

Amendment No. 354

Senate Amendment to Senate Bill No. 242		(BDR 40-39)
Proposed by: Senate Committee on Health and Human Services		
Amends: Summary: Yes Title: Yes Preamble: Amend Joint Sponsorship: No		
Digest: Yes		

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

SJQ/BAW



Date: 4/20/2023

S.B. No. 242—Revises provisions relating to certain controlled substances.
(BDR 40-39)



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.]~~
Requires the Department of Health and Human Services to establish the Psychedelic Medicines Working Group. (BDR ~~[40-39]~~ S-39)

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

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to controlled substances; ~~[establishing procedures for a research facility to obtain the approval of]~~ requiring the Department of Health and Human Services to ~~[conduct certain studies involving certain controlled substances; decriminalizing certain conduct by persons who are 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 years of age or older involving 4 ounces or less of fungi that produces psilocybin or psilocin]~~ establish the Psychedelic Medicines Working Group to study certain issues relating to the therapeutic use of entheogens during the 2023-2024 interim; prescribing the membership and duties of the Working Group; 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, 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 2 of this bill authorizes a research facility to submit to} This bill requires the Department of Health and Human Services [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 years of age or older and who engages in certain conduct involving 4 ounces or less of fungi that produces} to establish the Psychedelic Medicines Working Group to study certain issues relating to the therapeutic use of entheogens during the 2023-2024 interim. This bill defines “entheogen” to include, without limitation, psilocybin [or] and 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.] This bill also: (1) prescribes the membership and duties of the Working Group; and (2) requires the Department of Health and Human Services to submit a written report describing the activities, findings, conclusions and recommendations of the Working Group for transmittal to the 83rd Session of the Legislature.

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]~~ has shown efficacy and safety in the treatment of a variety of behavioral health conditions, including, without limitation, addiction, treatment-resistant depression, major depressive disorder, 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 major depressive disorder 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 major depressive 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 of this act.]~~ (Deleted by amendment.)

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

~~(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.~~ (Deleted by amendment.)

Sec. 3. [1. Notwithstanding any other provision of law, any person who is 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 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.]~~ (Deleted by amendment.)

Sec. 3.5. 1. The Department of Health and Human Services shall establish the Psychedelic Medicines Working Group to study certain issues relating to the therapeutic use of entheogens during the 2023-2024 interim. The Working Group must consist of:

(a) The Director of the Department of Health and Human Services or his or her designee;

(b) The Attorney General or his or her designee;

(c) The Director of the Department of Veterans Services or his or her designee;

(d) The President of the State Board of Pharmacy or his or her designee;

(e) One member appointed by the Majority Leader of the Senate;

(f) One member appointed by the Minority Leader of the Senate;

(g) One member appointed by the Speaker of the Assembly;

(h) One member appointed by the Minority Leader of the Assembly; and

(i) The following members appointed by the Governor, each of whom must be a bona fide resident of this State for not less than 1 year immediately preceding his or her appointment:

(1) One member who has received an honorable discharge from the Armed Forces of the United States and who has experience with the use of entheogens to address post-traumatic stress disorder;

1 (2) One member who is a psychiatrist, or a psychologist with clinical
2 experience, and who:

3 (I) Is licensed to practice in this State; and

4 (II) Has experience treating patients who have an alcohol or other
5 substance use disorder;

6 (3) One member who has experience treating post-traumatic stress
7 disorder in a clinical setting;

8 (4) One member who has experience researching the therapeutic use of
9 entheogens pursuant to a license issued by the Drug Enforcement
10 Administration of the United States Department of Justice;

11 (5) One member who is a representative of a tribal government, as
12 defined in NRS 239C.105, in this State;

13 (6) One member who is a representative of an organization that
14 advocates for and provides education to the public regarding the therapeutic
15 use of entheogens; and

16 (7) One member who is a representative of a law enforcement agency
17 in this State.

18 2. The Working Group shall, during the 2023-2024 interim:

19 (a) Examine various entheogens to determine which entheogens may be
20 beneficial for therapeutic use in reducing suicidal ideation and improving
21 mental health, including, without limitation, through the use of entheogens in
22 the treatment of post-traumatic stress disorder, substance use disorder, major
23 depressive disorder or psychological distress relating to the end of life;

24 (b) Review federal, state and local laws and regulations concerning the
25 therapeutic use of entheogens and identify any revisions to the laws and
26 regulations of this State that may be necessary to enable entheogens to be used
27 for therapeutic purposes in this State;

28 (c) Review existing and ongoing research on the therapeutic use of
29 entheogens; and

30 (d) Develop a strategic, measurable and actionable plan to allow access to
31 safe and affordable entheogens so that such entheogens may be used for
32 therapeutic purposes.

33 3. The Director of the Department of Health and Human Services shall
34 serve as Chair of Working Group. The Attorney General or his or her
35 designee shall serve as Vice Chair of the Working Group.

36 4. A majority of the members of the Working Group constitutes a
37 quorum for the transaction of business, and a majority of those members
38 present at any meeting is sufficient for any official action taken by the
39 Working Group.

40 5. The Chair of the Working Group may appoint subcommittees
41 composed of members of the public who have relevant experience or
42 knowledge to consider specific issues or other matters relating to the
43 therapeutic use of entheogens.

44 6. Each member of the Working Group:

45 (a) Serves without compensation; and

46 (b) While engaged in the business of the Working Group, is entitled to
47 receive the per diem allowance and travel expenses provided for state officers
48 and employees generally.

49 7. The Department of Health and Human Services shall provide the
50 Working Group with such administrative support as is necessary to assist the
51 Working Group in carrying out its duties pursuant to this section.

52 8. The Department of Health and Human Services shall, on or before
53 December 31, 2024, prepare and submit a written report describing the

activities, findings, conclusions and recommendations of the Working Group to the Director of the Legislative Counsel Bureau for transmittal to the 83rd Session of the Legislature.

9. As used in this section, “entheogen” includes, without limitation, psilocybin and psilocin.

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