitted for a registration to operate a
37 marijuana establishment within the municipality. The entity designated by the municipality shall
38 be responsible for indicating whether the application is in compliance with local ordinances.

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1 318-F:16 Regulation of Marijuana.

2 I. Not later than June 1, 2017, the department of revenue administration shall adopt rules,
3 pursuant to RSA 541-A, for the registration, regulation, and taxation of marijuana cultivation
4 facilities. Such rules shall include the following:

5 (a) Procedures for the issuance, denial, renewal, suspension, and revocation of a
6 registration for a marijuana cultivation facility.

7 (b) A \$250 application fee for a marijuana cultivation facility, which shall be renewable
8 every 2 years, and a \$250 renewal fee.

9 (c) Qualifications for registration or renewal that are directly related to the applicant
10 being able to collect and pay taxes in a timely fashion, including demonstrating that the applicant is
11 in good standing for any professional or business registrations and, setting standards for the
12 applicant's criminal history and providing for a criminal background check, provided applicants
13 may only apply if they have already been previously issued a marijuana cultivation facility
14 registration by the department of agriculture, markets, and food.

15 (d) Procedures to collect taxes from a marijuana cultivation facility.

16 (e) Record keeping requirements for a marijuana cultivation facility.

17 (f) Requirements for the transportation of marijuana by a marijuana cultivation facility,
18 including documentation that shall accompany any marijuana being transported by marijuana
19 cultivation facilities.

20 (g) A schedule of civil fines for violations of this chapter and department of revenue
21 administration rules.

22 (h) Procedures for hearings on civil fines and suspensions and revocations of a
23 marijuana cultivation facility's registration.

24 II. Not later than June 1, 2017, the department of agriculture, markets, and food shall
25 adopt rules, pursuant to RSA 541-A, for the registration and regulation of marijuana cultivation
26 facilities. Such rules shall include the following:

27 (a) Procedures for the issuance, denial, annual renewal, suspension, and revocation of a
28 cultivation registration to operate a marijuana cultivation facility.

29 (b) A schedule of civil fines for violations of department rules by a marijuana cultivation
30 facility.

31 (c) Procedures for hearings on civil fines, suspension, and revocation of a marijuana
32 cultivation facility registration.

33 (d) A schedule of application, registration, and annual renewal fees, provided that the
34 non-refundable portion of application fees shall not exceed \$1,000, adjusted annually for inflation.

35 (e) Qualifications for registration that are directly and demonstrably related to the
36 operation of a marijuana cultivation facility.

37 (f) Security requirements for a marijuana cultivation facility, including:

38 (1) Video surveillance requirements; and

(2) Requirements that marijuana be cultivated in secure locations that are registered with the department of agriculture, markets, and food; and

(3) Lighting, alarm, and physical security requirements.

(g) Establishing the number of marijuana cultivation facility registrations that will be issued, provided that unless the number of qualified marijuana cultivation facility applicants is fewer than 20, the number of marijuana cultivation facility registrations shall not be fewer than 20. If the number of qualified applicants is fewer than 20, each qualified applicant shall be granted registration.

(h) Health and safety rules for the cultivation of marijuana, including the packaging and preparing of marijuana, seeding, and restricting the use of pesticides that may be dangerous to marijuana consumers.

(i) Restrictions on the advertising, signage, marketing, and display of marijuana, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors restrictions to prevent marijuana from being marketed to minors.

(j) Restrictions on where a marijuana cultivation facility may be located, consistent with the provisions of this chapter.

III. Not later than September 1, 2017, the liquor commission shall adopt rules, pursuant to RSA 541-A, for the registration and regulation of retail marijuana stores. Such rules shall include the following:

(a) Procedures for the issuance, denial, annual renewal, suspension, and revocation of a registration to operate a retail marijuana store.

(b) A schedule of application, registration, and renewal fees, provided that the non-refundable portion of any application fees shall not exceed \$1,000, adjusted annually for inflation.

(c) Qualifications for registration that are directly and demonstrably related to the operation of a retail marijuana store.

(d) Security requirements for retail marijuana stores, including lighting, physical security, video, and alarm requirements.

