SB 98-FN - AS INTRODUCED

2023 SESSION

23-0826
08/04

SENATE BILL ***98-FN***

AN ACT relative to delinquent payment of accounts by on premises and off premises licensees.

SPONSORS: Sen. Murphy, Dist 16; Rep. Potucek, Rock. 13

COMMITTEE: Commerce

ANALYSIS

This bill increases the total amount of delinquent payments by an on-premises or off-premises licensee that must be reported to the liquor commission.

- -

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 98-FN - AS INTRODUCED

23-0826
08/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to delinquent payment of accounts by on premises and off premises licensees.

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

1 Alcoholic Beverages; Enforcement; Delinquent Payments. Amend RSA 179:13, I to read as follows:

I. Each holder of a wholesale distributor, brew pub, nano brewery, or beverage manufacturer license shall report to the commission the name and license number of any on-premises or off-premises licensee who is delinquent in making payment of accounts over a total of [~~$100~~] ***$250*** within 10 days, including Sundays and holidays, from the date of delivery of beverages on the premises of such on-premises or off-premises licensee or on the premises of a liquor/wine/beverage warehouser storing the beverages for an on-premises or off-premises licensee. Each holder of a wholesale distributor license, brew pub license, nano brewery license, beverage manufacturer license, or beverage vendor license shall report to the commission the name and license number of any holder of a wholesale distributor license who is delinquent in making payments of accounts within 30 days from the date of delivery of beverages on the premises of such holder of a wholesale distributor license. Such report to the commission shall include the amounts purchased and the dates when payments were due and shall be forwarded to the commission within 5 days after said accounts become delinquent, unless the fifth day of such period is a Sunday or holiday in which case the report shall be forwarded the day following such Sunday or holiday.

2 Alcoholic Beverages; Enforcement; Delinquent Payments. Amend RSA 179:13, III to read as follows:

III. The commission shall inform holders of beverage manufacturer licenses, beverage vendor licenses, brew pub licenses, nano brewery licenses, and wholesale distributor licenses of the names of licensees who are delinquent in making payments of a total amount of [~~$100~~] ***$250*** or more under the provisions of this section and no holder of a beverage manufacturer license, beverage vendor license, brew pub license, nano brewery license, or wholesale distributor license shall knowingly make any delivery of beverages to any licensee whose payments for purchases of beverages are reported as delinquent under this section. The commission may withhold names of delinquent licensees under circumstances in which there is a dispute over payments, an agreement to liquidate which has been approved by the commission, or other reason which the commission may deem proper.

3 Effective Date. This act shall take effect July 1, 2023.

LBA
23-0826
Revised 1/24/23

SB 98-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to delinquent payment of accounts by on premises and off premises licensees.

FISCAL IMPACT: [ ] State [ ] County [ ] Local [X] None

METHODOLOGY:

The Office of Legislative Budget Assistant states this bill, as introduced, has no fiscal impact on state, county and local expenditures or revenue.

AGENCIES CONTACTED:

Liquor Commission

CONSENT CALENDAR

May 30, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Commerce and Consumer Affairs to which was referred SB 98-FN,

AN ACT relative to delinquent payment of accounts by on premises and off premises licensees. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

Rep. Jane Beaulieu

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Commerce and Consumer Affairs**
Bill Number:	**SB 98-FN**
Title:	**relative to delinquent payment of accounts by on premises and off premises licensees.**
Date:	**May 30, 2023**
Consent Calendar:	**CONSENT**
Recommendation:	**OUGHT TO PASS**

STATEMENT OF INTENT

This bill simply makes minor changes to reporting requirements regarding on premises and off premises licensees. RSA 179:13 requires reporting of delinquent payments of $100 or more to the NH Liquor Commission and this bill increases that to $250 or more. This bill has no fiscal impact on state, county and local expenditures or revenue. The changes shall take effect on July 1, 2023.

Vote 19-0.

Rep. Jane Beaulieu
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Commerce and Consumer Affairs
SB 98-FN, relative to delinquent payment of accounts by on premises and off premises licensees. **OUGHT TO PASS.**
Rep. Jane Beaulieu for Commerce and Consumer Affairs. This bill simply makes minor changes to reporting requirements regarding on premises and off premises licensees. RSA 179:13 requires reporting of delinquent payments of $100 or more to the NH Liquor Commission and this bill increases that to $250 or more. This bill has no fiscal impact on state, county and local expenditures or revenue. The changes shall take effect on July 1, 2023. **Vote 19-0.**

Original: House Clerk
Cc: Committee Bill File

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON SB 98-FN

BILL TITLE: **relative to delinquent payment of accounts by on premises and off premises licensees.**

DATE: **May 23, 2023**

LOB ROOM: **302-304** **Time Public Hearing Called to Order:**

Time Adjourned:

Committee Members: Reps. Hunt, Ammon, Beaulieu, Osborne, Potucek, Terry, Post, Cole, Porcelli, Thackston, L. Walsh, Burroughs, Herbert, McAleer, Vincent, Calabro, Filiault, Gibbs, Spier and J. Sullivan

Bill Sponsors:
Sen. Murphy **Rep. Potucek**

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

*Michael Holt - Represents Therapeutic Cannabis Program
- References of ATCs shoulb be clarified

