

# Committee Report

**REGULAR CALENDAR**

**May 10, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Criminal Justice and Public Safety  
to which was referred SB 34-FN,**

**AN ACT relative to the definition of a controlled drug  
analog and prohibiting the sale or possession of  
synthetic urine and urine additives. Having considered  
the same, report the same with the recommendation  
that the bill OUGHT TO PASS.**

**Rep. John Bordenet**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Criminal Justice and Public Safety</b>
Bill Number:	<b>SB 34-FN</b>
Title:	<b>relative to the definition of a controlled drug analog and prohibiting the sale or possession of synthetic urine and urine additives.</b>
Date:	<b>May 10, 2021</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>OUGHT TO PASS</b>

### STATEMENT OF INTENT

New Hampshire's definition of a controlled drug analog is inconsistent with the federal definition, does not provide prosecutors with clear guidance, and requires prosecutors to prove who manufactured the drug, the manufacturer's intent, and when the drug was manufactured. This bill creates a new definition of a controlled drug analog giving prosecutors a clear legal standard to follow to provide that a controlled drug analog has the same effects of a particular controlled drug or a controlled drug class. Clarifying the definition of a controlled drug analog will assist New Hampshire's law enforcement in combating the spread of synthetic drugs, including fentanyl. The bill also prohibits the sale or possession of synthetic urine and urine additives, which are specifically used to avoid a banned or illegal substance from being detected from a drug tests.

Vote 13-8.

Rep. John Bordenet  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

### Criminal Justice and Public Safety

**SB 34-FN**, relative to the definition of a controlled drug analog and prohibiting the sale or possession of synthetic urine and urine additives. **OUGHT TO PASS.**

Rep. John Bordenet for Criminal Justice and Public Safety. New Hampshire's definition of a controlled drug analog is inconsistent with the federal definition, does not provide prosecutors with clear guidance, and requires prosecutors to prove who manufactured the drug, the manufacturer's intent, and when the drug was manufactured. This bill creates a new definition of a controlled drug analog giving prosecutors a clear legal standard to follow to provide that a controlled drug analog has the same effects of a particular controlled drug or a controlled drug class. Clarifying the definition of a controlled drug analog will assist New Hampshire's law enforcement in combating the spread of synthetic drugs, including fentanyl. The bill also prohibits the sale or possession of synthetic urine and urine additives, which are specifically used to avoid a banned or illegal substance from being detected from a drug tests. **Vote 13-8.**

Original: House Clerk

Cc: Committee Bill File

# Voting Sheets

# Karen Karwocki

**From:** Karen Karwocki  
**Sent:** Monday, July 12, 2021 2:01 PM  
**To:** Karen Karwocki

STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK

1/22/2021 9:56:15 AM  
Roll Call Committee Registers  
Report

2021 SESSION

Criminal Justice and Public Safety

Bill #: SB 34 Motion: OTP AM #: \_\_\_\_\_ Exec Session Date: 5/10/21

13/8

Members	YEAS	Nays	NV
Abbas, Daryl A. Chairman	13		
Welch, David A. Vice Chairman	1		
Burt, John A.		1	
Hopper, Gary S.		2	
Green, Dennis E.		3	
Wallace, Scott		4	
Testerman, Dave	2		
True, Chris		5	
Pratt, Kevin M.	3		
Marston, Dick		6	
Rhodes, Jennifer M. Clerk	4		
Harriott-Gathright, Linda C.	5		
Pantelakos, Laura C.	6		
O'Hearne, Andrew S. <i>Sue Newman</i>	7		
Bordenet, John	8		
Meuse, David	9		
Newman, Ray E.	10		
Bouldin, Amanda C.		7	
Conley, Casey M.	11		
Klein-Knight, Nicole		8	
Bradley, Amy	12		

Page 1 of 2

Sent from my iPhone

**Karen Karwocki**

**From:** Karen Karwocki  
**Sent:** Monday, July 12, 2021 2:00 PM  
**To:** Karen Karwocki

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on Bill # SB 34

BILL TITLE: Def. of the Relative to the definition of a controlled drug

DATE: 5/12/2021

LOB ROOM: \_\_\_\_\_

MOTION: (Please check one box)

OTP       ITL       Retain (1<sup>st</sup> year)       Adoption of Amendment # \_\_\_\_\_  
 Interim Study (2nd year) (if offered)