(e) Establishing the number of retail marijuana store registrations that will be issued, provided that:

(1) The number of retail marijuana stores shall be no fewer than one retail marijuana store for every 10 retail liquor stores, except that the number may be reduced by an amount that is proportionate to the population of any municipality that does not allow retail marijuana stores within its borders or that limits the number of retail marijuana stores within its borders. The number may also be reduced if there are not a sufficient number of qualified applicants for retail marijuana store registration; and

(2) The liquor commission may establish the number of retail marijuana stores allowed in each county or municipality that has not prohibited retail marijuana stores or established a lower numerical limit on retail marijuana stores pursuant to this chapter.

(f) A schedule of civil fines for violations of the liquor commission rules by a retail marijuana store.

(g) Procedures for hearings on civil fines, suspensions, and revocations of a retail marijuana store registration.

(h) Restrictions on the advertising, signage, marketing and display of marijuana, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors restrictions to prevent marijuana from being marketed to minors.

(i) Restrictions on where a retail marijuana store may be located, consistent with the provisions of this chapter.

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

(k) Requirements for the transportation of marijuana by a retail marijuana store, including documentation that shall accompany any marijuana being transported by a retail marijuana store.

IV. Not later than August 1, 2017, the department of health and human services shall adopt rules pursuant to RSA 541-A for the registration and regulation of marijuana product manufacturing facilities. Such rules shall include:

(a) Procedures for the issuance, denial, annual renewal, suspension, and revocation of a registration to operate a marijuana product manufacturing facility.

(b) A schedule of application, registration, and renewal fees, provided that the non-refundable portion of any application fees shall not exceed \$1,000 adjusted annually for inflation.

(c) A schedule of civil fines for violations of department rules by a marijuana product manufacturing facility.

(d) Procedures for hearings on civil fines, suspensions, and revocations of a marijuana product manufacturing facility registration.

(e) Qualifications for registration that are directly and demonstrably related to the operation of a marijuana product manufacturing facility.

(f) Security requirements to operate a marijuana product manufacturing facility, including lighting, physical security, video, and alarm requirements.

(g) The number of marijuana product manufacturing facility registrations to be issued consistent with the provisions of this chapter.

(h) Labeling requirements for marijuana products sold or distributed by a marijuana product manufacturing facility, including:

(1) Disclosing the THC content of each product;

(2) Restrictions on packaging to ensure it is not designed to appeal to minors; and

(3) Establishing the amount of THC that may be included in each serving of a marijuana product.

(i) Health and safety rules and standards for the manufacture of marijuana products, including:

(1) Restrictions or prohibitions on additives to products that are toxic, designed to make the product more addictive, designed to make the product more appealing to children, or misleading to consumers; and

(2) Safety standards regulating the manufacture of marijuana extracts and concentrates.

(j) Requirements for the transportation of marijuana by a marijuana product manufacturing facility, including documentation that shall accompany any marijuana being transported by a marijuana product manufacturing facility.

V. Not later than August 1, 2017, the department of health and human services shall develop a safety insert, which shall include:

(a) Methods for administering marijuana, and how long marijuana may impair a person after it is ingested in each manner; and

(b) How to recognize problematic usage of marijuana and how to obtain appropriate services or treatment for problematic usage.

VI. Not later than August 1, 2017, the department of health and human services shall adopt rules pursuant to RSA 541-A for the registration and regulation of marijuana testing facilities. Such rules shall include:

(a) Procedures for the issuance, annual renewal, suspension, and revocation of a registration to operate a marijuana testing facility.

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

(c) A schedule of application, registration, and renewal fees, provided that the non-refundable portion of any application fees shall not exceed \$1,000 adjusted annually for inflation.

(d) A schedule of civil fines for violations of department rules by a marijuana testing facility.

(e) Procedures for hearings on civil fines and suspensions and revocations of a marijuana testing facility registration.

(f) Qualifications for registration that are directly and demonstrably related to the operation of a marijuana testing facility.

(g) Security requirements for a marijuana testing facility.

(h) The number of marijuana testing facility registrations to be issued, which may not be fewer than 4 unless the number of qualified applicants is fewer than 4, in which case every qualified applicant shall be granted a registration.

(i) Restrictions on where marijuana testing facilities may be located, consistent with the provisions of this chapter, and requiring that all testing shall be conducted on the registered marijuana testing facility premises.

