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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** SB 58                      **Hearing Date:** March 21, 2023  
**Author:** Wiener  
**Version:** March 1, 2023  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** SJ

**Subject:** *Controlled substances: decriminalization of certain hallucinogenic substances*

## HISTORY

**Source:** Heroic Hearts Project

**Prior Legislation:** SB 519 (2021), died on the Assembly Inactive File

**Support:** A New Path; Alameda County Democratic Party; Bend the Arc; Jewish Action; Blue Dream Democrats; California Association of Social Rehabilitation Agencies; California Attorneys for Criminal Justice; California Institute of Integral Studies; California Public Defenders Association; City of Eureka; City of West Hollywood; Disability Rights California; Dr. Bronner's; Grunt Style Foundation; Heroic Hearts Project, Inc.; Hippie and a Veteran Foundation; Home-LA; Human Impact Partners; Initiate Justice; INNATE Integrative Medicine, Santa Cruz; Law Enforcement Action Partnership; National Association of Social Workers, California Chapter; New Approach Advocacy Fund; Oakland City Council Member Rebecca Kaplan; Personal Plants; San Francisco Public Defender; Secure Justice; Smart Justice California; The Action Lab at Northeastern University; Unlimited Sciences; Veterans of War; several individuals

**Opposition:** Arcadia Police Officers' Association; Burbank Police Officers' Association; California Association of Highway Patrolmen; California Coalition of School Safety Professionals; California Contract Cities Association; California District Attorneys Association; California State Sheriffs' Association; California Statewide Law Enforcement Association; Citizens Commission on Human Rights; Claremont Police Officers Association; Concerned Women for America; Corona Police Officers Association; Culver City Police Officers' Association; Deputy Sheriffs' Association of Monterey County; Fullerton Police Officers' Association; Los Angeles Professional Peace Officers Association; Los Angeles School Police Officers Association; Murrieta Police Officers' Association; Newport Beach Police Association; Palos Verdes Police Officers Association; Peace Officers Research Association of California; Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association; Riverside Police Officers Association; Riverside Sheriffs' Association; San Diegans Against Crime; San Diego Deputy District Attorneys Association; Santa Ana Police Officers Association; Upland Police Officers Association

## PURPOSE

***This purpose of this bill is to make lawful the possession, preparation, obtaining, transfer, as specified, or transportation of, specified quantities of psilocybin, psilocyn, dimethyltryptamine (DMT), ibogaine, and mescaline, for personal use or facilitated or supported use, as defined, by and with persons 21 years of age or older.***

*Existing law* classifies controlled substances into five schedules according to their danger and potential for abuse. Schedule I controlled substances have the greatest restrictions and penalties, including prohibiting the prescribing of a Schedule I controlled substance. (Health & Saf. Code, §§ 11054-11058.)

*Existing law* classifies several hallucinogenic substances including DMT, ibogaine, mescaline, psilocybin, and psilocyn as Schedule I substances. (Health & Saf. Code, § 11054, subd. (d).)

*This bill* defines mescaline as derived from plants presently classified botanically in the Echinopsis or Trichocereus genus of cacti, including, without limitation, the Bolivian Torch Cactus, San Pedro Cactus, or Peruvian Torch Cactus, but not including mescaline derived from any plant defined as peyote.

*Existing law* prohibits the possession of several specified controlled substances. (Health & Saf. Code, § 11350, subd. (a).)

*This bill* removes mescaline from this code section.

*Existing law* makes it unlawful for a person to transport, import, sell, furnish, administer, or give away, or offer or attempt to transport, import, sell, furnish, administer, or give away specified controlled substances. (Health & Saf. Code, § 11352.)

*Existing law* makes it is unlawful to possess any device, instrument, or paraphernalia used for unlawfully injecting or smoking specified controlled substances, except as specified. (Health & Saf. Code, § 11364, subd. (a).)

*This bill* removes mescaline from this code section.

*Existing law* make it unlawful for any person to deliver, furnish, or transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. (Health & Saf. § 11364.7.)