Moved by Rep. Rhodes      Seconded by Rep. Paul-Lalors      Vote: 13/8

MOTION: (Please check one box)

OTP       OTP/A       ITL       Retain (1<sup>st</sup> year)       Adoption of Amendment # \_\_\_\_\_  
 Interim Study (2nd year) (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

MOTION: (Please check one box)

OTP       OTP/A       ITL       Retain (1<sup>st</sup> year)       Adoption of Amendment # \_\_\_\_\_  
 Interim Study (2nd year) (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

MOTION: (Please check one box)

OTP       OTP/A       ITL       Retain (1<sup>st</sup> year)       Adoption of Amendment # \_\_\_\_\_  
 Interim Study (2nd year) (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

CONSENT CALENDAR:    \_\_\_ YES     NO

Minority Report?  Yes    \_\_\_ No    If yes, author, Rep: Rhodes    Motion \_\_\_\_\_

Respectfully submitted: JRhodes    Rep. Jennifer Rhodes

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# Public Hearing



HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON SB 34-FN

**BILL TITLE:** relative to the definition of a controlled drug analog and prohibiting the sale or possession of synthetic urine and urine additives.

**DATE:** March 17, 2021

**LOB ROOM:** hybrid

**Time Public Hearing Called to Order:**

**Time Adjourned:**

**Committee Members:** Reps. Abbas, Welch, Rhodes, Burt, Hopper, Green, Wallace, Testerman, True, Pratt, Marston, Harriott-Gathright, Pantelakos, O'Hearne, Bordenet, Meuse, R. Newman, Amanda Bouldin, Conley, Klein-Knight and Bradley

**Bill Sponsors:**

Sen. D'Allesandro

Sen. Rosenwald

Sen. Giuda

Sen. Cavanaugh

**TESTIMONY**

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

Sen. D'Allesandro - support - Sponsor Introduced bill. Gives law enforcement the verbiage needed to prosecute synthetic drugs.

Melissa Staples - support. Dept. of Safety. Current law does not support prosecuting of "controlled drugs". Bath salts etc.

Bob Oxley - supports. Field service, Dept. of corrections. Focus on drug make up instead of dealers intent.

Rep. True - Isn't the sale of synthetic urine illegal now?

A. No reason to recognize the intent someone used it.

Rep. Burt - How many other states have this law?

A. Unknown

Respectfully submitted,

Rep. Jennifer Rhodes, Clerk

# House Remote Testify

## Criminal Justice and Public Safety Committee Testify List for Bill SB34 on 2021-03-17

Support: 8 Oppose: 2 Neutral: 0 Total to Testify: 2

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Oxley, Robert	Concord, NH robert.oxley@doc.nh.gov	State Agency Staff	Department of Corrections	Support	Yes (2m)	No	3/16/2021 8:49 AM
D'Allesandro, Lou	Manchester, NH dalas@leg.state.nh.us	An Elected Official	Senate District 20	Support	Yes (0m)	No	3/11/2021 11:33 AM
Giuda, Bob	Warren, NH bob.giuda@leg.state.nh.us	An Elected Official	NH Senate District 2	Support	No	No	3/11/2021 10:02 AM
Rosenwald, Cindy	Concord, NH cindy.rosenwald@leg.state.nh.us	An Elected Official	SD 13	Support	No	No	3/13/2021 6:23 PM
Reynolds, Charles	Dover, NH reynolds.charles@comcast.net	A Member of the Public	Myself	Support	No	No	3/16/2021 8:29 PM
Russo, Steven	Steven Russo, Keene, NH, NH cqb315@yahoo.com	A Member of the Public	Myself	Support	No	No	3/17/2021 8:54 AM
Bryfonski, John	Bedford, NH jbryfonski@bedfordnh.org	A Member of the Public	NH ASSOCIATION CHIEFS OF POLICE	Support	No	No	3/16/2021 4:28 PM
Elliott, John	Goffstown, NH john@AllyUSTrading.com	A Member of the Public	Myself	Oppose	No	No	3/16/2021 11:47 AM
Staples, Melisa	Concord, NH mstaples@safety.state.nh.us	State Agency Staff	Department of Safety	Support	No	No	3/17/2021 8:05 AM
Mennella, Alexandra	Hooksett, NH amennella1@protonmail.com	A Member of the Public	Myself	Oppose	No	No	3/16/2021 7:46 PM

# Testimony

**Archived:** Monday, April 12, 2021 1:53:59 PM

**From:** Oxley, Robert

**Sent:** Tuesday, March 16, 2021 8:52:22 AM

**To:** ~House Criminal Justice and Public Safety

**Cc:** Mascio, Lissa

**Subject:** SB34

**Importance:** Normal

**Attachments:**

SB34 House Testimony Oxley 3.15.21.docx



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Please find attached of my written testimony on behalf of the Department of Corrections in support of SB34.

