

HOUSE No. 4607

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES

REPORT
of the
SPECIAL JOINT
COMMITTEE
on
INITIATIVE PETITIONS
on the
INITIATIVE PETITION
of
SARKO GERGERIAN
AND OTHERS
FOR THE PASSAGE OF AN ACT
RELATIVE TO THE REGULATION AND TAXATION OF
NATURAL PSYCHEDELIC SUBSTANCES
(see House, No. 4255)

April 30, 2024.

MAJORITY REPORT.

A majority of the Special Joint Committee on Initiative Petitions (“The Committee”) recommends that the Initiative Petition 23-13, House 4255, “An Initiative Petition for a Law Relative to the Regulation and Taxation of Natural Psychedelic Substance,” (“the Initiative Petition”) as currently drafted and presented to this Committee, OUGHT NOT TO BE ENACTED BY THE LEGISLATURE AT THIS TIME.

The purpose of this report is to provide a recommendation to the full legislature on whether to accept the Initiative Petition as written for consideration and enactment.

The proposed Initiative Petition would permit persons aged 21 or over to grow, possess and use specified natural psychedelic substances in the Commonwealth in certain circumstances. It would also permit the sale of these substances at approved locations for use under the supervision of a licensed facilitator and subject to regulations to be promulgated by a newly created Natural Psychedelic Substances Commission in consultation with a newly created Natural Psychedelic Substances Advisory Board. “Permitted psychedelic substances” include two substances found in mushrooms (psilocybin and psilocyn) and three found in plants (dimethyltryptamine, mescaline, and ibogaine). The Initiative Petition would also establish a tax rate for the sale of these substances by licensed facilitators. The manufacture, distribution, dispensation, and possession of these substances remain – and would remain – illegal federally.

Testimony

The Committee heard from experienced professionals, proponents and opponents of the Initiative Petition, as well as members of the general public.

Subject matter experts included doctors currently studying the effects of psychedelic treatments on patients, including Dr. Jerrold Rosenbaum, Psychiatrist-in-Chief Emeritus, Director of the Center for the Neuroscience of Psychedelics at Massachusetts General Hospital, Dr. Franklin King of Harvard University and Director of Training and Education at the Center for the Neuroscience of Psychedelics at Massachusetts General Hospital, and Dr. Yvan Gersaint of Dana Farber Cancer Institute. Each doctor cited potential benefits to the use of psychedelic agents as evidenced in their clinical studies, showing psychological benefits that are as effective, or even more so, than available therapeutics, with toxicity and risk seeming modest compared to available pharmaceutical drugs. While addiction to psychedelics is unlikely, the doctors testified that there are regulatory and logistical challenges to improving clinical studies around psychedelics. The doctors also pointed to issues of psychedelic use exacerbating psychosis in individuals with conditions that cause psychosis.

Angie Allbee, Manager of the Oregon Psilocybin Services Section of the Oregon Health Authority, testified on the legal and regulatory framework of psilocybin in the state of Oregon following its passage in the November 2020 election and stated that she takes no

position on House 4255. In Oregon, there is no residency requirement, and anyone over the age of 21 may access psilocybin after completing a preparation session. There are four types of licenses: manufacturer, laboratory, service center (where sessions take place), and facilitator (those who support clients through a nondirective approach to psilocybin). As of the date of the hearing, Oregon had awarded 9 manufacturer, 2 laboratory, 23 service center, and 276 facilitator licenses, with 5,697 products sold to clients from January 2023 to March 2024. When asked to compare Oregon's framework and the proposed Massachusetts framework as laid out in this Initiative Petition, Ms. Allbee stated that Oregon's decriminalization has been scaled back and there is no personal cultivation allowed in Oregon.

Matthew Johnson, Ph.D., the Susan Hill Ward Professor in Psychedelics and Consciousness at Johns Hopkins University, also presented testimony as a subject matter expert. He testified that he has published highly cited research on the risks of psychedelics and safety guidelines. Dr. Johnson has found that people using psychedelics can have intense, severe reactions, but can generally be reassured by people they trust. Dr. Johnson highlighted statistics around the impact of psychedelics, showing lower magnitude in harm, emergency room visits, poison control calls, and addiction compared to opioid, alcohol, and cocaine use, but noted that most of the harm comes around cardiovascular challenges. Dr. Johnson further testified that while psychedelic use should not be encouraged, the criminal penalties are incongruent with the danger of these substances and proposed that regulated use should come with clear public health warnings about what separates riskier use from less risky use: dosage, supervision, medical and mental health contraindications, dangers of public intoxication, and the dangers of unethical practitioners. Dr. Johnson also added that the potential therapeutic benefits are likely less if not provided in the presence of mental health professionals and that it is important to collect data of psychedelic use if it is legalized.

A panel of proponents of the Initiative Petition described how psilocybin has allowed them to personally process trauma from their experiences in the military and police force, citing many personal stories of veterans and police officers.

