

SENATE BILL No. 242-SENATORS NGUYEN AND

DONATE MARCH 9, 2023

JOINT SPONSORS: ASSEMBLYMEN CARTER AND  
MARZOLA

Referred to Committee on Health and Human Services SUMMARY-  
Revises provisions relating to certain controlled  
substances. (BDR 40-39)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

EXPLANATION - matter in *bold italics* is new, matter between brackets ~~omitted material~~ is material to be omitted.  
Matter in ~~purple strikethrough~~ is material to be omitted, new matter in *green* is new language.

AN ACT relating to controlled substances; ~~establishing procedures for a research facility to obtain the approval of the Department of Health and Human Services to conduct certain studies involving certain controlled substances;~~ decriminalizing certain conduct by persons who are *21* ~~18~~-years of age or older involving psilocybin and MDMA ~~if conducted in connection with and within the scope of an approved study;~~ decriminalizing certain conduct by persons who are *18*~~21~~ years of age or older involving *6 ounces* ~~4 ounces~~ or less of fungi that produces psilocybin or psilocin; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the State Board of Pharmacy to administer the Uniform Controlled Substances Act and to add substances to or delete or reschedule all substances enumerated in schedules I, II, III, IV and V by regulation. (NRS 453.146) Existing regulations of the Board list psilocybin and psilocin and ~~3,4-methylenedioxymethamphetamine, commonly referred to as MDMA,~~ as schedule I controlled substances. (NAC 453.510)

Existing law prohibits certain acts relating to controlled substances, including, without limitation: (1) importing, transporting, selling, exchanging, bartering, supplying, prescribing, dispensing, giving away or administering the controlled substance; (2) manufacturing or compounding the controlled substance; (3) unlawfully possessing the controlled substance not for the purpose of sale; (4) unlawfully possessing the controlled substance for the purpose of sale; and (5) for schedule I and II controlled substances, trafficking in the controlled substance. (NRS 453.321, 453.322, 453.336, 453.337, 453.338, 453.3385) Existing law also:

(1) authorizes the Board to authorize the possession and distribution of controlled substances by persons engaged in research; and (2) requires a practitioner to comply with certain registration requirements before conducting research regarding

a controlled substance. (NRS 453.155, 453.231)

**Section 32** of this bill ~~directs the~~ ~~authorizes a research facility to submit to the~~ Department of Health and Human Services to establish a Psychedelic Medicines Working Group to study psychedelic medicines and make recommendations to the legislature. ~~an application for approval to conduct a study that includes a clinical trial involving persons who are 18 years of age or older to study the use of MDMA or psilocybin in the treatment of mental health and other medical conditions. Section 2 requires the Department to adopt regulations establishing criteria for determining whether to approve an application to conduct such a study. If the Department approves the application, section 2 provides that any person who is 18 years of age or older who engages in certain conduct involving psilocybin or MDMA in connection with and within the scope of the study does not commit a violation of any law, ordinance, rule or regulation of this State or any political subdivision of this State and any such conduct must not constitute the basis for any investigation, detention, search, seizure, arrest, prosecution, or other legal penalty against the person.~~

**Section 3** of this bill provides that a person who is ~~18~~21 years of age or older and who engages in certain conduct involving ~~64 ounces~~ or less of fungi that produces psilocybin or psilocin, ~~regardless of whether the conduct occurs in connection with a study,~~ does not commit a violation of any law, ordinance, rule or regulation of this State or any political subdivision of this State and any such conduct must not constitute the basis for any investigation, detention, search, seizure, arrest, prosecution or other legal penalty against the person.