Regards,

Robert Oxley

Director

Division of Field Services

105 Pleasant Street

Concord, NH 03301

(603) 271-5652

(603) 271-0414 (Fax)

[robert.oxley@doc.nh.gov](mailto:robert.oxley@doc.nh.gov)

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CONFIDENTIAL

**Archived:** Monday, April 12, 2021 1:53:58 PM  
**From:** Staples, Melisa  
**Sent:** Thursday, March 18, 2021 11:52:59 AM  
**To:** ~House Criminal Justice and Public Safety  
**Cc:** Oxley, Robert  
**Subject:** SB34  
**Importance:** Normal

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Committee members-

I wanted to follow up on a question posed to me following my testimony in support of SB34 yesterday. I was asked about current legislation prohibiting the sale of synthetic urines, which at the time I was unfamiliar with. I did want to follow up on the question and have now had the chance to review existing legislation to ensure what was proposed in SB 34, beginning on page 2 line 18, was necessary and did not merely duplicate existing law.

RSA 359-O:8 is the current legislation entitled Sale or Possession of Synthetic Urine and Urine Additives. The verbiage in this section is exactly what is proposed in SB34. However, page 2 line 18 of SB34 starts by repealing the entire section RSA 359-O, which would include the current section prohibiting the sale or possession of the synthetic urines. Therefore, the addition of a new RSA 359-O:1 as proposed in the bill ensures that the existing ban remains in place.

I hope this clarifies the purpose of including that section in SB34 when the state already has such a prohibition in place.

Thank you.



**Melisa W. Staples**  
**Laboratory Director**  
**New Hampshire State Police Forensic Laboratory**  
33 Hazen Drive • Concord, NH 03305  
Lab (603) 223-3854 Fax (603) 271-1086  
Direct (603) 223-8335 [mstaples@safety.state.nh.us](mailto:mstaples@safety.state.nh.us)

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Bill as  
Introduced

SB 34-FN - AS INTRODUCED

2021 SESSION

21-0720

04/10

SENATE BILL

***34-FN***

AN ACT

relative to the definition of a controlled drug analog and prohibiting the sale or possession of synthetic urine and urine additives.

SPONSORS:

Sen. D'Allesandro, Dist 20; Sen. Rosenwald, Dist 13; Sen. Giuda, Dist 2; Sen. Cavanaugh, Dist 16

COMMITTEE:

Health and Human Services

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ANALYSIS

This bill inserts a new definition of controlled drug analog, inserts a prohibition on the sale or possession of synthetic urine and urine additives, and repeals obsolete statutes governing the sale of synthetic drugs.

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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 Twenty One*

AN ACT                    relative to the definition of a controlled drug analog and prohibiting the sale or possession of synthetic urine and urine additives.

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

1            1 Alcoholic Beverages; Suspension or Revocation. Amend RSA 179:57, I to read as follows:

2            I. The commission shall cause frequent inspections to be made of all the premises with  
3 respect to which any license has been issued under the provisions of this title. If any license:

4                    (a) Violates any of the provisions of law or any of the rules of the commission adopted  
5 under this title; or

6                    (b) Fails to superintend in person or through a manager approved by the commission  
7 the business for which the license was issued; or

8                    (c) Allows the premises with respect to which the license was issued to be used for any  
9 unlawful purposes; or

10                    (d) Knowingly designates to be in charge of the premises any person who has been  
11 convicted of a felony, unless the person has been approved by the commission pursuant to RSA  
12 179:23, V[.]; or

13                    (e) Otherwise fails to carry out in good faith the purposes of this title or if the premises  
14 are regularly the site of violence, the license of such licensee may be suspended or revoked after  
15 notice and hearing, in accordance with RSA 541-A:31-36. Notwithstanding any other provisions of  
16 this chapter, the commission after the appropriate hearing may impose a fine of a specific sum,  
17 which shall not be less than \$100 nor more than \$5,000 for any one offense. Such a fine may be  
18 imposed instead of, or in addition to, any suspension or revocation of a license by the commission.