*Nathaniel O'Brien - NH Cannabis Party
- Introduced the DEA and info on seeds
- Cannabis and Hemp seeds
- Supports Bill

Sue Homola
- Many public health issues have not been addressed
- Opposes

*Matt Simon - Prime ATC
- Their business is harm reduction
- Under a microscope
- This bill woul compromise the ATC program

Jim Riddle - NH Cannabis Association
- Representing himself
- Harm reduction roll reducing use of opioids
- Home cultivation should be included
- Supports Legalization

Heather Marie Brown - Represents TCMOB
- Jeopardizes the ATC program
- Opposes the amendment

*Frank Knaack - ACLU-NH
- Supports the decriminalization

Rep Pratt
- Just needed some clarification
- Opposes

Paul Morrisette - East Coast Cannabis of Maine

- Discussed cultivation
- Supply will be inadequate
- May go bankrupt as well as the liquor commission
- Opposes the supply chain of cannabis
- Will be disrupted

*Dana Brearly

- Opposes
- Owns a cannabis production and sales business
- Return on investment
- Questionable dosage is a concern

Respectfully Submitted,

Rep Jane Beaulieu, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON SB 98-FN

BILL TITLE: **relative to delinquent payment of accounts by on premises and off premises licensees.**

DATE: **April 12, 2023**

LOB ROOM: **302_304** **Time Public Hearing Called to Order:** **1:45 p.m.**

Time Adjourned:

Committee Members: Reps. Hunt, Ammon, Beaulieu, Osborne, Potucek, Terry, Post, Cole, Porcelli, Thackston, L. Walsh, Burroughs, Herbert, McAleer, Calabro, Filiault, Gibbs, Spier and J. Sullivan

Bill Sponsors:
Sen. Murphy **Rep. Potucek**

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Senator Murphy - Introduced the bill
- Minor Changes

Respectfully Submitted,

Rep Jane Beaulieu, Clerk

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill #: Amendment 2023-1892h Date: 5/23/23

Committee: Commerce

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Mike McLaughlin	Concord NH	226 9600	Sanctuary ATC	✓	
Elizabeth Sargent	NH Assoc of Chiefs of Police				X
Paul Twomey	Chichester			✓	
Rep Timothy Horrigan	Stratford 12			✓	
Ashton Webster	Concord	603-931-6429		✓	

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON SB 98-FN

BILL TITLE: **relative to delinquent payment of accounts by on premises and off premises licensees.**

DATE: **May 23, 2023**

LOB ROOM: **302-304** **Time Public Hearing Called to Order:** **10:00**

Time Adjourned:

Committee Members: Reps. Hunt, Ammon, Beaulieu, Osborne, Potucek, Terry, Post, Cole, Porcelli, Thackston, L. Walsh, Burroughs, Herbert, McAleer, Vincent, Calabro, Filiault, Gibbs, Spier and J. Sullivan

Bill Sponsors:
Sen. Murphy **Rep. Potucek**

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep Potucek - Presented a reconsideration motion

Chairman Hunt - Spoke about the reason for the liquor commission running all cannabis outlets. Encouraging. We vote for a study committee introduced by the Senate. Why do we need another study of cannabis propossed by the Senate when HB639 was a product of the cannabis commission which passed out of this committee and the House overwhelmingly.

Rep Almay

- Made references to definitions and appropriation amounts that need to be changed.

Respectfully Submitted,

Rep Jane Beaulieu, Clerk

House Remote Testify

Commerce and Consumer Affairs Committee Testify List for Bill SB98 on 2023-0

Support: 1 Oppose: 0 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	S
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Support	No	No	4

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on SB 98-FN

BILL TITLE: relative to delinquent payment of accounts by on premises and off premises licensees.

DATE: May 3, 2023

Subcommittee Members: Reps. Hunt, L. Walsh, Burroughs and J. Sullivan

Comments and Recommendations:

MOTIONS: **OUGHT TO PASS**

Moved by Rep. Rep. Hunt Seconded by Rep. Rep. L. Walsh Vote: 4-0

Respectfully submitted,

Rep. John Hunt
Subcommittee Clerk

Daniel Richardson

Benefit to business

Frank Knaack
Policy Director
fknaack@aclu-nh.org
603.545.0433

Support Amendment 2023-1892h to SB 98 - End New Hampshire's Unnecessary and Harmful War on Marijuana

Amendment 2023-1892h to SB 98 would:

- Allow adults (over age of 21) to possess up to:
  - Four ounces of cannabis in plant form;
  - Twenty grams of concentrated cannabis products, which includes hashish and pre-filled cartridges of cannabis extracts intended for vaporization;
  - Cannabis products other than concentrated cannabis products containing no more than 2,000 milligrams of THC.
- Create state operated or agency licensed retail stores;
- Preserve and integrate the medical marijuana program;
- Allow localities to decide whether to permit marijuana sales;
- After the deduction of appropriations charged to the fund for the cost of administration of this program, the funds shall be appropriated as follows:
  - Fifty percent to the education trust fund;
  - Thirty percent to unfunded pension liabilities;
  - Ten percent or $25 million (whichever is less) to a substance abuse prevention and recovery fund;
  - Five percent to children's behavioral health services; and
  - Five percent to training first responders to address detect impaired driving and respond to drug overdoses.