*This bill* removes test and analyze from this subdivision and provides that this subdivision does not apply to any paraphernalia that is intended to be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, any of the following substances: DMT, ibogaine, mescaline, psilocybin, or psilocin.

*Existing law* provides that it is unlawful to visit or to be in any room or place where specified controlled substances are being unlawfully smoked or used with knowledge that such activity is occurring. (Health & Saf. Code, § 11365, subd. (a).)

*This bill* removes mescaline from this code section.

*Existing law* provides that the possession of methamphetamine and other specified controlled substances is unlawful. (Health & Saf. Code, § 11377, subd. (a).)

*This bill* provides exceptions for DMT, ibogaine, psilocybin, and psilocin.

*Existing law* makes it unlawful for a person to transport, import into this state, sell, furnish, administer, or give away, or offer to transport, import into this state, sell, furnish, administer, or give away, or attempt to import into this state or transport specified controlled substances. (Health & Saf. Code, § 11379.)

*Existing law* makes it unlawful for a person to agree, consent, or in any manner offer to unlawfully sell, furnish, transport, administer, or give specified controlled substances. (Health & Saf. Code, § 11382.)

*Existing law* provides that it is unlawful to be under the influence of specified controlled substances. (Health & Saf. Code, § 11550, subd. (a).)

*This bill* removes mescaline from this code section.

*Existing law* makes it unlawful for a person who, with the intent to produce psilocybin or psilocyn, cultivates any spores or mycelium capable of producing mushrooms or other material which contains such a controlled substance. (Health & Saf. Code, § 11390.)

*This bill* repeals this provision of law.

*Existing law* makes it unlawful to transport, import into this state, sell, furnish, give away, or offer to transport, import into this state, sell, furnish, or give away any spores or mycelium capable of producing mushrooms or other material which contain psilocybin or psilocyn. (Health & Saf. Code, § 11391.)

*This bill* repeals this provision of law.

*Existing law* includes several legislative findings and declarations related to drug and alcohol education. Provides that any material, curricula, teachings, or promotion of responsible use of alcohol or drugs, if the use is unlawful, is inconsistent with the law. Provides that the “no unlawful use” message applies to all drug and alcohol programs, and that these materials are to teach and promote that any unlawful use of drugs and alcohol is illegal and dangerous. (Health & Saf. Code, § 11999.)

*This bill* repeals this provision of law.

*This bill* provides that all of the following is lawful for a natural person 21 years of age or older and is not a violation of state or local law:

- The possession, preparation, obtaining, or transportation of mescaline for personal use or for facilitated or supported use.
- The ingesting of mescaline.
- The possession, planting, cultivating, harvesting, or processing of plants capable of producing mescaline, except as specified, on property owned or controlled by a person, for personal use or facilitated or supported use by that person, and possession of any product produced by those plants.
- The assisting of another person, 21 years of age or older, with any of the above acts.

*This bill* provides that possession of mescaline by a person 21 years of age or older on the grounds of any public or private elementary, vocational, junior high, or high school, during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility is a misdemeanor.

*This bill* provides that the punishment for a person who knowingly gives away or administers mescaline to a person who is under 18 years of age in violation of law is imprisonment in a county jail for a period of not more than six months or by a fine of not more than \$500, or both, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

*This bill* provides that the punishment for a person 18 years of age or over who knowingly gives away or administers mescaline to a minor under 14 years of age in violation of law is imprisonment in the state prison for a period of 3, 5, or 7 years.

*This bill* provides that a person who knowingly gives away or administers mescaline to a person who is at least 18 years of age, but under 21 years of age is guilty of an infraction.

*This bill* provides that possession of mescaline by a person under 18 years of age is punishable as an infraction. Requires the minor to either: (1) complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days, commencing when the drug education or counseling services are made available to them for a first offense; or (2) complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days, commencing when the drug education or counseling services are made available to them for a second or subsequent offense.

*This bill* provides that possession of mescaline by a person at least 18 years of age but less than 21 years of age is punishable as an infraction.