WHEREAS, Nevada has a high prevalence of adults with behavioral health conditions; and

WHEREAS, Studies conducted by nationally and internationally recognized medical institutions indicate that psilocybin ~~and 3,4-methylenedioxymethamphetamine, commonly known as MDMA,~~ have shown efficacy and safety in the treatment of a variety of behavioral health conditions, including, without limitation, addiction, ~~major depressive disorder~~ depression, post-traumatic stress disorder, ~~anxiety disorders~~ and psychological distress relating to the end of life; and

WHEREAS, The United States Food and Drug Administration has determined that preliminary clinical evidence indicates that psilocybin ~~and MDMA~~ may demonstrate substantial improvement over available therapies for treatment-resistant depression and post-traumatic stress disorder, respectively, and has accordingly granted Breakthrough Therapy designation for treatment that uses psilocybin as a therapy for treatment-resistant depression and ~~treatment that uses MDMA~~ as a therapy for post-traumatic stress disorder; and

WHEREAS, Numerous state and local lawmaking bodies throughout the United States have already enacted or are currently considering legislation decriminalizing certain conduct by certain persons relating to psilocybin and psilocin; now, therefore

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 453 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, ~~and 3,~~ ~~and 4~~ of this act.

Sec. 2. ~~1.—A research facility may submit to the Department an application for approval to conduct a study that includes a clinical trial involving persons who are 18 years of age or older to~~

~~study the use of MDMA or psilocybin in the treatment of mental health and other medical conditions, including, without limitation:~~

~~(a) Depression;~~

~~(b) Anxiety;~~

~~(c) Post-traumatic stress disorder;~~

~~(d) Bipolar disorder;~~

~~(e) Chronic pain; and~~

~~(f) Migraines.~~

~~2.—An application to conduct a study submitted pursuant to subsection 1 must include:~~

~~(a) The name and address of the research facility;~~

~~(b) A detailed description of the study that includes, without limitation, a description of the goals and scope of the study, the methods to be used in conducting the study and the duration of the study; and~~

~~(c) Such other information as the Department may require.~~

~~3.—Upon receipt of an application to conduct a study submitted pursuant to subsection 1, the Department shall evaluate the application under criteria prescribed by the Department pursuant to subsection 5. If the Department approves the study, the Department shall provide written notice to the research facility of the approval~~

~~4.—Notwithstanding any other provision of law, if the Department approves an application to conduct a study pursuant to subsection 1, any person who is 18 years of age or older and who engages in any of the following conduct in connection with and within the scope of the study does not commit a violation of any law, ordinance, rule or regulation of this State or any political subdivision of this State and any such conduct may not constitute the basis for any investigation, detention, search, seizure, arrest, prosecution or other legal penalty against the person:~~

~~(a) The possession, use, consumption, cultivation, manufacturing, growing, harvesting, preparation, compounding, conversion, handling, transportation, administration, sharing, giving away, testing or delivery of MDMA or psilocybin by the person or between the person and another person who engages in such conduct in connection with and within the scope of the study.~~

~~(b) The possession, use, production, handling, transportation, distribution, sharing, giving away or delivery of paraphernalia that is used in the cultivation, production, storage or use of MDMA or psilocybin by the person or between the person and another person who engages in such conduct in connection with and within the scope of the study.~~

~~(c) Being in the presence or vicinity of any conduct described in this subsection.~~

~~(d) Aiding or abetting any conduct described in this section.~~

~~5.—The Department shall adopt regulations establishing criteria to be used in evaluating whether to approve to an application to conduct a study submitted pursuant to subsection 1. The criteria must include, without limitation, consideration of the~~

~~scientific value and potential impact of the study:~~

~~6. As used in this section:~~

~~(a) "MDMA" means 3,4-methylenedioxyamphetamine~~

~~The term includes any mixture or substance that contains a detectable amount of 3,4-methylenedioxyamphetamine but does not contain any controlled substance other than 3,4-methylenedioxyamphetamine.~~

~~(b) "Psilocybin" includes psilocybin, psilocin, any fungi that produces psilocybin or psilocin and any mixture or substance that contains a detectable amount of psilocybin or psilocin but does not contain any controlled substance other than psilocybin or psilocin.~~