Under current law, adults in possession of up to 3/4 ounce of marijuana face fines ranging from $100 to $1,200, depending in the number of offenses within a three-year period.[i] Adults in possession of marijuana under this limit can still face arrest and a criminal charge (Class B Misdemeanor) for their fourth violation within a three-year period.[ii] In addition, for adults in possession of more than 3/4 ounce of marijuana, they can be charged with a misdemeanor and face up to one year in jail and a fine of $2,000 or less.[iii]

A marijuana possession arrest can ruin lives. Sold to the public in the name of public safety, New Hampshire's marijuana laws needlessly ensnare over a thousand people -- disproportionately Black people -- in its criminal justice system every year. These arrests are not just an unnecessary burden on New Hampshire residents and the judicial system, but also negatively affect access to employment, housing, and child custody, among others, for the person arrested. These collateral harms can last for decades, even after someone has served their time or paid any required fines. It is past time to end New Hampshire's unnecessary and harmful war on marijuana.

New Hampshire's war on marijuana is a monumental waste of tax dollars. For each of the 1,120 marijuana arrests in 2021,[iv] our tax dollars had to pay for a judge, a clerk, law enforcement officers, prosecutor, and others to process the case. According to an economic analysis published in 2013, the 2,769 marijuana possession arrests in 2010 cost New Hampshire taxpayers $6,526,364 that year.[v] Despite New Hampshire's decriminalization of marijuana possession in 2017,[vi] law enforcement still arrested 1,120 people in 2021 for marijuana possession,[vii] meaning New Hampshire taxpayers may still be paying close to $2.6 million each year to enforce marijuana possession laws. Lawmakers should stop wasting tax dollars on this failed war.

Last updated May 23, 2023

New Hampshire's war on marijuana is enforced with a staggering racial bias.[viii] In 2020 Black people were 4.8 times more likely to be arrested for marijuana possession when compared with whites,[ix] despite both groups using marijuana at roughly the same rate.[x] And, this disparity is on the rise, up from 2.6 times more likely to be arrested in 2010 – a 46 percent increase.[xi] The racial bias in enforcement is even more pronounced with the city police departments in Manchester and Concord, where the disparities are 13.9 times and 5.8 times respectively.[xii] The discriminatory enforcement of New Hampshire's marijuana laws means that Black people are more likely to face the immediate harms of a marijuana arrest and charge, including potential incarceration, as well as the collateral consequences, including the loss of jobs, housing, financial aid eligibility, and child custody.

The vast majority of Granite Staters support marijuana legalization. Seventy-one percent of Granite Staters support marijuana legalization, including majorities of Democrats, Independents, and Republicans.[xiii] And, support for marijuana legalization has greatly increased since 2013, when it was just 49 percent.[xiv] It is past time for New Hampshire lawmakers to listen to the people and legalize marijuana possession by adults.

Opponents of marijuana legalization rely on fear-based rhetoric divorced from reality. Marijuana legalization opponents argue that marijuana legalization leads to increased youth use, crime, and traffic fatalities. They also argue that marijuana is a gateway drug that is partially responsible for the opioid epidemic. The data from legalization states do not support these claims. Multiple studies have found no increase in youth use in states that have legalized marijuana.[xv] Legalization has also not substantially affected crime rates,[xvi] and, according to a multi-year study of Colorado and Washington, may have improved crime clearance rates.[xvii] Fortunately, it also appears that marijuana legalization has had "little or no effect" on traffic accidents and fatalities.[xviii] Finally, evidence suggests that marijuana legalization is connected with a reduction in opioid related deaths.[xix] New Hampshire lawmakers have the benefit of years of data from legalization states to distinguish myth from reality.

Support Amendment 2023-1892h to SB 98 – The war on marijuana does not make us safe, wastes taxpayer dollars, and ruins lives.

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[i] NH Rev Stat § 318-B:2-c.
[ii] NH Rev Stat § 318-B:2-c(V)(a).
[iii] NH Rev Stat § 318-B:26(II)(c).
[iv] Federal Bureau of Investigation, Crime Data Explorer, Arrests in New Hampshire by Offense, Drug Possession – Marijuana, 2021, *available at* https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest.
[v] ACLU, *The War on Marijuana in Black and White*, p. 164, *available at* https://www.aclu.org/report/report-war-marijuana-black-and-white.
[vi] NH Rev Stat § 318-B:2-c (2017).
[vii] 1,120 marijuana possession arrests in 2021 and 2,769 marijuana possession arrests in 2010. *See*, Federal Bureau of Investigation, Crime Data Explorer, Arrests in New Hampshire by Offense, Drug Possession – Marijuana, 2021, *available* https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest & ACLU, *The War on Marijuana in Black and White*, p. 127, *available at* https://www.aclu.org/report/report-war-marijuana-black-and-white.
[viii] Note: Racial disparity numbers on this sheet are based on 2020 data provided to the FBI because only a very limited number of New Hampshire law enforcement agencies provided race disparity data in 2021. This is a very serious problem that the NH Legislature must address.
[ix] New Hampshire arrested 1,494 people for marijuana possession in 2020. 1,332 arrests of white people and 125 arrests of Black people. *See*, Federal Bureau of Investigation, Crime Data Explorer, Arrests in New Hampshire by Offense, Drug Possession – Marijuana, 2020, *available at* https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest & U.S. Census Bureau, QuickFacts, New Hampshire, *available at* https://www.census.gov/quickfacts/fact/table/manchestercitynewhampshire,concordcitynewhampshire/PST045221.