1 (j) Requirements for the transportation of marijuana by a marijuana testing facility
2 including documentation that shall accompany any marijuana being transported by a marijuana
3 testing facility.

4 (k) Requirements for the testing of marijuana, including:

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

8 (2) That testing shall include, but not be limited to, analysis for residual solvents,
9 poisons, or toxins; harmful chemicals; dangerous molds or mildew; filth; dangerous pesticides and
10 harmful microbials such as E. Coli or salmonella and pesticides;

11 (3) Providing that in the event that test results indicate the presence of quantities
12 of any substance determined to be injurious to health, such products shall be immediately
13 quarantined and immediate notification to the department shall be made. The adulterated product
14 shall be documented and properly destroyed;

15 (4) That testing shall also verify THC potency representations for correct labeling;

16 (5) That the department shall determine an acceptable variance for potency
17 representations and procedures to address potency misrepresentations; and

18 (6) That the department shall determine the protocols and frequency of marijuana
19 testing by a marijuana testing facility.

20 (l) Standards for registration laboratories for marijuana and marijuana products.

21 318-F:17 Registration Procedures for Marijuana Establishments.

22 I. Each application for a registration to operate a marijuana establishment shall be
23 submitted to the regulatory agency. Each application shall include both the fee established by the
24 regulatory agency and a \$500 fee for the municipality to review the application. The regulatory
25 agency shall:

26 (a) Accept and process applications beginning on June 1, 2017 for marijuana cultivation
27 facilities, beginning on August 1 for marijuana product manufacturing facilities and marijuana
28 testing facilities, and beginning on September 1 for marijuana retail stores;

29 (b) Immediately forward a copy of each application and the \$500 municipality fee to the
30 municipality in which the applicant desires to operate the marijuana establishment; and

31 (c) Issue a registration to the applicant between 45 and 90 days after receipt of an
32 application unless:

33 (1) The regulatory agency finds the applicant is not in compliance with the
34 requirements of this chapter or rules adopted thereunder; or

35 (2) The regulatory agency is notified by the relevant municipality that the applicant
36 is not in compliance with an ordinance adopted pursuant to this chapter and in effect at the time of
37 application; or

38 (3) More qualified applicants have applied than the number of registrations

1 available in the state or the municipality, and the applicant was not selected.

2 II. When considering an applicant for each type of marijuana establishment registration,
3 the regulatory agency shall consider:

4 (a) Whether the applicant has experience operating as a marijuana establishment.

5 (b) Input provided by the government of the municipality in which the prospective
6 marijuana establishment would operate, including information regarding compliance with any local
7 zoning laws.

8 (c) The principal officers' and board members' character and relevant experience,
9 including any training or professional licensing related to botany and their experience operating a
10 nonprofit organization or business.

11 (d) Whether the principal officers, board members, and managers of the marijuana
12 establishment have business experience in the state of New Hampshire.

13 (e) The plan for record keeping, security, inventory control, and diversion prevention of
14 the applicant.

15 (f) Criminal, civil, or regulatory issues encountered by other entities that the applicant
16 and managing officers of the applicant have controlled or managed.

17 (g) The financial history of the applicant and managing officers of the applicant,
18 including any bankruptcy filings and any delinquent taxes.

19 (h) Whether the entity possesses or has the right to use land, buildings, and equipment
20 sufficient to properly carry out its duties as a marijuana establishment.

21 318-F:18 Sales to Persons Under 21 Years of Age. The establishment of all the following facts
22 by a retail marijuana store or an agent or employee of a retail marijuana store making a sale of
23 marijuana or marijuana accessories to a person under the age of 21 shall constitute an affirmative
24 defense to any prosecution for such sale:

25 I. That the person falsely represented in writing and supported by official documentation
26 that he or she was 21 years of age or over.

27 II. That the appearance of the person was such that an ordinary and prudent person would
28 believe him or her to be 21 years of age or over.

29 III. That the sale was made in good faith relying upon such written representation and
30 appearance in the reasonable belief that the person was 21 years of age or over.

31 318-F:19 Proof of Purchaser's Identity.

