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**SECOND SUBSTITUTE SENATE BILL 5263**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Salomon, Rivers, Saldaña, Nobles, Lovick, Lovelett, Hunt, Hasegawa, Mullet, Trudeau, Robinson, Pedersen, Wellman, Muzzall, C. Wilson, Kuderer, Keiser, Lias, Van De Wege, Billig, Conway, and Frame)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to access to psilocybin services by individuals  
2 21 years of age and older; adding a new chapter to Title 18 RCW;  
3 creating a new section; providing an expiration date; and declaring  
4 an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature intends to establish an  
7 advisory board, interagency work group, and a task force to provide  
8 advice and recommendations on developing a comprehensive regulatory  
9 framework for access to regulated psilocybin for Washington residents  
10 who are at least 21 years of age.

11 NEW SECTION. **Sec. 2.** The legislature declares that the purposes  
12 of this chapter are:

13 (1) To develop a long-term strategic plan for ensuring that  
14 psilocybin services become and remain a safe, accessible, and  
15 affordable option for all persons 21 years of age and older in this  
16 state for whom psilocybin may be appropriate or as part of their  
17 indigenous religious or cultural practices;

18 (2) To protect the safety, welfare, health, and peace of the  
19 people of this state by prioritizing this state's limited law

1 enforcement resources in the most effective, consistent, and rational  
2 way;

3 (3) To develop a comprehensive regulatory framework concerning  
4 psilocybin products and psilocybin services under state law;

5 (4) To prevent the distribution of psilocybin products to other  
6 persons who are not permitted to possess psilocybin products under  
7 this chapter including but not limited to persons under 21 years of  
8 age; and

9 (5) To prevent the diversion of psilocybin products from this  
10 state to other states.

11 NEW SECTION. **Sec. 3.** This chapter may be known and cited as the  
12 Washington psilocybin services act.

13 NEW SECTION. **Sec. 4.** (1) The Washington psilocybin advisory  
14 board is established within the department of health to provide  
15 advice and recommendations to the department of health, the liquor  
16 and cannabis board, and the department of agriculture. The Washington  
17 psilocybin advisory board shall consist of:

18 (a) Members appointed by the governor as specified in subsection  
19 (2) of this section;

20 (b) The secretary of the department of health or the secretary's  
21 designee;

22 (c) The state health officer or a physician acting as the state  
23 health officer's designee;

24 (d) A representative from the department of health who is  
25 familiar with public health programs and public health activities in  
26 this state; and

27 (e) A designee of the public health advisory board.

28 (2) The governor shall appoint the following individuals to the  
29 Washington psilocybin advisory board:

30 (a) Any four of the following:

31 (i) A state employee who has technical expertise in the field of  
32 public health;

33 (ii) A local health officer;

34 (iii) An individual who is a member of, or who represents, a  
35 federally recognized Indian tribe in this state;

36 (iv) An individual who is a member of, or who represents, a body  
37 that provides policy advice relating to substance use disorder  
38 policy;

1 (v) An individual who is a member of, or who represents, a body  
2 that provides policy advice relating to health equity;

3 (vi) An individual who is a member of, or who represents, a body  
4 that provides policy advice related to palliative care and quality of  
5 life; or

6 (vii) An individual who represents individuals who provide public  
7 health services directly to the public;

8 (b) A person who has knowledge regarding the indigenous or  
9 religious use of psilocybin;

10 (c) A psychologist licensed under chapter 18.83 RCW who has  
11 professional experience engaging in the diagnosis or treatment of a  
12 mental, emotional, or behavioral condition;

13 (d) A physician licensed under chapter 18.71 RCW;

14 (e) A naturopath licensed under chapter 18.36A RCW;

15 (f) An expert in the field of public health who has a background  
16 in academia;

17 (g) Any three of the following:

18 (i) A person who has professional experience conducting  
19 scientific research regarding the use of psychedelic compounds in  
20 clinical therapy;

21 (ii) A person who has experience in the field of mycology;

22 (iii) A person who has experience in the field of ethnobotany;

23 (iv) A person who has experience in the field of  
24 psychopharmacology; or

25 (v) A person who has experience in the field of harm reduction;

26 (h) A person designated by the liquor and cannabis board who has  
27 experience working with the cannabis central reporting system  
28 developed for tracking the transfer of cannabis items;

29 (i) The attorney general or the attorney general's designee; and

30 (j) One, two, or three at large members.

31 (3) (a) Members of the Washington psilocybin advisory board shall  
32 serve for a term of four years, but at the pleasure of the governor.  
33 Before the expiration of the term of a member, the governor shall  
34 appoint a successor whose term begins on January 1st of the following  
35 year. A member is eligible for reappointment. If there is a vacancy  
36 for any cause, the governor shall make an appointment to become  
37 immediately effective for the unexpired term.