Last updated May 23, 2023

[x] Fred Dews, *Charts of the week: Marijuana use by race, Islamist rule in Middle East, climate adaptation savings*, Brookings, Aug. 11, 2017, *available at* https://www.brookings.edu/blog/brookings-now/2017/08/11/charts-of-the-week-marijuana-use-by-race/.

[xi] ACLU, *The War on Marijuana in Black and White*, p. 127, *available at* https://www.aclu.org/report/report-war-marijuana-black-and-white.

[xii] Manchester Police Department arrested 26 people for marijuana possession in 2020. 13 arrests of white people and 13 arrests of Black people. *See*, Federal Bureau of Investigation, Crime Data Explorer, Arrests in New Hampshire by Offense, Drug Possession – Marijuana, 2020, Manchester Police, *available at* https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest. U.S. Census Bureau, QuickFacts, Manchester city, New Hampshire, *available at* https://www.census.gov/quickfacts/fact/table/manchestercitynewhampshire,concordcitynewhampshire/PST045221;Concord Police Department arrested 33 people for marijuana possession in 2020. 26 arrests of white people and 6 arrests of Black people. Concord's population is 43,976. White people comprise percent of the population and Black people comprise percent of the population. *See*, Federal Bureau of Investigation, Crime Data Explorer, Arrests in New Hampshire by Offense, Drug Possession – Marijuana, 2020, Concord Police, available at https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest. U.S. Census Bureau, QuickFacts, Concord city, New Hampshire, *available at* https://www.census.gov/quickfacts/concordcitynewhampshire.

[xiii] University of New Hampshire, The Survey Center, *Bipartisan Support for NH Marijuana Legislation; Most Consider Legislature's Redistricting Maps Unfair*, Feb. 23, 2023, *available at* https://scholars.unh.edu/cgi/viewcontent.cgi?article=1729&context=survey_center_polls.

[xiv] *Id.*

[xv] *See, e.g.* Anderson, Mark D., et al.. *Association of Marijuana Laws With Teen Marijuana Use New Estimates From the Youth Risk Behavior Surveys*, Journal of the American Medical Association, July 2019 (Recreational marijuana laws were associated with an 8% decrease in the odds of marijuana use and a 9% decrease in the odds of frequent marijuana use.); Healthy Kids Colorado Survey (HKCS) data, *available at* https://marijuanahealthinfo.colorado.gov/health-data/healthy-kids-colorado-survey-hkcs-data; Marijuana Policy Project, Teen Marijuana Use Does Not Increase Following Marijuana Policy Reforms, *available at* https://www.mpp.org/issues/legalization/teen-marijuana-use-does-not-increase/.

[xvi] Angela Dills, et. al., *The Effect of State Marijuana Legalizations: 2021 Update*, CATO Institute, Feb. 2, 2021, *available at* https://www.cato.org/sites/cato.org/files/2021-01/PA908.pdf; Greg Rosalsky, *The Data On Legalizing Weed*, Planet Money/NPR, Mar. 16, 2021, *available at* https://www.npr.org/sections/money/2021/03/16/976265525/the-data-on-legalizing-weed.

[xvii] David A. Makin, et. al., *Marijuana Legalization and Crime Clearance Rates: Testing Proponent Assertions in Colorado and Washington State*, National Institute of Justice, 2019, *available at* https://nij.ojp.gov/library/publications/marijuana-legalization-and-crime-clearance-rates-testing-proponent-assertions.

[xviii] Greg Rosalsky, *The Data On Legalizing Weed*, Planet Money/NPR, Mar. 16, 2021, *available at* https://www.npr.org/sections/money/2021/03/16/976265525/the-data-on-legalizing-weed; Angela Dills, et. al., *The Effect of State Marijuana Legalizations: 2021 Update*, CATO Institute, Feb. 2, 2021, *available at* https://www.cato.org/sites/cato.org/files/2021-01/PA908.pdf; & Benjamin Hansen, et. al., *Early Evidence on Recreational Marijuana Legalization and Traffic Fatalities*, Mar. 2018, *available at* https://www.nber.org/papers/w24417?utm_source=npr_newsletter&utm_medium=email&utm_content=20210311&utm_term=5237211&utm_campaign=money&utm_id=7043805&orgid=305&utm_att1=money.

[xix] Greta Hsu & Balázs Kovács, *Association between county level cannabis dispensary counts and opioid related mortality rates in the United States: panel data study*, BMJ, Jan. 27, 2021, *available at* https://www.bmj.com/content/372/bmj.m4957; Greg Rosalsky, *The Data On Legalizing Weed*, Planet Money/NPR, Mar. 16, 2021, *available at* https://www.npr.org/sections/money/2021/03/16/976265525/the-data-on-legalizing-weed.

