

Senate Judiciary Committee

Pete Mulvey 271-4063

HB 226-FN, relative to the use of drug checking equipment.

Hearing Date: April 15, 2025

Time Opened: 1:06 p.m.

Time Closed: 1:54 p.m.

Members of the Committee Present: Senators Gannon, Abbas, McConkey, Altschiller and Reardon

Members of the Committee Absent : None

Bill Analysis: This bill amends and adds definitions to the Controlled Drug Act to exclude drug checking equipment from being considered drug paraphernalia and authorizes the use of drug checking equipment.

Sponsors:

Rep. Newell

Rep. Meuse

Rep. Proulx

Rep. Read

Rep. Seibert

Rep. Tom Mannion

Sen. Watters

Who supports the bill: 168 Individuals signed in support of HB 226-FN. Contact peter.mulvey@gc.nh.gov for further details.

Who opposes the bill: Three Individuals signed in opposition to HB 226-FN. Contact peter.mulvey@gc.nh.gov for further details.

Who is neutral on the bill: N/A

Summary of testimony:

HB 226-FN

Representative Jodi Newell

Cheshire- District 4

- HB 226-FN is a bill relative to the use of drug checking equipment.
- Representative Newell explained that last year a similar bill was proposed which passed the House but faced opposition in the Senate.
 - The bill was amended to address concerns and brought forward again this year.
- Representative Newell stated that efforts to combat substance abuse had made significant gains; however loved ones were still being lost to overdose.
- She recognized that one important step toward implementing a harm reduction strategy involved creating a system that analyzed the substances on the streets.
 - Much of the rest of the system depended on a complete and accurate understanding of exactly what substances were on the streets.

- Representative Newell noted that they were able to pass legislation regarding fentanyl and xylazine test strips last year; however, they provided very limited information.
 - Test strips did not measure the quantity of a substance or whether any other substances were present.
- Representative Newell explained that the bill would allow for organizations registered with the Department of Health and Human Services to use equipment to gain more information about what substances were on the streets and help to target assistance.
- Representative Newell identified Page two, lines 13-16, which outlined what the drug testing equipment is and what it is allowable for.
- She stated that Page two, lines 17-26, allowed for additional exemptions.
 - Language to decriminalize fentanyl and xylazine test strips which was initially passed in 2013 was retained.
 - Conditions under which that exemption was made would now apply to the new provisions and tests relating to HB 226-FN.
- Page three, lines 1-26, added further definitions for drug checking, drug checking equipment, drug packaging, eligible activities, and harm reduction.
- Page three, lines 27-36, clarified that drug checking equipment was not drug paraphernalia when used by harm reduction programs registered with New Hampshire Department of Health and Human Services.
- Representative Newell said that page four affirmatively stated that drug checking was permitted under the context of the bill as well as that the State may allocate funds from a variety of sources for such.
 - The bill would not have a fiscal impact on the general fund.
- Representative Newell noted that the bill affirmed that people engaging in drug checking should not be penalized and that the checking itself is not to be used for nefarious purposes.
- She deferred technical questions to the New Hampshire Harm Reduction Coalition.
- Senator Altschiller asked about the origins of the bill and if it came from a study committee.
 - Representative Newell explained that it came from a bill that was introduced two years ago where concerns over the language halted its progress.
 - The language was amended in a House sub-committee and the sponsors were able to pass it out of the House, only to have it fail in the Senate.
 - Concerns arose from the policy which allowed individuals to perform testing in addition to qualified individuals at specific stationary locations.
 - There were fears that it would lead to a slippery slope, so they limited testing and equipment to agents explicitly registered with the Department of Health and Human Services.
- Senator Altschiller asked about the reason for not including a requirement that the people using the test strips didn't have to be a licensed alcohol and drug counselor.
 - Representative Newell said that she wanted to allow people to have testing done without fear and said that the least we could do was allow registered organizations to do testing.
- Senator Altschiller asked if the vision of this bill is intended for specific recovery sites or to do outreach as well.
 - Representative Newell stated the goal was to do outreach as well.