38 (b) Members of the board described in subsection (1)(b) through  
39 (e) of this section are nonvoting ex officio members of the board.

1 (4) A majority of the voting members of the board constitutes a  
2 quorum. Official adoption of advice or recommendations by the  
3 Washington psilocybin advisory board requires the approval of a  
4 majority of the voting members of the board.

5 (5) The board shall elect one of its voting members to serve as  
6 chair.

7 (6) Until July 1, 2024, the Washington psilocybin advisory board  
8 shall meet at least five times a calendar year at a time and place  
9 determined by the chair or a majority of the voting members of the  
10 board. After July 1, 2024, the board shall meet at least once every  
11 calendar quarter at a time and place determined by the chair or a  
12 majority of the voting members of the board. The board may meet at  
13 other times and places specified by the call of the chair or of a  
14 majority of the voting members of the board.

15 (7) The Washington psilocybin advisory board may adopt rules  
16 necessary for the operation of the board.

17 (8) The Washington psilocybin advisory board may establish  
18 committees and subcommittees necessary for the operation of the  
19 board.

20 (9) The members of the Washington psilocybin advisory board may  
21 receive reimbursement or an allowance for expenses within amounts  
22 appropriated for that specific purpose consistent with RCW 43.03.220.

23 NEW SECTION. **Sec. 5.** (1) An interagency psilocybin work group  
24 of the department of health, the liquor and cannabis board, and the  
25 department of agriculture is created to provide advice and  
26 recommendations to the advisory board on the following:

27 (a) Developing a comprehensive regulatory framework for a  
28 regulated psilocybin system, including a process to ensure clean and  
29 pesticide free psilocybin products;

30 (b) Reviewing indigenous practices with psilocybin, clinical  
31 psilocybin trials, and findings;

32 (c) Reviewing research of medical evidence developed on the  
33 possible use and misuse of psilocybin therapy; and

34 (d) Ensuring that a social opportunity program is included within  
35 any licensing program created under this chapter to remedy the  
36 targeted enforcement of drug-related laws on overburdened  
37 communities.

1 (2) The findings of the psilocybin task force in section 6 of  
2 this act must be submitted to the interagency work group created in  
3 this section and to the psilocybin advisory board.

4 (3) The interagency psilocybin work group must submit regular  
5 updates to the psilocybin advisory board.

6 NEW SECTION. **Sec. 6.** (1) The health care authority must  
7 establish a psilocybin task force to provide a report on psilocybin  
8 services. The director of the health care authority or the director's  
9 designee must be a member of the task force and serve as chair. The  
10 task force must also include, without limitation, the following  
11 members:

12 (a) The secretary of the department of health or the secretary's  
13 designee;

14 (b) The director of the liquor and cannabis board or the  
15 director's designee; and

16 (c) As appointed by the director of the health care authority, or  
17 the director's designee:

18 (i) A military veteran, or representative of an organization that  
19 advocates on behalf of military veterans, with knowledge of  
20 psilocybin;

21 (ii) Up to two recognized indigenous practitioners with knowledge  
22 of the use of psilocybin or other psychedelic compounds in their  
23 communities;

24 (iii) An individual with expertise in disability rights advocacy;

25 (iv) A public health practitioner;

26 (v) Two psychologists with knowledge of psilocybin, experience in  
27 mental and behavioral health, or experience in palliative care;

28 (vi) Two mental health counselors, marriage and family  
29 therapists, or social workers with knowledge of psilocybin,  
30 experience in mental and behavioral health, or experience in  
31 palliative care;

32 (vii) Two physicians with knowledge of psilocybin, experience in  
33 mental and behavioral health, or experience in palliative care;

34 (viii) A health researcher with expertise in health equity or  
35 conducting research on psilocybin;

36 (ix) A pharmacologist with expertise in psychopharmacology;

37 (x) A representative of the cannabis industry with knowledge of  
38 regulation of medical cannabis and the cannabis business in  
39 Washington;

1 (xi) An advocate from the LGBTQIA community with knowledge of the  
2 experience of behavioral health issues within that community;

3 (xii) A member of the psychedelic medicine alliance of  
4 Washington; and

5 (xiii) Up to two members with lived experience of utilizing  
6 psilocybin.

7 (2) The health care authority must convene the first meeting of  
8 the task force by June 30, 2023.

9 (3) The health care authority must provide a final report to the  
10 governor and appropriate committees of the legislature by December 1,  
11 2023, in accordance with RCW 43.01.036. The health care authority may  
12 form subcommittees within the task force and adopt procedures  
13 necessary to facilitate its work.