32 I. For the purposes of this chapter, any person making the sale of marijuana or marijuana
33 accessories to any purchaser whose age is in question may accept any of the following
34 documentation as proof that the purchaser is 21 years of age or over:

35 (a) A valid motor vehicle driver's license issued by the state of New Hampshire, or a
36 valid driver's license issued by another state, or province of Canada, which bears the name, address,
37 date of birth, and photograph of the purchaser.

38 (b) A valid identification card issued by the director of motor vehicles under the

provisions of RSA 260:21, or any picture identification card issued by another state which bears the name, address, and date of birth of the purchaser.

(c) A valid armed services identification card showing the purchaser's name and date of birth.

(d) A valid passport from a country with which the United States maintains diplomatic relations showing the purchaser's name, address, and date of birth.

II. The appearance of the purchaser shall be consistent with the photographic identification presented under this section and the proof of identification shall be free of alteration, erasure, blemish, or other impairment.

318-F:20 Employers, Driving, Minors, and Control of Property.

I. Nothing in this chapter shall be construed to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.

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

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

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

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

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

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

(2) The residence is incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service.

(3) The residence is a transitional housing facility.

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

318-F:21 Enforcement of Contracts. Contracts related to the operation of a marijuana establishment registered pursuant to this chapter shall be enforceable. No contract entered into by a registered marijuana establishment or its employees or agents as permitted pursuant to a valid

1 registration, or by those who allow property to be used by a establishment, its employees, or its
2 agents as permitted pursuant to a valid registration, shall be unenforceable on the basis that
3 cultivating, obtaining, manufacturing, distributing, dispensing, transporting, selling, possessing, or
4 using marijuana or hemp is prohibited by federal law.

5 3 New Chapter; Hemp Regulation. Amend RSA by inserting after chapter 433-C the following
6 new chapter:

7 CHAPTER 433-D

8 REGULATION OF HEMP

9 433-D:1 Definitions. In this chapter:

10 I. "Department" means the department of agriculture, markets, and foods.

11 II. "Hemp" means the plant of the genus cannabis and any part of such plant, whether
12 growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths
13 percent on a dry weight basis of any part of the plant cannabis, or per volume or weight of
14 marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and
15 tetrahydrocannabinolic acid in any part of the plant regardless of moisture content.

16 III. "Hemp products" means all products made from hemp, including, but not limited to,
17 cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed
18 oil, and certified seed for cultivation.

19 433-D:2 Hemp as an Agricultural Product. Hemp may be grown as a crop, produced, possessed,
20 and commercially traded in New Hampshire pursuant to this chapter. The cultivation of hemp shall
21 be subject to and comply with any regulations issued by the department pursuant to this chapter.

22 433-D:3 Registration.

23 I. Except as provided in this section, a person who intends to grow hemp shall register with
24 the department and submit on a form provided by the department the following:

25 (a) The name and address of the person.

26 (b) A statement that the seeds obtained for planting are of a type and variety that do
27 not exceed the maximum concentration of delta-9 tetrahydrocannabinol set forth in this chapter.

28 (c) The location and acreage of all parcels sown and other field reference information as
29 may be required by the state.

30 II. A person registered with the department pursuant to this section shall allow hemp
31 crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and
32 tested by and at the discretion of the department.

33 III. The department may assess an annual registration fee of \$100 for the performance of
34 its duties under this chapter.

35 IV. A person or entity that is allowed to cultivate marijuana plants under RSA 318-F or
36 RSA 126-X may instead cultivate hemp plants without registering under this chapter. If the person
37 or entity has not registered to cultivate hemp under this chapter, the hemp plants shall be
38 considered marijuana plants and shall comply with the requirements of RSA 318-F or RSA 126-X,

1 including any limitation on the number of marijuana plants that the person may cultivate.

2 433-D:4 Rulemaking. The department may adopt rules, pursuant to RSA 541-A, relative to
3 requiring hemp to be tested during growth for tetrahydrocannabinol levels and requiring inspection
4 and supervision of hemp during sowing, growing season, harvest, storage, and processing. The
5 department shall not adopt a rule that would prohibit a person to grow hemp based on the legal
6 status of hemp under federal law.

7 433-D:5 Exemption from State Penalties.