Lauren McGinley

New Hampshire Harm Reduction Coalition

- Ms. McGinley explained that the N.H Harm Reduction Coalition helped fund ten harm reduction programs across the State.
- The Coalition operated three direct service centers themselves.
- Ms. McGinley explained that the Coalition spoke before the legislature three years ago during the initial test strip initiative.
- Results of the test strip bill had been eye opening toward the way contaminants within the drug supply can be identified and mitigated to offset the risk of fatal overdoses.
- Despite the State putting together a very comprehensive response to overdoses, non-overdose usage has spiked.

- Ms. McGinley explained that recreational substance users were especially impacted.
- Through the test strip program, ingredients that make up a drug can be identified so that they can be addressed appropriately.
- Xylazine is a great example because there has been an increased need to have Nurse practitioners available to treat wounds which arose from the contaminant.
- Identifying the makeup of a drug can assist with a method of diversion.
- Ms. McGinley stated that while she was happy with the progress made in the battle against overdoses, further work must be done toward non-overdose usage, which required tools to test the makeup of the drugs.

Kerry Nolte

**Chairwoman - Department of Nursing, the University of New Hampshire
New Hampshire Harm Reduction Coalition**

- Ms. Nolte explained that the University conducted data collection on wounds inflicted from xylazine at one of State's harm reduction sites.
- She noted that the wounds wreaked havoc on folks and that they are a huge burden on the health care system.
- Ms. Nolte argued that as supplies changed and as new additives were brought into the drug pool, that the current State law made it difficult to be proactive.
 - The Coalition missed out on a lot because they didn't know what was in the supply.
- Ms. Nolte pointed out that an overdose report through the medical examiner's office showed that in 2024, 51% of overdose deaths reported xylazine and 9% reported carfentanil.
 - This legislation would allow the Coalition to check what is in drugs to determine the concentration of additives.
- HB 226 would further allow the testing of drugs used for weight loss that were not coming from reputable sources.
 - There was a concern about bacterial infections, however, under current law, the Coalition can't take action to combat the threat without requisite data.
- Testing programs would not be state funded, but rather funded through grants which the Coalition and University would attain.
- Ms. Nolte tried to answer an earlier question of what the bill would look like in effect.
 - Some locations were in brick-and-mortar buildings while others were pop-up sites.
 - They looked and felt different in different locations.
- HB 226 would not be a new program to implement, but rather an expansion of preexisting programs.
- Senator Abbas asked how many addicts used testing locations.
 - Ms. Nolte explained that she would have specific data on that in about two weeks, but she estimated that 75% or more of the addicted population took advantage of testing.
 - Ms. McGinley added that the Coalition had gone through about 30,000 test strips.
- Senator Abbas asked how HB 226 would address overdose deaths.
 - Ms. McGinley said HB 226 would provide the means and information to address deaths.
 - the only thing the Coalition can test for now is the presence of a substance, but under the provisions of the bill, they would be able to narrow down particular contaminants accompanying fentanyl.
 - The contaminants took center stage in the way overdoses were changing in the state.
- Senator Abbas asked for an explanation of the different types of fentanyl.
 - Ms. Nolte replied that the big ones are fentanyl and carfentanil.
 - There were no heroin related deaths in the State; the opioid supply is fentanyl.
 - The larger issue derived from fentanyl existing in other illicit, non-opiate substances.
- Senator Altschiller asked whether the bill would allow for the detection of amount as well as presence of a substance.
 - Ms. Nolte stated that the past bill only addressed presence, but this would indeed allow for the determination of amount.