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Nathaniel Brien

MARIJUANA MOMENT

POLITICS

DEA Says Marijuana Seeds Are Considered Legal Hemp As Long As They Don't Exceed THC Limit



Published 4 days ago on April 7, 2022
By **Kyle Jaeger**



A



MARIJUANA

Email address: You

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Marijuana might be federally prohibited, but the Drug Enforcement Administration (DEA) has effectively acknowledged that the plant's seeds are generally uncontrolled and legal, regardless of how much THC might end up being produced in buds if those seeds were cultivated.

DEA recently carried out a review of federal statute and implementing regulations in response to an inquiry from attorney Shane Pennington regarding the legality of cannabis seeds, tissue culture and "other genetic material" containing no more than 0.3 percent THC.

The agency affirmed that while it used to be the case that marijuana seeds were controlled—full stop—that's no longer the case because of the federal legalization of hemp, as Pennington discussed in an edition of his On Drugs newsletter on Substack on Monday.

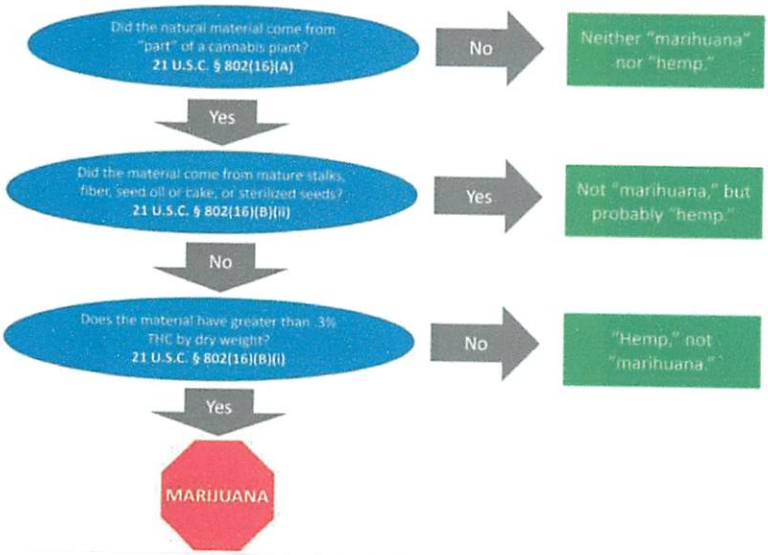
Following the enactment of the 2018 Farm Bill, hemp has been excluded from the Controlled Substances Act's (CSA) definition of marijuana, making it so all parts of the plant *Cannabis sativa L.* are uncontrolled as long as they don't exceed 0.3 percent THC.

"Accordingly, marihuana seed that has a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis meets the definition of 'hemp' and thus is not controlled under the CSA," Terrence L. Boos, chief of DEA"s Drug & Chemical Evaluation Section wrote in the letter, dated January 6. "Conversely, marihuana seed having a delta-9 tetrahydrocannabinol concentration more than 0.3 percent on a dry weight basis is controlled in schedule I under the CSA as marihuana."

Because both hemp and marijuana seeds generally contain nominal THC levels that wouldn't exceed the legal threshold, DEA is essentially conceding that people can have cannabis seeds no matter how much THC the resulting plant might produce, as long as the seeds themselves contain less than 0.3 percent delta-9 THC. Of course, it continues to be federally illegal to use any cannabis seeds with the intent of growing still-prohibited marijuana.

"In my view, the letter is significant because we continue to see confusion over the source rule —the argument that the legal status of a cannabis product hinges on whether it is 'sourced' from marijuana or hemp—influencing legislative proposals even at the federal level," Pennington told Marijuana Moment.

Pennington's colleague Matt Zorn put together a flow chart that lays out their statutory interpretation:





2 hours ago

MD gov lets legal (Newsletter: Apri

New Congression marijuana tax bre banking; MD psy changes

https://www.marij legal-cannabis.../

New Congression marijuana tax bre banking; MD psy changes Subscrib Moment's newsle

SUPPORT M

Via On Drugs.

"Now that we know that the legality of the ultimate 'source' of both hemp and marijuana plants (their seeds) hinges on delta-9 THC concentration alone, reliance on the source rule is much harder to defend," Pennington said. "I'm hopeful this will clear up a lot of confusion in this area of law."

Beyond seeds, the new DEA letter also clarifies that "other material that is derived or extracted from the cannabis plant such as tissue culture and any other genetic material that has a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis meets the definition of "hemp" and thus is not controlled under the CSA."

Pennington and Zorn are no strangers to DEA. The attorneys have an extensive history of litigating against the agency on cannabis and broader drug policy issues, helping to break the federal monopoly on marijuana cultivation for research purposes, for example.

Zorn is also involved in a separate challenge to DEA's proposal to ban five psychedelic compounds. Researchers and advocates scored a procedural victory in that case in February after the agency's own administrative court agreed to hold hearings on the matter before the prohibition can be enacted.

Meanwhile, DEA officials last year clarified to state regulators that an increasingly popular, psychoactive cannabinoid known as delta-8 THC is not a controlled substance under existing statute.