8 I. It shall not be a violation of state or local law for a person to plant, grow, harvest,
9 possess, process, sell, and buy hemp if that person does so in compliance with this chapter and rules
10 adopted in accordance with it.

11 II. It shall not be a violation of state or local law for a person to purchase and possess
12 industrial hemp or hemp products.

13 4 New Chapter; Taxation of Marijuana. Amend RSA by inserting after chapter 77-G the
14 following new chapter:

15 CHAPTER 77-H

16 TAXATION OF MARIJUANA

17 77-H:1 Definitions. In this chapter, the definitions set forth in RSA 318-F:1 shall apply.

18 77-H:2 Tax Imposed.

19 I. A tax shall be levied upon marijuana sold or otherwise transferred by a marijuana
20 cultivation facility to a marijuana product manufacturing facility or to a retail marijuana store at a
21 rate of \$530 per ounce of marijuana flowers or proportionate part thereof and \$15 per ounce on all
22 parts of marijuana other than marijuana flowers. The department shall collect such tax and adjust
23 the rate annually to account for inflation or deflation based on the United States Department of
24 Labor, Bureau of Labor Standards, Consumer Price Index.

25 II. A tax shall be levied upon marijuana sold or otherwise transferred by a retail marijuana
26 store at a rate of 15 percent of the sale price. The department shall collect such tax as provided in
27 this chapter.

28 III. The commissioner of the department of revenue administration shall quarterly deposit
29 all tax revenues collected under this chapter into the general fund.

30 IV. The department shall adopt rules, pursuant to RSA 541-A relative to the procedures for
31 collection of tax revenues under this chapter.

32 77-H:3 Administration.

33 I. Each application for a registration to operate a marijuana establishment shall be
34 submitted to the department. The department shall:

35 (a) Accept and process applications beginning on June 1, 2015;

36 (b) Immediately forward a copy of each application and half of the registration
37 application fee to the municipality in which the applicant desires to operate the marijuana
38 establishment;

(c) Issue a registration to the applicant between 45 and 90 days after receipt of an application unless the department finds the applicant is not in compliance with the requirements of this section or the department is notified by the relevant municipality that the applicant is not in compliance with an ordinance adopted pursuant to this section and in effect at the time of application, provided, where the department or a municipality has enacted a numerical limit on the number of marijuana establishments and a greater number of applicants seek registrations in such municipality, the department shall solicit and consider input from the municipality as to the municipality's preference for registration; and

(1) Whether the applicant has experience operating as an alternative treatment center pursuant to RSA 126-X.

(2) The suitability of the proposed location, including compliance with any local zoning laws.

(3) The proposed marijuana establishment's plan for operations and whether it has sufficient capital to operate.

(4) The principal officers' and board members' character and relevant experience, including any training or professional licensing related to botany and their experience operating a nonprofit organization or business.

(5) The sufficiency of the applicant's plans for recordkeeping and inventory control.

(6) The sufficiency of the applicant's plans for safety and security, including proposed location and security devices employed.

(7) Whether the entity possesses or has the right to use land, buildings, and equipment sufficient to properly carry out its duties as a marijuana establishment.

(8) Any input provided by the municipality in which the applicant seeks to operate.

II. A municipality may enact an ordinance specifying the entity within the municipality that shall be responsible for reviewing applications submitted for a registration to operate a marijuana establishment within the boundaries of the municipality.

III. A municipality may enact an ordinance, consistent with this section, RSA 318-F, and any rules adopted, regulating the time, place, manner, and number of marijuana establishment operations.

IV. A municipality may enact an ordinance prohibiting or limiting the number of any type of marijuana establishment that may be permitted within the municipality.

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

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

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

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

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

(5) Marijuana in a quantity of ***more than*** one ounce [~~or more~~] including any adulterants or dilutants, or hashish in a quantity of ***more than 5*** grams [~~or more~~] including any adulterants or dilutants;

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

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

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

(d) In the case of more than one ounce of marijuana by a person over 21 years of age, [~~including any adulterants or dilutants, or 5 grams or less of hashish~~] or more than one-half ounce of marijuana by a person under 21 years of age, not including the weight of any ingredients combined with the marijuana, the person shall be guilty of a class A misdemeanor.

