

LEGISLATIVE COMMITTEE MINUTES

SB60

Bill as Introduced

SB 60-FN - AS INTRODUCED

2021 SESSION

21-1024
04/08

SENATE BILL

60-FN

AN ACT

prohibiting the transport of an open container of marijuana in a motor vehicle or OHRV.

SPONSORS:

Sen. Gannon, Dist 23; Rep. M. Pearson, Rock. 34; Sen. Prentiss, Dist 5

COMMITTEE:

Judiciary

ANALYSIS

This bill prohibits the transport of an open container of marijuana in a motor vehicle or OHRV.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT prohibiting the transport of an open container of marijuana in a motor vehicle or OHRV.

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

1 1 New Section; Alcohol or Other Drug Impairment; Transporting Marijuana. Amend RSA 265-A
2 by inserting after section 45 the following new section:

3 265-A:46 Transporting Marijuana.

4 I. Except as provided in paragraph IV, no driver shall transport, carry, possess, or have any
5 marijuana within the passenger area of any motor vehicle or OHRV upon any way in this state
6 except in the original container and with the seal unbroken. Unsealed containers of marijuana shall
7 be stored and transported in the trunk of the motor vehicle or OHRV. If the motor vehicle or OHRV
8 does not have a trunk, such containers shall be stored and transported in that compartment or area
9 of the vehicle or OHRV which is the least accessible to the driver.

10 II. Except as provided in paragraph IV, no passenger shall carry, possess, or have any
11 marijuana within any passenger area of any motor vehicle or OHRV upon any way or in an area
12 principally used for public parking in this state except in the original container and with the seal
13 unbroken. Unsealed containers of marijuana may be stored and transported in that compartment or
14 area of the vehicle or OHRV which is the least accessible to the driver.

15 III. A person who violates this section shall be guilty of a violation and shall be subject to a
16 fine of \$150. In addition, a person who violates paragraph I of this section may have his or her
17 drivers' license, if a resident, or driving privilege, if a nonresident, suspended 60 days for a first
18 offense and up to one year for a second or subsequent offense.

19 IV. This section shall not apply to persons transporting, carrying, possessing, or having any
20 marijuana in a chartered bus, in a taxi, or in a limousine for hire; provided, however, that the driver
21 of any of said vehicles is prohibited from having any marijuana in or about the driver's area.

22 V. In this section:

23 (a) "Marijuana" shall have the same meaning as "cannabis" in RSA 126-X:1, III, and
24 shall include unusable and usable cannabis as defined in RSA 126-X:1, XIV and XV, respectively.

25 (b) "Passenger area of any motor vehicle or OHRV" shall not include any section of a
26 motor vehicle or OHRV which has been designed or modified for the overnight accommodation of
27 persons or as living quarters.

28 (c) "Way" shall mean the entire width between the boundary lines of any public
29 highway, street, avenue, road, alley, park, or parkway, or any private way laid out under authority

SB 60-FN - AS INTRODUCED

- Page 2 -

- 1 of statute, or any such way provided and maintained by a public institution to which state funds are
- 2 appropriated for public use or any such way which has been used for public travel for 20 years.
- 3 2 Effective Date. This act shall take effect January 1, 2022.

**SB 60-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT prohibiting the transport of an open container of marijuana in a motor vehicle or OHRV.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input checked="" type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill establishes a violation level offense relative to unlawful transport of marijuana in a motor vehicle or OHRV. It is not possible to estimate how many new cases may arise as a result of this change, if any, however the Judicial Branch estimates average cost of violation level cases to be \$53 in FY 2022. It should be noted that average case cost estimates for FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. Additionally, violations of this statute carry a fine of \$150. Therefore, this bill may increase revenue to the state highway fund.

AGENCIES CONTACTED:

Judicial Branch

SB 60-FN - AS AMENDED BY THE SENATE

03/25/2021 1014s

2021 SESSION

21-1024

04/08

SENATE BILL **60-FN**

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20 marijuana in a chartered bus, in a taxi, or in a limousine for hire; provided, however, that the driver
21 of any of said vehicles is prohibited from having any marijuana in or about the driver's area.

22 V. In this section:

23 (a) "Marijuana" shall have the same meaning as "cannabis-type drug" defined in RSA
24 318-B:1, IV.

25 (b) "Passenger area of any motor vehicle or OHRV" shall not include any section of a
26 motor vehicle or OHRV which has been designed or modified for the overnight accommodation of
27 persons or as living quarters.

28 (c) "Way" shall mean the entire width between the boundary lines of any public
29 highway, street, avenue, road, alley, park, or parkway, or any private way laid out under authority

SB 60-FN - AS AMENDED BY THE SENATE

- Page 2 -

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SB 60-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2021-1014s)

AN ACT prohibiting the transport of an open container of marijuana in a motor vehicle or OHRV.

FISCAL IMPACT: State County Local None

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AGENCIES CONTACTED:

Judicial Branch

Amendments

Sen. Gannon, Dist 23
February 8, 2021
2021-0246s
04/08

Amendment to SB 60-FN

1 Amend RSA 265-A:46, V(a) as inserted by section 1 of the bill by replacing it with the following:

2

3 (a) "Marijuana" shall have the same meaning as "cannabis-type drug" defined in RSA

4 318-B:1, IV.