The agency officials said that only products containing more than 0.3 percent delta-9 THC—the most commonly known intoxicating cannabinoid—is controlled, but the 2018 Farm Bill that legalized hemp does not explicitly ban THC isomers.

Separately, a bipartisan group of members of Congress sent a letter to DEA in January, urging the agency to let terminally ill patients have access to psilocybin. Lawmakers said DEA is "obstructing access to psilocybin for therapeutic use consistent with the letter and intent Right to Try (RTT) laws."

Congress and 41 states have adopted right-to-try laws, which allow patients with terminal conditions to try investigational medications that have not been approved for general use. Lawmakers said that DEA "has failed to abide" by the law.

DEA has increased production quotas for the production of certain psychedelics like psilocybin in an effort to promote research, but its scheduling decisions have continued to represent obstacles for scientists—a point that's been repeatedly echoed by the head of the National Institute on Drug Abuse.

Read the letter DEA sent on the legal status of marijuana seeds and other materials below:

U.S. Department of Justice
Drug Enforcement Administration
8701 Morrissette Drive
Springfield, Virginia 22152

www.dea.gov

January 6, 2022

Mr. Shane Pennington, Esq.
1115 Broadway
Suite 1218
New York, New York 10010

Dear Mr. Pennington:

This is in response to your email of November 18, 2021 in which you request the control status of Cannabis Sativa *L.* seeds, tissue culture, and any other genetic material of Cannabis Sativa *L.* under the Controlled Substances Act (CSA). You state that the seeds, tissue culture, and other genetic material have delta-9 tetrahydrocannabinol concentrations of not more than 0.3% on a dry weight basis. The Drug Enforcement Administration (DEA) conducted a review of the CSA and its implementing regulations with regard to this question.

Title 21 of the United States Code (U.S.C.) § 802(16) states that the term "marihuana" means all parts of the plant Cannabis sativa *L.*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, and any compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination."

The CSA excludes from that definition "hemp." 21 U.S.C. § 802(16)(B)(i). The term "hemp" is "the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis." 7 U.S.C. § 1639*o*.

Accordingly, marihuana seed that has a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis meets the definition of "hemp" and thus is not controlled under the CSA. Conversely, marihuana seed having a delta-9-tetrahydrocannabinol concentration more than 0.3 percent on a dry weight basis is controlled in schedule I under the CSA as marihuana.

Likewise, other material that is derived or extracted from the cannabis plant such as tissue culture and any other genetic material that has a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis meets the definition of "hemp" and thus is not controlled under the CSA. Conversely, tissue culture and any other genetic material derived or extracted from the cannabis plant having a delta-9-tetrahydrocannabinol concentration more than 0.3 percent on a dry weight basis is controlled in schedule I under the CSA as marihuana.

If you have any further questions, please contact the Drug and Chemical Evaluation Section at DPE@usdoj.gov or (571) 362-3249.

Sincerely,

Terrence L. Boos, Ph.D., Chief
Drug & Chemical Evaluation Section
Diversion Control Division

Cc: New York Division

Marijuana Policy Project
P.O. Box 21824 • Washington, DC 20009
202-462-5747 • www.mpp.org

May 22, 2023

Re: Support with amendments: the non-germane amendment to SB 98, cannabis legalization and regulation for adults 21 and older

Dear Chairman Hunt and distinguished members of the House Commerce and Consumer Affairs Committee:

My name is Karen O'Keefe. I am the director of state policies for the Marijuana Policy Project (MPP), the largest cannabis policy reform organization in the United States. I am an attorney who has worked on cannabis policy at MPP since 2003. MPP has played a leading role in most of the major cannabis policy reforms over the past two decades, including 15 medical cannabis laws (including New Hampshire's), several decriminalization laws (including New Hampshire's), and a dozen adult-use legalization laws.

I had the pleasure of working with a broad coalition of advocates from all sides of the political spectrum on HB 639, which was sponsored by the House majority and minority leaders, and which passed both your committee and the full House — where it received 71% of the vote. Unfortunately, HB 639 died in a 14-10 ITL vote in the Senate on May 11.

The following day, Gov. Chris Sununu announced he would sign a bill that includes legalization with state-run stores, but that he would veto an approach that did not meet his parameters. Given that three of the Senate "no" votes on HB 639 had previously voted in favor of (and even sponsored) state-run stores last year, it appears quite possible that a bill with state-run stores could get past the finish line this year despite HB 639's fate.

Thank you, Chairman Hunt, for proposing this amendment to SB 98, which includes much of the text of HB 639 — including important criminal justice provisions — while including state-run stores to satisfy the governor's direction. This amendment also increases the penalty for smoking in public compared to HB 639 and expands the offense to apply to all places open to the public, both indoors and outdoors. Those revisions would address concerns some senators expressed in the floor debate.

A Safety Valve Is Needed So State-Run Stores Don't Become a Boondoggle

Because possessing and distributing cannabis remain federal crimes, no state has attempted a "control model" for cannabis, with state-run stores.

The federal government has not prosecuted cannabis workers complying with state laws since at least 2013. Nonetheless, there remains a very significant chance that state-run stores will not become operational until and unless federal law changes.