~~(c) "Research facility" means a university, college, medical school, medical facility or other organization which has as one of its principal purposes the conducting of medical or scientific~~

~~research.~~ It is the purpose of this act to protect and promote the health, welfare, and safety of the people of this State by combating the impact of suicidal ideation by enabling research to take place in the state of Nevada on controlled substances with the potential to produce treatments for mental health and other medical conditions, including without limitation:

- (a) Post-Traumatic Stress Disorder;
- (b) End of Life Care;
- (c) Substance Use Disorder; and
- (d) Major Depressive Disorder

Furthermore, this act declares the research on substances that have the potential to aid in the prevention of suicidal ideation among the people of Nevada to be in the public interest and prohibits the prosecution of licensed professionals from conducting studies with the specified substances found in this act.

Sec. 3. 1. The department of Health and Human Services is directed to establish a Psychedelic Medicines Working Group to:

(a) Examine the following therapeutic entheogens and compounds including, but not limited to psilocybin and psilocin for the use in medicinal, therapeutic, and improved wellness and that may have a positive impact on suicidal ideation;

(b) Examine federal, state, and local laws, regulations, administrative rules, and procedures regarding the therapeutic use of therapeutic entheogens and compounds including, but not limited to psilocybin and psilocin and their potential to aid in reducing suicidal ideation within the state; and

(c) Examine current and ongoing lines of research of therapeutic entheogens and compounds including, but not limited to psilocybin and psilocin;

(d) Develop a strategic, measurable, and actionable plan on how to enable access to therapeutic entheogens and compounds including, but not limited to psilocybin and psilocin products that are safe, accessible, and affordable; and

(e) Provide a report to the 2025 Legislature no later than

December 31, 2024, recommending the placement of psychedelic medicines for use in assisted therapy programs.

2. The working group shall consist of 12 individuals:

(a.) Two members will consist of the following individuals or their respective designees:

- i. The Director of Health and Human Services;
- ii. The Director of Veteran Services;

(b.) Four members will be appointed by the legislature:

- i. One by the Majority Leader of the Senate;
- ii. One by the Minority Leader of the Senate;
- iii. One by the Speaker of the Assembly;
- iv. One by the Minority Leader of the Assembly;

(c.) Six Members will be appointed by the governor meeting the following requirements and be actual and bona fide residents of the State of Nevada for more than one year:

i. One Member will:

Possess an honorable discharge from some branch of the Armed Forces of the United States; or

Is a former member of one of the municipal or state law enforcement agencies, and

Has personal experience with use of therapeutic entheogens and compounds including, but not limited to psilocybin and psilocin to address PTSD;

i. One Member is currently licensed to practice medicine, psychology, or psychiatry within the state of Nevada;

ii. One Member will have experience treating PTSD in clinical setting;

iii. One Member will have experience researching therapeutic entheogens and compounds including, but not limited to psilocybin and psilocin using a DEA license;

iv. One Member will represent a Nevada tribal government;

v. One Member will represent public education and advocacy on behalf of therapeutic entheogens and compounds and their use for healing and well-being;

(d.) Other interested parties with experience that the chairperson of the working group deems relevant to the purposes of the working group, as invited by the chairperson, may serve on a sub-committee of the working group.

(e.) The members of the working group shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(f.) As used in this section:

- i. "Psilocybin" includes psilocybin, psilocin, any fungi that produces

psilocybin or psilocin and any mixture or substance that contains a detectable amount of psilocybin or psilocin but does not contain any controlled substance other than psilocybin or psilocin.