19            2 Controlled Drug Act; Definition of Controlled Drug Analog. RSA 318-B:1, VI-a is repealed and  
20 reenacted to read as follows:

21            VI-a.(a) "Controlled drug analog" means a substance, however constituted, the chemical  
22 structure of which is derivative of, or substantially similar to that of a controlled drug and:

23                    (1) Which has been shown in laboratory studies to bind with and activate the same  
24 central nervous receptors that are responsible for the psychoactive effects of a certain controlled  
25 drug or controlled drug class; or

26                    (2) With respect to a particular person, which such person represents or intends to  
27 have similar psychoactive effects on the central nervous system as a controlled drug.

28            (b) "Controlled drug analog" shall not include:

29                    (1) A controlled drug;

30                    (2) Any substance for which there is an approved new drug application;



1 (3) With respect to a particular person, any substance, if an exemption is in effect for  
2 investigational use for that person under 21 U.S.C. section 355, to the extent conduct with respect to  
3 the substance is pursuant to such an exemption; or

4 (4) Any compound, mixture, or preparation that contains any controlled drug or  
5 controlled drug analog that is not for administration to a human being or animal, and that is  
6 packaged in such a form or concentration, or with adulterants or denaturants so that, as packaged, it  
7 does not present any significant potential for abuse.

8 3 New Paragraph; Controlled Drug Act; Definition of Substantially Similar in Chemical  
9 Structure. Amend RSA 318-B:1 by inserting after paragraph XXXI the following new paragraph:

10 XXXI-a. "Substantially similar in chemical structure" means that the substance in question  
11 shares a common core structure with a controlled drug, meaning that the "backbone" of the molecule  
12 is the same, and has no more than 2 points of divergence (additions, deletions, or substitutions) from  
13 the controlled drug, which may consist of a single atom or a functional group or some combination  
14 thereof. Functional groups are further defined as alkyl, alkenyl, alkynyl, ring structures (either  
15 homocyclic or heterocyclic, with or without additional attached functional groups), organic halides,  
16 alkoxy, alcohol, ether, amine, aldehyde, ketone, carboxylic acid, ester, amide, nitrile, nitro, sulfide,  
17 thiene, thioester, or thiol.

18 4 Sale of Synthetic Drugs. RSA 359-O is repealed and reenacted to read as follows:

19 CHAPTER 359-O

20 SALE OR POSSESSION OF

21 SYNTHETIC URINE AND URINE ADDITIVES

22 359-O:1 Sale or Possession of Synthetic Urine and Urine Additives Prohibited.

23 I. No person or business shall:

24 (a) Manufacture, sell, distribute, market, or possess synthetic urine or urine additives;

25 or

26 (b) Attempt to defeat a drug or alcohol screening test by using synthetic urine or urine  
27 additives.

28 II. In this section, "drug or alcohol screening test" means an analysis of a sample of bodily  
29 fluid collected from a person for the purpose of detecting the presence of alcohol or drugs in the  
30 bodily fluid of the person.

31 III. Any person or business who violates this section shall be assessed a fine of \$500, plus  
32 penalty assessment. Each day a violation occurs shall constitute a separate offense.

33 5 Repeal. The following are repealed:

34 I. RSA 143-A:9-b, relative to sale of a synthetic drug by a food service licensee.

35 II. RSA 179:63, relative to sale or distribution of a synthetic drug by an alcoholic beverage  
36 licensee.

**SB 34-FN - AS INTRODUCED**

**- Page 3 -**

1           III. RSA 284:21-h, III-a, relative to the sale or distribution of a synthetic drug at a retail  
2 establishment or sales location licensed to sell lottery tickets.

3           6 Effective Date. This act shall take effect 60 days after its passage.

LBA  
21-0720  
12/9/20

**SB 34-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT                    relative to the definition of a controlled drug analog and prohibiting the sale or possession of synthetic urine and urine additives.

**FISCAL IMPACT:**

The Legislative Budget Assistant has determined that this legislation, as introduced, has a total fiscal impact of less than \$10,000 in each of the fiscal years 2021 through 2024.

**AGENCIES CONTACTED:**

None