10 New Subparagraphs; Controlled Drug Act; Penalties. Amend RSA 318-B:26, II by inserting after subparagraph (d) the following new subparagraphs:

(e) In the case of a person over the age of 18 and under the age of 21 who possesses not more than 1/2 ounce of marijuana or 5 grams of hashish, the person shall be guilty of a violation and may be fined up to \$200.

(f) In the case of a person under the age of 18 who possesses not more than one-half ounce of marijuana or 5 grams of hashish, the person shall be guilty of a violation and fined not more than \$200. The fine shall be suspended pending completion of a drug awareness course within 6 months of the violation. If the person fails to complete the course within the time allotted, the court shall impose the fine.

11 Model Drug Dealer Liability Act; Definitions. Amend RSA 318-C:4, I to read as follows:

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

1 12 Repeal. The following are repealed:

2 I. RSA 318-B:1, X-a(g), relative to separation gins and sifters used or intended for use with
3 marijuana.

4 II. RSA 318-B:26, I(d)(1), relative to the penalty for possession of up to one ounce of
5 marijuana.

6 13 Effective Date. This act shall take effect July 1, 2017.

HB 1694-FN-A-LOCAL- FISCAL NOTE

AN ACT relative to the legalization and regulation of marijuana.

FISCAL IMPACT:

The Department of Revenue Administration, Agriculture, Markets and Food, Health and Human Services, Departments of Justice and Safety, the Liquor Commission, New Hampshire Association of Counties and the New Hampshire Municipal Association state this bill, **as introduced**, will increase state and local revenue and have an indeterminable fiscal impact on state, county and local expenditures in FY 2017 and each year thereafter. There will be no fiscal impact on county revenue.

METHODOLOGY:

The Department of Revenue Administration states the proposed bill would legalize and tax the sale of marijuana in New Hampshire for anyone over the age of 21. The Department is not able to determine the fiscal impact of the bill, but makes the following assumptions:

- While the effective date of the bill is July 1, 2017, rules concerning registration, regulation and taxation of cultivation facilities are required to be adopted no later than June 1, 2017.
- There would be an initial application fee of \$250 for each marijuana cultivation facility and applications would require renewal every two years for a fee of \$250.
- The Department would be responsible for the taxation of marijuana. The initial tax would be \$530 per ounce of marijuana flower and \$15 per ounce on all other parts of the plant sold or transferred by a cultivation facility to a manufacturing facility or retail marijuana store. The Department would collect the tax and adjust the rate annually for inflation.
- There would be an additional tax of 15% of marijuana sold to consumers at the retail level.
- All marijuana tax revenue would be deposited quarterly into the State general fund.
- The Department would also be responsible for accepting and processing applications for licensure of marijuana establishments and for forwarding one-half of the application fees to the municipality. While the bill is effective on July 1, 2017, the Department is required to start accepting applications by June 1, 2017.
- The Department would need additional staff to develop administrative rules, administer taxation of sales and transfers, and to review and issue registrations. These positions would include two attorneys, an administrator III, an administrative

secretary and two tax auditors. The cost for these positions, including salary, benefits, and operating expenses would be:

	FY 2017	FY 2018	FY 2019	FY 2020
Salary	\$329,761	\$345,993	\$365,492	\$385,088
Benefits	\$166,639	\$178,474	\$190,531	\$203,217
Other expenses	\$13,200	\$3,300	\$3,300	\$3,300
Total:	\$509,600	\$527,767	\$559,323	\$591,605

- The additional state and local revenue from registration application fees cannot be determined.
- Concerning the tax on marijuana transferred from a cultivation facility, the Department cannot determine how much would be marijuana flowers versus other parts of the plant, but assumed in their analysis that only the flower would be sold to manufacturers and retail stores.
- The Department estimated the potential tax on marijuana flowers transferred from cultivation facilities based on information from the U.S. Census Bureau, the National Survey on Drug Use and Health, and the Colorado Futures Center:
 - NH population aged 20 years and older: 721,421
(Data on 21 and older not available)
 - 19.3% of persons 20 and older that used marijuana in the past year: 139,234
(National Survey)
 - Average consumption/ person 3.53 ounces
(Colorado Futures Center)
 - Potential Consumption in Ounces (139,234 x 3.53) 491,497
 - Potential Revenue @ \$530 per ounce \$260.5 million
- Concerning the 15% tax on retail sales, the Department considered the consumption estimate above and information on the retail price from Colorado. The Department assumes the average retail price would be \$700/ ounce. Based on these assumptions, the 15% retail tax would generate \$51.6 million annually. (\$700 x 491,497 x 15%)

The Department of Agriculture states it would require additional staff to manage registration, inspection and compliance for marijuana and hemp cultivation and to develop the required administrative rules. The Department indicates the following additional staff would be necessary assuming 20 marijuana cultivation facilities:

- Legal Coordinator, labor grade 27, to write rules and provide oversight of and supervision to the program.