Sen. Gannon, Dist 23
March 24, 2021
2021-1014s
04/08

Floor Amendment to SB 60-FN

1 Amend RSA 265-A:46, V(a) as inserted by section 1 of the bill by replacing it with the following:

2

3 (a) "Marijuana" shall have the same meaning as "cannabis-type drug" defined in RSA

4 318-B:1, IV.

Committee Minutes

SENATE CALENDAR NOTICE

Judiciary

Sen Sharon Carson, Chair
Sen Bill Gannon, Vice Chair
Sen Harold French, Member
Sen Rebecca Whitley, Member
Sen Jay Kahn, Member

Date: February 3, 2021

HEARINGS

Tuesday		02/09/2021
(Day)		(Date)
Judiciary	REMOTE	1:00 p.m.
(Name of Committee)	(Place)	(Time)
1:00 p.m.	SB 110 relative to animals in motor vehicles.	
1:15 p.m.	SB 60-FN prohibiting the transport of an open container of marijuana in a motor vehicle or OHRV.	
1:30 p.m.	SB 122-FN adopting omnibus legislation relative to certain crimes and judicial processes and procedures.	

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/94574864164>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: US: +16465588656,,94574864164# or +13017158592,,94574864164#
4. Webinar ID: 945 7486 4164
5. To view/listen to this hearing on YouTube, use this link: <https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link: <http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 110

Sen. Sherman
Sen. Reagan

Sen. Watters
Rep. Read

Sen. Gannon
Rep. K. Murray

Sen. Carson

SB 60-FN
Sen. Gannon
SB 122-FN
Sen. French

Rep. M. Pearson

Sen. Prentiss

Jennifer Horgan 271-7875

Sharon M Carson
Chairman

Senate Judiciary Committee

Jennifer Horgan 271-7875

SB 60-FN, prohibiting the transport of an open container of marijuana in a motor vehicle or OHRV.

Hearing Date: February 9, 2021

Time Opened: 1:29 p.m.

Time Closed: 1:43 p.m.

Members of the Committee Present: Senators Carson, Gannon, French, Whitley and Kahn

Members of the Committee Absent : None

Bill Analysis: This bill prohibits the transport of an open container of marijuana in a motor vehicle or OHRV.

Sponsors:

Sen. Gannon

Rep. M. Pearson

Sen. Prentiss

Who supports the bill: Senator Gannon; Chief Andrew Shagoury, NH Chiefs of Police; Dan Goodman, AAA Northern New England

Who opposes the bill: Rep. Sherry Frost; Richard DeMark; Nicolas Thomas; Laura Aronson; Curtis Howland; Alexandra Mennella; Elliot Axelman; Nicole Fordey; Ruth Larson; Carla Gericke

Who is neutral on the bill: Michael Holt, Department of Health and Human Services

Summary of testimony presented in support:

Senator Gannon (provided written testimony)

- Presented Amendment 0246s that clarifies the definition.
- The main intent of this bill is that law enforcement is having problems with people smoking marijuana while driving.
- This legislation is modeled after NH's Open Container Law.
- If a person is buying from a therapeutic cannabis center and it is a sealed container that is fine, the problem is if it is unsealed.
- This will require an unsealed container to be placed in the trunk or the furthest place from the wingspan of the driver.
- This will make the roads safer.
- Senator Kahn asked what a seal looks like on these containers.

- When you buy cannabis at a therapeutic cannabis center there is a visible seal. Once that label is damaged, law enforcement would count that as being open. Law enforcement is testifying and can give more accurate examples.
- Wants to clarify the bill with another amendment that states this is only applicable when a car or boat is being used/in motion. Not when it is parked or at home in the driveway.

Chief Andrew Shagoury (NH Chiefs of Police)

- Has seen this come up in a number of cases himself.
- This is about public safety in vehicles.
- This is important when talking about how marijuana affects people.
- Edibles especially take a while to take effect on an individual.
- Over 50% of the market is edibles.
- Someone could pass a sobriety test after consuming marijuana, but down the road they become impaired when it takes effect.
- MA, VT, WA, OR, OK, NV, CO, IL, and CA all have very similar laws as this.
- 16–17-year-olds are caught in the middle of this, if they have a personal use amount they are actually transporting and could lose their license for 60 days.
- This will provide a better tool to use in these situations.
- Supports Amendment 0246s.
- Senator Gannon asked if a vehicle or boat being turned on would constitute as being in motion.
 - Not sure if this applies to boats. It does cover OHRVs. This is primarily focused on public ways. Private driveways and residences would not apply. The cases he sees this applying to is someone driving down the road and they get stopped. Would be happy to work on some language on this. The language is mirrored exactly after the Open Container Law.
- Senator Kahn asked if the word ‘operating’ is in this.
 - It says, ‘no driver shall transport, carry, or possess or have any marijuana’. It is the same as the Open Container Statute. It is meant to target private vehicles. Before the Open Container Statute was in place, an officer would stop someone who has been drinking but the passenger is holding it and claims it after just passing it from the driver. The problem with using the word ‘operating’ is that officers have to catch the driver with it.