Read

The 10th Amendment allows states to remove their own penalties from and even to license private conduct, even if the conduct is federally illegal.[1] But that is very different — legally speaking — than a state directing its own employees to break federal law.[2] State-run stores would likely be found to be preempted if a plaintiff with standing (and whose suit is ripe) challenges the model.

The state may ultimately decide not to operate stores for reasons other than a preemption lawsuit, too, such as a threat (even an empty one) from a future attorney general. Cannabis businesses can also face RICO lawsuits from private individuals and are often dropped from retirement funds and other ancillary businesses. In addition, lawful residents who work in cannabis can be denied citizenship or entry and they are often denied mortgages. The state may decide it prefers to leave these risks to private businesses and private workers.

If the Liquor Commission begins implementing SB 98 but pulls the plug on state-run stores due to a challenge, threat, or other obstacle down the road, it may do so after licensing private growers and processors who invest millions of dollars. Those producers would have *no one* to sell their product to absent a safety valve. They would likely have to destroy tons of cannabis and face financial ruin, even as consumers have no legal access in the state to the cannabis being destroyed. A similar, but less extreme, situation is playing out in New York where cannabis farmers have thousands of pounds of cannabis they can't sell due to that state's failure to license enough stores in a timely fashion.

We strongly urge that SB 98's amendment be revised to include a safety valve allowing private sales in case state-run stores never operate or stop operating. The amendment to SB 98 is currently ambiguous on this point. It either needs:

1) to be clarified throughout to explicitly allow ATCs to sell to adult-use consumers, and to be consistent throughout, or
2) to be revised to include a "Plan B" safety valve for private sales in the event the state never operates state-run stores, or in case it stops doing so.

Regarding option 1, SB 98 defines a "dual use certificate" as "a license allowing an alternative treatment center ... to co-locate with and operate a retail cannabis store." This would satisfy the concern and need for a safety valve since state-run stores would not be the *only* option. However, other areas of the bill — including the definition of retail stores — provide that only the state can operate retail stores. These would need to be harmonized to clearly allow ATCs to operate retail stores to provide an effective safety valve.

Regarding option 2, SB 98 could provide that if the state has not begun selling cannabis by July 1, 2025 — or if at any time thereafter it stops doing so — 1) ATCs with dual-use

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[1] See, i.e.: *Murphy v. NCAA*, 141 S.Ct. 2141 (2018) ("The PASPA provision at issue here—prohibiting state authorization of sports gambling — violates the anticommandeering rule. ... ."); *Printz v. United States*, 521 U.S. 898 (1997); *New York v. United States*, 505 U.S. 144 (1992).

[2] A state directing its employees to commit federal felonies is a very different legal analysis and would likely create a "direct and positive conflict" and be preempted. See: Robert Mikos, "Preemption Under the Controlled Substances Act," Vanderbilt University Law School Public Law and Legal Theory, 2013. (That said, preemption challenges can also be thrown out based on standing or ripeness.)

certificates can sell to adult consumers, and 2) the Liquor Commission must craft regulations and begin accepting applications for private stores and delivery services within four months.

While state-run stores are not the model of regulated sales we prefer, we recognize the need for compromise. It is past time New Hampshire end the folly of cannabis prohibition. If SB 98's amendment is clarified, or if a safety valve is added, it would represent the best — and likely only real — chance to do so this year.

Without either a safety valve or allowing ATCs to sell to adults, SB 98 would likely result in a costly and embarrassing boondoggle that costs both the state and private growers millions — without providing actual regulated access. For those who are confident state-run stores will operate, they should see no downside to including a Plan B that is triggered if the state backs out. Indeed, the existence of a Plan B may deter a preemption suit since the state could just pivot and make the challenge moot.

I urge you to favorably report SB 98, but only after either 1) making a few clarifying tweaks to harmonize the definition of retail store to clearly include dual-use ATCs and agency stores; or 2) to provide that ATCs may sell to adults if the state does not begin operating state-run stores by July 1, 2025, or if at any time it stops doing so.

I am also supportive of the amendments offered by attorney Paul Twomey and by DHHS.

Thank you for your public service. Please don't hesitate to reach out if you have any questions or would like any additional information.

Sincerely,

Karen O'Keefe
Director of State Policies
323-568-1078
kokeefe@mpp.org

* Matt Simon

State-run cannabis stores proposal needs a plan B

By KAREN O'KEEFE

As an advocate who has worked for nearly two decades to enact cannabis policy reforms, I'm thrilled Gov. Chris Sununu's position on legalization has evolved. However, as an attorney, I'm concerned federal law may stand in the way of the staterun stores approach favored by the governor and some lawmakers.

Although 22 states have legalized cannabis, and 38 allow medical cannabis, cannabis possession and distribution remain federally illegal. The federal government hasn't prosecuted individuals for selling cannabis in compliance with state laws since 2014. But federal law still presents huge obstacles.

The most glaring issue is federal preemption. The 10th Amendment gives states the autonomy to remove their own penalties for cannabis or anything else. But a state directing its employees to sell cannabis in violation of federal law is a very different matter, legally speaking. It would be impossible for state-run cannabis store employees to comply with both state and federal law, creating a "direct and positive conflict" and likely resulting in the state law being preempted — or nullified.