Members of the public testifying on behalf of Bay Staters for Natural Medicine indicated their support for the legalization of psychedelics, but requested the Legislature propose a substitute to the Initiative Petition for the November 2024 ballot. The proposed substitute, which contains several stark differences in scope from the Initiative Petition would likely conflict with the precedent set by the Supreme Judicial Court in the 1976 case, *Buckley v. Secretary of the Commonwealth*, which noted that the intent of the framers of Article XLVIII of the Amendments to the Constitution was for the Legislature to provide minor technical changes to an Initiative Petition.

Opponents to the Initiative Petition included Dr. John A. Fromson, Psychiatrist at Brigham and Women's Hospital, and Dr. Nassir Ghaemi, Professor of Psychiatry at Tufts University School of Medicine, who serve as President and President-elect, respectively, of the Massachusetts Psychiatric Society. The doctors described the clinical, logistical, and safety concerns of this Initiative Petition, including that the Federal Drug

Administration (FDA) has not approved any drug containing psilocybin, there is not a strong enough framework to guarantee safety for patients or providers. The doctors further testified that this Initiative Petition contemplates combining three issues – overall wellness of the general public, treatment of psychiatric disorders, and use of psilocybin for spiritual use – into one initiative, which, in their opinion, is reckless, irresponsible and dangerous to the public. While the doctors recognized that there is currently promising research relating to the use of psilocybin by veterans being treated by the Veterans Administration, that research is still in study phases. They also noted that the Massachusetts Psychiatric Society has many outstanding questions regarding the impacts this Initiative Petition would have on providers, including insurance coverage, and the impact to specific population subsets such as maternal or perinatal health. The doctors further explained their opposition by noting the broad nature of this Initiative Petition, the lack of concrete research or results from states that have legalized psilocybin, and the interplay of psilocybin (a hallucinogen) with psychosis for those suffering from schizophrenia, bipolar disorder, and unipolar disorder.

Conclusion

While psychedelic plants have been used around the world and through time in spiritual and religious practices, their scientific study in the United States began primarily in the 20th century and the federal government largely proscribed the use of psychedelic substances in 1968. However, the use of these substances continued in the decades following, and law enforcement agencies around the country have reported a nearly four-fold increase in the overall weight of hallucinogenic mushrooms seized between 2017-2022. This growth in use has led to a new, heightened period of medical and scientific research which is still developing.

Published studies have indicated that, as users take measured doses under therapeutic supervision, the use of psychedelic substances may be highly effective in addressing a variety of adverse mental health conditions. The Committee specifically recognizes the importance of the potential for positive treatment results in populations seeking help for post-traumatic stress disorder, depression, anxiety, and other mental health problems and credits the testimony it received from individuals from our veteran and first responder population. These promising findings, however, have not provided evidence that the widescale recreational legalization of these substances would be beneficial, let alone safe.

The Committee finds that the petition's major goals — licensure and decriminalization — likely undercut each other by creating two separate systems for the use of psychedelic substances. The petition would both create a system of state-licensed and taxed therapeutic facilities on the one hand and, on the other, decriminalize the cultivation, possession, and distribution of a variety of hallucinogenic and psychoactive substances. Voters are, therefore, being asked to simultaneously establish a potentially costly licensure system that imposes regulations on the cultivation methods, quality of product and allowable means of engaging certain users, while at the same time making the same substances widely available for individual cultivation and use across the Commonwealth in a non-licensed manner.

The petition would allow Massachusetts residents to carry many doses of psychoactive mushrooms on their person or in their home at one time. It therefore presumably allows an unlicensed cultivator to “gift” individuals certain doses and is silent on the ability of cultivators to charge for overseeing that use or guiding the user through the psychedelic experience. The Committee finds that this loophole would likely subvert the safety regulations imposed on licensed facilitators by permitting the growth of an unregulated, unlicensed marketplace.

Similar to the model the Commonwealth uses to regulate the sale of marijuana, the petition would require licensed providers to rely on a cash-based system due to its illegality at the federal level. The petition also would require municipalities to zone for and to permit these licensed facilities while capping their ability to levy a tax rate it determines appropriate to manage traffic, local ordinances, inspections, and any increased calls requesting the assistance of law enforcement or medical professionals.

For these reasons, we, the majority of the Special Joint Committee on Initiative Petitions, recommend that “An Initiative Petition for a Law Relative to the Regulation and Taxation of Natural Psychedelic Substance” (see House No. 4255) as currently drafted and presented to this Committee, OUGHT NOT TO BE ENACTED BY THE LEGISLATURE AT THIS TIME.

Senators.

Cindy F. Friedman
Paul R. Feeney
Jason M. Lewis
Ryan C. Fattman

Representatives.

Alice Hanlon Peisch
Michael S. Day
Kenneth I. Gordon
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