



## New Hampshire Cannabis Legalization Bill Summary HB 1633 — Committee of Conference Revision

HB 1633 would legalize and regulate cannabis in New Hampshire for adults 21 and older. It reflects years of work and stakeholder input. Amendments were necessary to avoid a veto and to clear the Senate, which defeated a legalization bill in 2023. But many of the original provisions remain intact. Among them are expanded annulment language and provisions protecting responsible cannabis consumers from discrimination in child custody, medical care, and professional licensing. Much of the regulatory language remains unchanged.

On May 30, the House of Representatives voted to form a committee of conference, which approved a revised version on June 6, 2024. The bill now goes to both the Senate and House for a final vote by June 13, 2024. The committee of conference made five changes to the bill:

1. prioritizing the licensure of ATCs (alternative treatment centers)
2. removing criminalization of passengers for non-inhaled consumption of cannabis in cars
3. fixing a technical error introduced in Senate Finance that nullified several sections of the bill (restoring the immediate effective date allowing ATCs to convert to be for-profit)
4. adding one more industry representative to the cannabis control commission
5. until legalization takes effect on January 1, 2026, increasing the decriminalized amount from  $\frac{3}{4}$  ounce to one ounce (the amount that is legal in Massachusetts and Vermont)

### Summary of HB 1633, as Negotiated by the Committee of Conference:

#### Adult-Use Legalization

- Starting on January 1, 2026, adults 21+ could possess up to two ounces of cannabis, 10 grams of concentrated cannabis, and infused products with 2,000 milligrams of THC.
- Until then, the decriminalized threshold will increase from  $\frac{3}{4}$  ounce to one ounce — the amount that is legal in neighboring Massachusetts and Vermont. (First and second offense possession of decriminalized amounts are subject to a \$100 fine. Third or subsequent offenses within three years are class B misdemeanors.)
- Under existing law, possessing over  $\frac{3}{4}$  ounce or more than 300 milligrams of THC in cannabis products is a misdemeanor with a maximum penalty of up to a year's incarceration. Over 1,000 arrests were made in NH in 2021 for cannabis possession.

#### Prohibited Conduct and Penalties

- Smoking or vaping cannabis in public would remain illegal. A first offense is a violation. A second offense within five years is a misdemeanor.
- Drivers and passengers could not smoke or vaporize cannabis in a vehicle that is being operated. Doing so is a misdemeanor.
- Maintains prohibition on driving under the influence.
- Selling cannabis to a minor during an enforcement action would be a misdemeanor.

- Regulators could suspend or revoke cannabis establishments' licenses for violations.

## **State Control and Licensing of Cannabis Businesses**

- The Liquor Commission would regulate and license cannabis cultivators, product manufacturers, labs, and distributors.
- The Commission would issue 15 franchises to sell cannabis at retail.
- The Commission must develop comprehensive rules, including governing security, lab testing, health and safety, packaging, labeling, recordkeeping, and transportation. It would also determine qualifications and disqualifications for licensees and franchisees.
- The Commission, assisted by DHHS, will develop materials to be distributed with cannabis, including information on its risks, how to recognize problematic cannabis use, and how to obtain treatment. It could also require informational posters to be displayed at retailers, outlining cannabis' risks.
- Includes numerous restrictions on packaging, including prohibiting packaging where it is not sufficiently clear that the product contains cannabis; banning packaging mimicking another food or beverage; and banning products and packaging designed to appeal to minors or in the shape of cartoons, toys, animals, or people.
- Cannabis establishments could not be located within 2,000 feet of a school.
- Cannabis products could not include nicotine, alcohol, or other addictive additives.
- Retail outlets must stock medical lock boxes for sale.
- Caps edibles at 10 milligrams of THC per serving and 200 milligrams per package.
- Directs regulators to impose additional potency caps on cannabis products.
- Prevents excessive market control. Prohibits anyone from owning any more than one business of any single type. (The House version only limits individuals to three businesses of any single type, allowing five people to own all 15 stores it starts with.)
- Requires at least five of the cultivation licenses to be issued to growers with demonstrated New Hampshire agriculture experience. (The House lacks this provision.)
- Creates a Cannabis Control Commission with representatives from the medical and prevention community, law enforcement, the cannabis industry, government agencies, and the legislature, along with a member of the public. Charges it with approving rules.

## **The Therapeutic Cannabis Program**

- Allows alternative treatment centers (ATCs) to apply for adult-use licenses. Provides that a factor in licensing will be if applicants have successfully operated an ATC or other medical cannabis business. ATCs will be prioritized above out-of-state operators.
- Allows ATCs to convert to for-profit entities to level the playing field.
- Does not change the medical cannabis program, or patients' ability to purchase tax-free cannabis from ATCs. (They would not be exempt from the franchise fee from sales from franchisees.)

## **Including Intoxicating Hemp**

- Provides intoxicating hemp regulations cannot be laxer than cannabis regulations.

## **Local Control**

- Requires municipal opt-in. Local governments or voter petitions could put the question on the

municipal election.

- Localities could enact regulations or limit the number of cannabis businesses.
- Localities will be sent applications and will say whether they conform to local law.

### **Private Employers and Private Property**

- Employment law is unchanged.
- Landlords could prohibit cannabis smoking at their rental properties, but in most cases could not prohibit the non-smoked use or possession by tenants.
- Property owners could prohibit the consumption and display of cannabis.

### **Limited Non-Discrimination Protections**

- A person's professional or occupational license could not be subject to discipline because they provide cannabis-related advice or services or for other state-legal cannabis activities.
- Cannabis use can only be considered in respect to medical care, including denied organ transplants, with respect to evidence-based clinical criteria.
- Provides a person cannot lose child custody for state-legal cannabis conduct unless their behavior endangers the child.

### **Annulment for Past Convictions**

Expands an existing law allowing those with a prior conviction for up to  $\frac{3}{4}$  of an ounce to petition for annulment, extending it to those with a record for possession of a legalized amount of cannabis offense.

### **Fees**

- Imposes a 15% franchise fee on sales from cannabis retail outlets.
- Non-refundable application fees for cannabis businesses could not exceed \$1,000.
- Annual licensing fees cannot exceed \$10,000.
- After costs relating to regulation and franchising, distributes revenue as follows:
  - 50% to municipalities
  - 20% to the alcohol abuse prevention and treatment fund
  - 15% to public safety agencies for drug recognition expert training and overdose response
  - 15% to the Department of Health and Human Services for childrens' health

### **Timeline**

- Adults could possess cannabis starting on January 1, 2026.
- The Liquor Commission would have 30 months to craft rules for most licensing and franchising.
- Business licenses would be granted within 120 days of the application's submission.

### **Miscellaneous**

- Provides that cannabis-related contracts that are legal under state law are enforceable.
- Provides that state-legal, cannabis-related business expenses are deductible.
- Provides for the collection of baseline data, and more current data including graduation rates, illegal and legal drug use, and convictions related to cannabis.