Even absent a preemption lawsuit, running a federally illegal business isn't for the faint of heart. Retirement accounts and other businesses often refuse to serve the cannabis industry. Cannabis workers who are legal residents, but not U.S. citizens, can be denied citizenship or even entry into the country. Cannabis employees are often denied mortgages because their work is federally illegal. And some cannabis sellers have been subjected to RICO lawsuits from private individuals.

When push comes to shove, if federal law doesn't change in the next year or two, the state could back out and not operate cannabis stores. We've seen that happen before. Utah's medical cannabis law initially provided for state and county distribution of cannabis. But it never materialized. After several county attorneys explained the legal issues, all provisions involving the state "touching the plant" were removed from state law. Luckily, advocates ensured the law also included private, regulated distribution, so it did not delay access to regulated, lab tested cannabis.

New Hampshire, too, may ultimately not direct its workers to commit multiple federal felonies every day. But, before getting to that point, millions of private and public dollars could be spent on a legalization model that doesn't materialize. The initial version of last year's state-run store bill allocated $14 million to the Liquor Commission for start-up costs. It involved state-run stores, but with private cultivation and product manufacturing.

In New York, state-licensed cannabis growers harvested hundreds of thousands of pounds of cannabis, expecting to have dozens or hundreds of retailers to sell it to. But the state has only licensed a handful of stores so far.

Cannabis markets are all intra-state due to federal law, and many farmers are facing ruin because they cannot sell their product.

If a state-run model passes, the same scenario could play out in New Hampshire, but worse. There may be no market at all for the cultivators' cannabis if the state pulls the plug before sales begin (but after initial implementation). This could happen due to a preemption case, a threat (even an empty one) from a new hostile attorney general, or a host of other reasons.

We're glad Gov. Sununu understands the dangers of keeping cannabis unregulated and illegal. Illicit cannabis is often contaminated with hazardous pesticides, heavy metals, or molds, and is sometimes laced with other, far more dangerous drugs. And, like alcohol prohibition a century ago, cannabis prohibition breeds violence by pushing sales underground.

Let's work together to make sure that the illicit market is displaced by a public health-centered regulatory approach, and to make sure it won't turn into a costly boondoggle. At a minimum, New Hampshire's legalization approach should include a safety valve to automatically allow private sales in case state-run stores ultimately do not open.

Michael Holt

SB 98, Amendment 2023-1892h
DHHS Notes

P1 Remove references to "taxation"

P2 Fix typo

P3 Add "and cannabis products" X2

P3 Add "visiting qualifying patients"

P5 Retail stores need to be able to purchase cannabis flower from cultivation facilities

P7 Generally unclear

- I, Law should be clarified here and throughout that ATCs with dual-use licenses and "agency stores" are permitted to sell retail cannabis
- II(a) and (b), are not consistent on the types of contracts permitted
- III, This seems insufficient to clearly establish what is intended here. Is this an open license application process subject to the rulemaking requirements in IV below, or a RFP based model?

P8 Reference to question on P13

P9 Serving size should be 5 milligrams of THC per serving; 20mg is an *unsafe* serving size public health concerns

P9 Fix typos

P10 Fix language

P11 Add new (u) from P12

P11 Add new (v), requirement that testing facilities be "independent"

P12 This prohibition should be moved to be (u) on P11

P12 This deadline is established as "one year" on P7, line 11

P13 This transfer language should be removed in its entirety. This is a hold-over from earlier versions.

P13 318-F:11 no longer allows for municipalities to set a limit on licensees

P14 Fix language

P15 This is already required on P9, lines 18-19

P16 Child resistant packaging should be required for all cannabis and all cannabis products. This should be moved to be part of IV on P15 so that it applies to cannabis and not just cannabis products

P21 These appropriations should be reviewed against those on P31-32; are they additive or duplicative?

May 23, 2023

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on SB 98-FN

BILL TITLE: relative to delinquent payment of accounts by on premises and off premises licensees.

DATE: May 30, 2023

LOB ROOM: 302-304

MOTIONS: OUGHT TO PASS

Moved by Rep. Beaulieu Seconded by Rep. Thackston Vote: 19-0

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Jane Beaulieu, Clerk

OFFICE OF THE HOUSE CLERK

4/25/2023 8:24:20 AM
Roll Call Committee Registers Report

2023 SESSION

Commerce and Consumer Affairs

Bill #: 98 **Motion:** OTP **AM #:** 10:20 **Exec Session Date:** 5/10/2023

Members	YEAS	Nays	NV
Hunt, John B. Chairman	18		
Ammon, Keith Michael Vice Chairman	1		
Osborne, Jason M.	2		
Potucek, John M.	3		
Terry, Paul A			
Post, Lisa C.M.	4		
Cole, Brian D	5		
Porcelli, Susan M	6		
Thackston, Dick H	7		
Walsh, Lilli M	8		
Burroughs, Anita D.	9		
Herbert, Christopher J.	10		
Beaulieu, Jane E. Clerk	11		
McAleer, Chris R.	12		
Vincent, Kenneth S.			
Calabro, Karen E	13		
Filiault, Shaun M	14		
Gibbs, Merryl	15		
Spier, Carry	16		
Sullivan, Jared	17		
TOTAL VOTE:	18-0		

Lane
Jack