*Sec. 4. 1. Notwithstanding any other provision of law, any person who is 21 ~~18~~-years of age or older and who engages in any of the following conduct does not commit a violation of any law, ordinance, rule or regulation of this State or any political subdivision of this State and any such conduct may not constitute the basis for any investigation, detention, search, seizure, arrest, prosecution or other legal penalty against the person:*

- (a.) The possession, use, consumption, cultivation, manufacturing, growing, harvesting, preparation, compounding, conversion, handling, transportation, administration, sharing, giving away, testing or delivery of 30 grams or less of dried fungi that produces psilocybin or psilocin by the person or between the person and another person who is 21 years of age or older.
  - (b.) The possession, use, production, handling, transportation, distribution, sharing, giving away or delivery of paraphernalia that is used in the cultivation, production, storage, or use of fungi that produces psilocybin or psilocin.
  - (c.) Being in the presence or vicinity of any conduct described in this subsection.
  - (d.) Aiding or abetting any conduct described in this section.
2. Notwithstanding any other provision of law, any person under the age of 21 convicted of the possession of any amount up to 6 ounces of wet psilocybin fungi or 30 grams of dried fungi, or a person over the age of 21 who is convicted of the possession of 6 ounces or less of wet psilocybin or 2 ounces of dried fungi is guilty of a misdemeanor and shall be punished by:
    - (a.) Performing not more than 24 hours of community service;
    - (b.) Attending the live meeting described in paragraph (a) of subsection 2 of NRS 484C.530 and complying with any other requirements set forth in that section; or
    - (c.) Being required to undergo an evaluation in accordance with subsection 1 of NRS 484C.350, or any combination thereof.
  3. A person who is convicted of the possession of more than 6 ounces wet fungi or 60 grams dried fungi, but less than 1-pound wet fungi or of four ounces of dried fungi is guilty of a category E felony and shall be punished as provided in NRS 193.130.
  4. A person who is convicted of the possession of more than 1 pound but less than 2.5 pounds of wet or dried fungi containing fungi is guilty of a category D felony and shall be punished as provided in NRS 193.130.
  5. A person who is convicted of the possession of more than 2.5 pounds of psilocybin-containing fungi is guilty of a category B Felony and shall be punished as provided in NRS 193.130
  6. Except as otherwise provided in NRS 453.011 to 453.552, inclusive, and this act, a person who knowingly or intentionally transports actual or constructive

possession of wet psilocybin-containing fungi or dried psilocybin-containing fungi for the purpose of sale shall be punished, if the quantity involved:

- (a.) Is 1 ounce or less, under the existing statute for a Category E Felony;
  - (b.) Is between 1 ounce to 1 pound, under the existing statute for a Category C Felony;
  - (c.) Is above 1 pound under the existing statute for a Category B Felony;
7. This section must not be construed or interpreted to allow a person to sell any amount of fungi that produces psilocybin or psilocin for remuneration as part of a business promotion or other commercial sales.
8. As used in this section:
- (a.) “Psilocybin” includes psilocybin, psilocin, any fungi that produces psilocybin or psilocin and any mixture or substance that contains a detectable amount of psilocybin or psilocin but does not contain any controlled substance other than psilocybin or psilocin.
  - (b.) “Wet fungi” refers to the organic state of the fungi prior to it being preserved for future use.
  - (c.) “Dried fungi” refers to the organic state of the fungi after it has been preserved for future use.

~~(a) The possession, use, consumption, cultivation, manufacturing, growing, harvesting, preparation, compounding, conversion, handling, transportation, administration, sharing, giving away, testing or delivery of 4 ounces or less of fungi that produces psilocybin or psilocin by the person or between the person and another person who is 18 years of age or older.~~

~~(b) The possession, use, production, handling, transportation, distribution, sharing, giving away or delivery of paraphernalia that is used in the cultivation, production, storage or use of fungi that produces psilocybin or psilocin.~~

~~—(c) Being in the presence or vicinity of any conduct described in this subsection.~~

~~(d) Aiding or abetting any conduct described in this section.~~

~~2.— This section must not be construed or interpreted to allow a person to distribute or sell any amount of fungi that produces psilocybin or psilocin for remuneration as part of a business promotion or other commercial activity.~~

Sec.5. 4. This act becomes effective upon passage and approval.