- Registration / Compliance Coordinator, labor grade 23, to review application requests, collect fees, issue registrations, conduct renewal activity, maintain data and prepare reports, provide oversight to the inspectors, and prepare enforcement actions for the legal coordinator's review.
- Inspectors (2), labor grade 20, to perform inspections and compliance reporting for both cultivation types.
- In the first year 20 facilities would register and pay an initial registration fee of \$1,000. The annual renewal fee would be \$100 per facility.

The Department assumes the following revenue and expenditures to administer the program*:

	FY 2017	FY 2018	FY 2019	FY 2020
Revenue:	\$20,000	\$2,000	\$2,000	\$2,000
Expenditures:				
Legal Coordinator*	\$90,000	\$89,000	\$94,000	\$98,000
Registration/Compliance* Coordinator	\$75,000	\$73,000	\$77,000	\$81,000
Two Inspectors*	\$138,000	\$134,000	\$140,000	\$146,000
Two Vehicles	<u>\$33,264</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Costs	\$336,264	\$296,000	\$311,000	\$325,000
Expenditures less Revenue:	\$316,264	\$294,000	\$309,000	\$323,000

*Position amounts include salary, benefits and associated costs such as equipment, supplies and in-state travel.

The Liquor Commission makes the following assumptions concerning the fiscal impact of this bill:

- The Commission would be required to adopt a number of administrative rules to implement the requirements of this bill. The Commission assumes, given the rulemaking process, it may take more than 12 months to write and gain approval for the required rules.
- Assuming 8 licenses (one for every 10 liquor stores) and an annual cost of \$10,000, the Commission would collect \$80,000 of license revenue.
- The Commission would require at least seven additional staff as follows:
 - 1) One full-time legal coordinator to establish rules, respond to business inquiries, represent the commission before rules and other legislative committees, monitor legalization activities legal challenges and decisions across the country, and act as the information officer for the commission on marijuana related issues.
 - 2) One full-time Legal Secretary III to support and assist the Legal Coordinator.

3) One full-time Liquor Licensing Specialist (Cannabis) to process marijuana applications by investigating, analyzing and preparing new and renewal applications made to the commission to sell cannabis at retail. Review and interpret applications and supporting information to ensure compliance with statute, administrative rules and municipal regulations.

4) One full-time Liquor Enforcement Sergeant to supervise the retail cannabis unit by coordinating and monitoring operational functions of the retail cannabis unit.

5) Two full-time Liquor Investigators to enforce all criminal and administrative laws relative to the sale of cannabis and conduct general enforcement activities.

6) One full-time Liquor (Cannabis) Examiner II to examine the financial record of retail marijuana licensees to determine compliance with laws concerning transportation, storage and sale of marijuana. Review security requirements for retail stores including physical security, lighting, video and alarms.

The Commission indicates, based on review of the program in Washington, more staff may be required depending on the actual number of retail licenses. The Commission estimates the fiscal impact on its operations as follows:

Salary and Benefits	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Legal Coordinator, Labor Grade 28	\$92,484	\$98,877	\$102,379	\$105,960
Legal Secretary III, Labor Grade 14	\$60,416	\$66,212	\$67,977	\$69,896
Liquor Licensure Specialist, Labor Grade 18	\$45,443	\$75,466	\$77,708	\$80,171
Liquor Examiner II, Labor Grade 20	\$47,587	\$80,171	\$82,551	\$85,207
Sargeant Group II, Labor Grade 20	\$104,889	\$108,275	\$108,275	\$108,275
Liquor Investigator Group II, Labor Grade 18	\$80,456	\$83,367	\$85,927	\$88,723
Liquor Investigator Group II, Labor Grade 18	\$80,456	\$83,367	\$85,927	\$88,723
Total Salary and Benefits:	\$511,731	\$595,735	\$610,744	\$626,955
Current Expense	\$23,200	\$23,200	\$23,200	\$23,200
Equipment	\$195,000	\$7,580	\$7,580	\$7,580
Overtime	\$23,000	\$23,000	\$23,000	\$23,000
Training	\$12,000	\$12,000	\$12,000	\$12,000
Total Operating Expenses	\$253,200	\$65,780	\$65,780	\$65,780
Total Cost:	\$764,931	\$661,515	\$676,524	\$692,735

The Department of Health and Human Services, Bureau of Licensing and Certification states the Department will need to adopt comprehensive rules relative to the registration and regulation of marijuana product manufacturing facilities. Although not specifically included in the bill, the Department assumes this would include an inspection process. The Department states it could not absorb the additional responsibilities without additional staff. The number of additional staff needed cannot be determined as it is not known how many facilities would be established. The Department assumes the bill would require one or more Program

Specialist III positions and additional clerical staff. The Department of Health and Human Services, Bureau of Drug and Alcohol Services states there is considerable uncertainty about the impact legalizing marijuana would have on public budgets, consumption, and treatment services. The Department cites a Rand Corporation study which indicates the marijuana misuse and dependence treatment needs in NH could increase with legalization of up to one ounce of marijuana by persons 21 years of age or older. The Department is not able to determine the fiscal impact of the bill.

The Office of Legislative Budget Assistant states this bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor. There is no method to determine how many additional or fewer charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the Judicial Branch, Department of Corrections, Judicial Council and New Hampshire Association of Counties have provided the Office with potential costs associated with the penalties contained in this bill. See table below for average cost information:

	FY 2017	FY 2018
<u>Judicial Branch</u>		
Violation Level Offense	\$48	\$51
Class B Misdemeanor	\$50	\$53
Class A Misdemeanor	\$70	\$74
Routine Criminal Felony Case	\$449	\$470
Appeals	Varies	Varies
It should be noted average case cost estimates for FY 2017 and FY 2018 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.		
<u>Judicial Council</u>		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$756/Case	\$756/Case
Contract Attorney – Misdemeanor	\$275/Case	\$275/Case
Contract Attorney – Juvenile Delinquency	\$275/Case	\$275/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
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. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
<u>Department of Corrections</u>		
FY 2015 Average Cost of Incarcerating an Individual	\$34,336	\$34,336
FY 2015 Average Cost of	\$520	\$520

Supervising an Individual on Parole/Probation		
<u>NH Association of Counties</u>		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$85 to \$110	\$85 to \$110

Many offenses are prosecuted by local and county prosecutors. In those instances where the Department of Justice has prosecutorial responsibility or is involved with appeals for a conviction related to the offense contained in this bill, the Department would absorb the cost within its existing budget. If the bill results in the Department needing to prosecute significantly more cases or be involved in significantly more appeals, then there may be an indeterminable increase in costs to the Department. The Department expects the Departments of Health and Human Services, Agriculture, Revenue Administration, and the State Liquor Commission would all require assistance from an Assistant Attorney General in the Civil Bureau with the promulgation of rules and other legal assistance. The Department indicates it is not possible to predict the time need to provide civil counsel to each agency. The Department prosecutes large-scale drug trafficking crimes including trafficking of marijuana. The Department assumes if this bill were to pass, prosecutions related to marijuana would be replaced by prosecutions involving other controlled drugs.

The Department of Safety states there would be increased costs due to an increase in driving under the influence of marijuana cases. The Department indicates the costs would result from additional arrests and an increase in crash investigation costs due to driving under the influence.

The New Hampshire Municipal Association states an application to operate a marijuana establishment would be subject to review by the municipality where it is proposed to be located. Municipalities would be authorized to prohibit or limit the number of establishments within the municipality. The Association indicated the bill may affect law enforcement expenditures related to marijuana offenses, but cannot determine if such expenditures would increase or decrease. The Association states there may be costs associated with reviewing applications for marijuana establishments, but cannot estimate such expenditures.

This bill does not make an appropriation or establish new positions.