- Ms. Nolte explained that there were rarely just two substances in a drug, but sometimes ten.
- Senator Altschiller asked if the goal of the bill was to address multiple alterations and multiple drugs.
 - Ms. Nolte confirmed and said that often a drug is thought to be one substance, when in fact it doesn't contain the suspected substance at all.
 - It is a high priority to prevent overdoses from individuals expecting one drug and consuming another.
 - Ms. McGinley noted that testing was a bigger conversation starter with recreational users and allowed the ability to present users with a comprehensive understanding of the drug supply.
- Senator Gannon asked if drug checking equipment would only be available at harm reduction facilities.
 - Ms. Nolte stated that she believed the bill included public health departments as well.
- Senator Gannon asked if drugs would be tested and handed back to the individual.
 - Ms. Nolte confirmed that was correct, but noted the drugs often came from secondary sources such as a roommate or parent.
- Senator Gannon asked if harm reduction centers or public health departments would have any immunity.
 - Ms. Nolte stated they would not with HB 226.

Major Bill Bright

New Hampshire State Police – Department of Safety

- Major Bright spoke in opposition to HB 226-FN.
- Maj. Bright explained that it was well known that the State faced a significant opioid crisis.
- He noted that he was not opposed to preventative programs or recovery programs, but that the State needed to look at such programs as a cooperative effort.
- Maj. Bright stated that it was the job of law enforcement to look at the supply chain aspect of the drug trade and believed that HB 226 complicated their ability to do so.
- He pointed to language on page two, paragraph C, that referred to a “nominal amount” and questioned the lack of a definition for such.
 - concern stemmed from the fact that the bill did not establish the amount that was to be brought in and tested, nor did it explain what needed to be done with the drugs after testing.
- Maj. Bright suggested that the bill essentially asked law enforcement to turn a blind eye to enforcement.
- He noted that the bill contradicted itself by also seeming to suggest that law enforcement can charge individuals with possession of the nominal amount.
 - However, HB 226 does not restrict anyone from buying drug testing equipment and also says that no person shall be arrested.
- Senator Gannon asked if harm reduction centers giving a drug back was a liability concern.
 - Maj. Bright confirmed that it would be a major concern.
 - Different amounts of fentanyl can affect different people different ways.
- Senator Altschiller asked if Maj. Bright had worked in collaboration with the harm reduction centers.
 - Maj. Bright stated he had not been asked for advice on wording or to weigh in by anyone.
- Senator Altschiller stated that the bill focused on users, not the supply chain and asked if someone working for a harm reduction agency could help to educate users.
 - Major Bright confirmed that there is an opportunity to educate individuals.
 - He noted that the testing strips bill did pass, but this bill goes beyond the scope of that by allowing for the testing of purity and amounts.
 - It muddied the waters by allowing people to possess illicit drugs for testing.
 - He also noted there are different types of users; those who will seek help and those who will not.

- He explained that the bill would make it more difficult for law enforcement to do their part of the job.
- Senator Altschiller asked why a bill allowing the collection of more information would impede the State Police.
 - Major Bright explained that education was a great idea; however, there was a big risk that those people took because of the bill's grey area which may enable some to abuse the testing for nefarious purposes.

Dr. Joe Hannon

- Dr. Hannon stated that information that could possibly save someone's life should never be illegal for anyone.
- Dr. Hannon asked that the bill be passed.

Elizabeth Sargent

New Hampshire Association of Chiefs of Police

- Ms. Sargent stated that detectives representing the Association of Chiefs of Police were on their way to oppose the bill but were stuck on the highway.
- Ms. Sargent noted that the Association had concerns about the definition of "nominal amount" in HB 226.
 - Many arrests pertain to "nominal" or small amounts.
- Ms. Sargent further explained that page three, line 13, was a concern because most of the proactive work done by the Manchester Police Department was done by street level drug checks.
 - Ms. Sargent said the provision would inhibit street level enforcement.

Emma Sevigny

New Futures

- Ms. Sevigny spoke in support of the bill.
- Contaminants that would be analyzed by the bill were frequently found in the drug supply.
- The CDC and SAMSA have stated that these programs made headway toward combatting the drug crisis.
- Ms. Sevigny believed that leaving the law as it was currently would create confusion and inhibit intervention.

PM

Date Hearing Report completed: April 21, 2025