

Amendment to HB 528-FN

1 Amend the title of the bill by replacing it with the following:

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3 AN ACT relative to the amending the penalties for the possession and use of psilocybin for
4 persons 18 years of age or older; relative to the penalty for certain fentanyl-related
5 offenses; and relative to establishing a mandatory minimum sentence for the crime of
6 distribution of a controlled drug with death resulting.
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8 Amend the bill by inserting after section 1 the following and renumbering the original section 2 to
9 read as 4:

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11 2 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(a) to read as follows:

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13 (a) In the case of a violation involving any of the following, a person shall be sentenced
14 to a maximum term of imprisonment of not more than 30 years, a fine of not more than \$500,000, or
15 both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-
16 B:27, such person may be sentenced to a maximum term of life imprisonment, a fine of not more
17 than \$500,000, or both:

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19 (1) Five ounces or more of a mixture or substance containing any of the following,
20 including any adulterants or dilutants:

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22 (A) Coca leaves, except coca leaves and extracts of coca leaves from which
23 cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; or

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25 (B) Cocaine other than crack cocaine, its salts, optical and geometric isomers,
26 and salts of isomers; or

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28 (C) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

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30 (2) Lysergic acid diethylamide, or its analog, in a quantity of 100 milligrams or more
31 including any adulterants or dilutants, or phencyclidine (PCP), or its analog, in a quantity of 10
32 grams or more including any adulterants or dilutants.

33

(3) Heroin or its analog, crack cocaine, or a fentanyl class drug in a quantity of 5
grams or more, including any adulterants or dilutants. ***A fentanyl class drug in a quantity of 20
grams or more, including any adulterants or dilutants, shall carry a minimum term of
imprisonment of not less than 1 year and 6 months incarceration. A fentanyl class drug in
a quantity of 50 grams or more, including any adulterants or dilutants, shall carry a
minimum term of imprisonment of not less than 4 years incarceration. If a defendant
charged under this subparagraph cooperates with a law enforcement investigation which***

1 *results in an arrest or conviction, the defendant shall not be subject to the minimum term*
2 *of imprisonment outlined in this subparagraph. The court may not defer, combine, or run*
3 *concurrently with any other sentence the mandatory minimum unless:*

4 (A) *The offender was less than 18 years of age at the time of the*
5 *commission of the offense for which the offender is to be sentenced;*

6 (B) *The offender's mental capacity, at the time of the commission of the*
7 *offense for which the offender is to be sentenced, was significantly impaired to the extent*
8 *that the defendant was deemed incompetent. However, a voluntarily induced intoxicated*
9 *or drugged condition may not be considered an impairment for the purposes of this*
10 *subparagraph; or*

11 (C) *The offender was an accomplice, the conduct constituting the offense*
12 *was principally the conduct of another, and the offender's participation was relatively*
13 *minor.*

14 (4) Methamphetamine or its analog, in a quantity of 5 ounces or more, including
15 adulterants or dilutants.

16 3 Controlled Drug Act; Penalties. Amend RSA 318-B:26, IX to read as follows:

17 IX. Any person who manufactures, sells, or dispenses methamphetamine, lysergic acid[
18 diethylamide (**LSD**), phencyclidine (PCP) or any other controlled drug classified in schedules I or II,
19 or any controlled drug analog thereof, in violation of RSA 318-B:2, I or I-a, **excluding any fentanyl**
20 **class drug, including any adulterants or dilutants**, is strictly liable for a death which results
21 from the injection, inhalation, or ingestion of that substance, and may be sentenced to imprisonment
22 for life or for such term as the court may order. *Any person who manufactures, sells, or*
23 *dispenses a fentanyl class drug, including any adulterants or dilutants, in violation of*
24 *RSA 318-B:2, I or I-a, is strictly liable for a death which results from the injection,*
25 *inhalation, or ingestion of that substance, and may be sentenced to imprisonment for life*
26 *or for such term as the court may order, except that such term shall not be less than 5 years*
27 *of imprisonment if the person knew or should have reasonably known the substance*
28 *contained fentanyl, including any adulterants or dilutants.* For purposes of this section, the
29 person's act of manufacturing, dispensing, or selling a substance is the cause of a death when:

30 (a) The injection, inhalation or ingestion of the substance is an antecedent but for which
31 the death would not have occurred; and

32 (b) The death was not:

33 (1) Too remote in its occurrence as to have just bearing on the person's liability; or

34 (2) Too dependent upon conduct of another person which was unrelated to the
35 injection, inhalation or ingestion of the substance or its effect, as to have a just bearing on the
36 person's liability. It shall not be a defense to a prosecution under this section that the decedent
37 contributed to his own death by his purposeful, knowing, reckless or negligent injection, inhalation

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1 or ingestion of the substance or by his consenting to the administration of the substance by another.
2 Nothing in this section shall be construed to preclude or limit any prosecution for homicide. A
3 conviction arising under this section shall not merge with a conviction of one as a drug enterprise
4 leader or for any other offense defined in this chapter.

2025-2167s

AMENDED ANALYSIS

This bill:

- I. Adds mandatory minimum sentences for certain fentanyl-related offenses.
- II. Sets a mandatory minimum sentence for the crime of distribution of a controlled drug with death resulting.
- III. Modifies the penalties for a person 18 years of age or older to obtain, purchase, transport, possess, or use psilocybin.