Summary of testimony presented in opposition:

None

Neutral Information Presented:

Michael Holt (Department of Health and Human Services)

- Requested the technical correction in Amendment 0246s.
- This bill adds the proposed open container prohibition to the alcohol or drug impairment statute, RSA 265-A.

- Believes the intent of the bill is to apply to the general public.
- However, the statutory cite in the bill on the definition of marijuana, references to the definition in the Therapeutic Use Cannabis law, RSA 126-X.
- If the bill is intended to apply to the public, a more accurate citation would be the definition in the Controlled Drug Act statute, RSA 318-B.
- The way it is currently written may be confusing as to the bill's applicability, suggesting it only applies to therapeutic cannabis patients and caregivers, not the general public.
- If a container is dispensed from an alternative treatment center, program rules require that they have a tamper proof seal, a shiny sticker. Those seals are applied at manufacturing facility.

jch

Date Hearing Report completed: February 12, 2021

Speakers

Name	Title	Representing	Position	Testifying	Signed Up
Goodman Dan	A Lobbyist	AAA Northern New England	Support	Yes	2/8/2021 11:00
Holt Michael	State Agency Staff	DHHS/TCP	Neutral	Yes	2/9/2021 10:49
Shagoury Andrew	A Member of the Public	New Hampshire Chiefs of Police	Support	Yes	2/9/2021 12:03
DeMark Richard	A Member of the Public	Myself	Oppose	No	2/8/2021 13:54
Thomas Nicholas	A Member of the Public	Myself	Oppose	No	2/8/2021 22:35
Aronson Laura	A Member of the Public	Myself	Oppose	No	2/8/2021 22:38
Howland Curtis	A Member of the Public	Myself	Oppose	No	2/8/2021 22:41
Mennella Alexandra	A Member of the Public	Myself	Oppose	No	2/9/2021 7:27
Axelman Elliot	A Member of the Public	Myself	Oppose	No	2/9/2021 8:42
Fordey Nicole	A Member of the Public	Myself	Oppose	No	2/7/2021 11:12
Larson Ruth	A Member of the Public	Myself	Oppose	No	2/8/2021 1:08
Gericke Carla	A Member of the Public	Myself	Oppose	No	2/8/2021 9:41
Frost Sherry	An Elected Official	Myself	Oppose	No	2/8/2021 10:21

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # **SB60**

Hearing date: _____

Executive Session date: _____

Motion of: 02460s Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: 172 Vote: 3-2

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: French

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Wednesday, March 10, 2021

THE COMMITTEE ON Judiciary

to which was referred **SB 60-FN**

AN ACT

prohibiting the transport of an open container of
marijuana in a motor vehicle or OHRV.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 3-2

Senator Harold French
For the Committee

Jennifer Horgan 271-7875

JUDICIARY

SB 60-FN, prohibiting the transport of an open container of marijuana in a motor vehicle or OHRV.

Inexpedient to Legislate, Vote 3-2.

Senator Harold French for the committee.

Docket of SB60

Docket Abbreviations

Bill Title: prohibiting the transport of an open container of marijuana in a motor vehicle or OHRV.*Official Docket of SB60.:*

Date	Body	Description
1/19/2021	S	Introduced 01/06/2021 and Referred to Judiciary; SJ 3
2/4/2021	S	Remote Hearing: 02/09/2021, 01:15 pm; Links to join the hearing can be found in the Senate Calendar; SC 10
3/10/2021	S	Committee Report: Inexpedient to Legislate, 03/18/2021; SC 15
3/18/2021	S	Inexpedient to Legislate, RC 12Y-12N, MF; 03/18/2021; SJ 8
3/18/2021	S	Sen. Bradley Moved Ought to Pass; 03/18/2021; SJ 8
3/18/2021	S	Sen. Bradley Moved to Special Order to 03/25/2021, RC 24Y-0N, MA; 03/18/2021; SJ 8
3/25/2021	S	Sen. Gannon Floor Amendment #2021-1014s, RC 24Y-0N, AA; 03/25/2021; SJ 9
3/25/2021	S	Ought to Pass with Amendment 2021-1014s, RC 21Y-3N, MA; OT3rdg; 03/25/2021; SJ 9
3/31/2021	H	Introduced (in recess of) 02/25/2021 and referred to Criminal Justice and Public Safety HJ 4 P. 51
4/14/2021	H	Public Hearing: 04/21/2021 10:30 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/93366148832 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
5/5/2021	H	Committee Report: Inexpedient to Legislate (Vote 18-0; CC) HC 26 P. 5
6/3/2021	H	Inexpedient to Legislate: MA VV 06/03/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB60

Senate Committee: Jud

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 62465 - amendment # _____

- amendment # _____ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # 10145 - amendment # _____

- amendment # _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s) 1

Governor's Veto Message 1

All available versions of the bill: {Clerk's Office}

as amended by the senate as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Jennifer Horgan
Committee Aide

8/12/21
Date

Senate Clerk's Office _____