14 (4) The duties of the health care authority in consultation with  
15 the task force must include, without limitation, the following  
16 activities:

17 (a) Reviewing the available clinical information around specific  
18 clinical indications for use of psilocybin, including what co-  
19 occurring diagnoses or medical and family histories may exclude a  
20 person from use of psilocybin. Any review of clinical information  
21 should:

22 (i) Discuss populations excluded from existing clinical trials;

23 (ii) Discuss factors considered when approval of a medical  
24 intervention is approved;

25 (iii) Consider the diversity of participants in clinical trials  
26 and the limitations of each study when applying learnings to the  
27 population at large; and

28 (iv) Identify gaps in the clinical research for the purpose of  
29 identifying opportunities for investment by the state for the  
30 University of Washington, Washington State University, or both to  
31 consider studying.

32 (b) Reviewing and discussing regulatory structures for clinical  
33 use of psilocybin in Washington and other jurisdictions nationally  
34 and globally. This should include discussing how various regulatory  
35 structures do or do not address concerns around public health and  
36 safety the task force has identified.

37 (5) The department of health, liquor and cannabis board, and  
38 department of agriculture must provide subject matter expertise and  
39 support to the task force and any subcommittee meetings. For the  
40 department of health, subject matter expertise includes an individual

1 or individuals with knowledge and experience in rule making, the  
2 regulation of health professionals, and the regulation of health  
3 facilities.

4 (6) Meetings of the task force under this section must be open to  
5 participation by members of the public.

6 (7) Task force members participating on behalf of an employer,  
7 governmental entity, or other organization are not entitled to be  
8 reimbursed for travel expenses if they are elected officials or are  
9 participating on behalf of an employer, governmental entity, or other  
10 organization. Any reimbursement for other nonlegislative members is  
11 subject to chapter 43.03 RCW.

12 (8) It is the legislature's intent that the provisions of this  
13 section supersede section 211(99), chapter 297, Laws of 2022.

14 (9) This section expires June 30, 2024.

15 NEW SECTION. **Sec. 7.** (1) The duties, functions, and powers of  
16 the department of health specified in this chapter include the  
17 following:

18 (a) To examine, publish, and distribute to the public available  
19 medical, psychological, and scientific studies, research, and other  
20 information relating to the safety and efficacy of psilocybin in  
21 treating mental health conditions including, but not limited to,  
22 addiction, depression, anxiety disorders, and end-of-life  
23 psychological distress, and the potential for psilocybin to promote  
24 community, address trauma, and enhance physical and mental wellness;

25 (b) To adopt, amend, or repeal rules necessary to carry out the  
26 intent and provisions of this chapter, including rules that the  
27 department of health considers necessary to protect the public health  
28 and safety;

29 (c) To exercise all powers incidental, convenient, or necessary  
30 to enable the department of health to administer or carry out this  
31 chapter or any other law of this state that charges the department of  
32 health with a duty, function, or power related to psilocybin products  
33 and psilocybin services. Powers described in this subsection include,  
34 but are not limited to:

35 (i) Issuing subpoenas;

36 (ii) Compelling the attendance of witnesses;

37 (iii) Administering oaths;

38 (iv) Certifying official acts;

39 (v) Taking depositions as provided by law; and

1 (vi) Compelling the production of books, payrolls, accounts,  
2 papers, records, documents, and testimony.

3 (2) The jurisdiction, supervision, duties, functions, and powers  
4 held by the department of health under this section are not shared by  
5 the pharmacy quality assurance commission under chapter 18.64 RCW.

6 NEW SECTION. **Sec. 8.** Medical professionals licensed by the  
7 state of Washington shall not be subject to adverse licensing action  
8 for recommending psilocybin treatments.

9 NEW SECTION. **Sec. 9.** (1) The liquor and cannabis board shall  
10 assist and cooperate with the department of health and the department  
11 of agriculture to the extent necessary to carry out their duties  
12 under this chapter.

13 (2) The department of agriculture shall assist and cooperate with  
14 the department of health to the extent necessary for the department  
15 of health to carry out the duties under this chapter.

16 NEW SECTION. **Sec. 10.** The department of health, the department  
17 of agriculture, and the liquor and cannabis board may not refuse to  
18 perform any duty under this chapter on the basis that manufacturing,  
19 distributing, dispensing, possessing, or using psilocybin products is  
20 prohibited by federal law.

21 NEW SECTION. **Sec. 11.** If any provision of this act or its  
22 application to any person or circumstance is held invalid, the  
23 remainder of the act or the application of the provision to other  
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 12.** Sections 1 through 5 and 7 through 10 of  
26 this act constitute a new chapter in Title 18 RCW.

27 NEW SECTION. **Sec. 13.** Sections 4 through 6 of this act are  
28 necessary for the immediate preservation of the public peace, health,  
29 or safety, or support of the state government and its existing public  
30 institutions, and take effect immediately.

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