*This bill* provides that mescaline or related products involved in any way with conduct deemed lawful are not contraband nor subject to seizure. Prohibits lawful conduct from constituting the basis for detention, search, or arrest, or the basis for the seizure or forfeiture of assets.

*This bill* defines the following terms:

- “Allowable amount” means four grams per person or, in the context of facilitated or supported use involving multiple persons, the aggregate of allowable amounts per

participant. Specifies “allowable amount” does not include the weight of any material of which the substance is a part or to which the substance is added, dissolved, held in solution, or suspended, or any ingredient or material combined with the substance specified in this subdivision to prepare a topical or oral administration, food, drink, or other product, including, but not limited to, a brew or tea.

- “Facilitated or supported use” means the supervised or assisted personal use of mescaline by an individual or group of persons 21 years of age or older, or the assisting or supervising of such persons in such use, within the context of counseling, spiritual guidance, community-based healing, or related services.
- “Financial gain” means the receipt of money or other valuable consideration in exchange for the item being transferred. Specifies “financial gain” does not include reasonable fees for counseling, spiritual guidance, or related services that are provided in conjunction with facilitated or supported use of mescaline under the guidance and supervision, and on the premises, of the person providing those services.
- “Personal use” means for the personal ingestion or other personal and noncommercial use by the person in possession.
- “Preparation” means processing or otherwise preparing for use.

*This bill* provides that the transfer of mescaline without financial gain, between persons 21 years of age and older, and in the context of facilitated or supported use, is not be a violation of Health and Safety Code section 11352 or any other state or local law.

*This bill* provides that all of the following is lawful for a natural person 21 years of age or older and is not a violation of state or local law:

- The possession, preparation, obtaining, or transportation of DMT, ibogaine, psilocybin, and psilocyn for personal use or for facilitated or supported use.
- The ingesting of DMT, ibogaine, psilocybin, and psilocyn.
- The possession, planting, cultivating, harvesting, or processing of plants capable of producing DMT, ibogaine, psilocybin, or psilocyn, on property owned or controlled by a person, for personal use or for facilitated or supported use by that person, and possession of any product produced by those plants including spores or mycelium capable of producing mushrooms or other material which contain psilocybin or psilocyn for that purpose.
- The assisting of another person, 21 years of age or older, with any of the above acts.

*This bill* includes all of the same criminal penalties with respect to DMT, ibogaine, psilocybin, and psilocyn as apply to mescaline under the provisions of this bill. Specifically:

- Possession one of these substances on the grounds of any public or private elementary, vocational, junior high, or high school, during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility is a misdemeanor.
- Knowingly giving away or administering one of these substances to a person under 18 is a wobbler.
- Knowingly giving away or administering one of these substances to a person under 14 is a felony with a punishment of 3, 5, or 7 years in state prison.

- Knowingly giving away or administering one of these substances to a person at least 18 years old but under 21 is an infraction.
- Possession of one of these substances by a person under 18 years of age is an infraction.
- Possession of one of these substances by a person at least 18 years of age but under 21 is an infraction.

*This bill* provides that the above controlled substances or related products involved in any way with conduct deemed lawful are not contraband nor subject to seizure. Prohibits lawful conduct from constituting the basis for detention, search, or arrest, or the basis for the seizure or forfeiture of assets.

*This bill* includes the following definitions:

- “Allowable amount” means the following quantities of a substance per person or, in the context of facilitated or supported use involving multiple persons, the aggregate of allowable amounts per participant. Specifies that “allowable amount” does not include the weight of any material of which the substance is a part or to which the substance is added, dissolved, held in solution, or suspended, or any ingredient or material combined with the substance specified in this subdivision to prepare a topical or oral administration, food, drink, or other product, including, but not limited to, a brew or tea:
  - Two grams of dimethyltryptamine, otherwise known as DMT.
  - Fifteen grams of ibogaine.
  - Two grams of psilocybin or four ounces of a plant or fungi containing psilocybin.
  - Two grams of psilocyn or four ounces of a plant or fungi containing psilocyn.
- “Facilitated or supported use” means the supervised or assisted personal use of a substance described in this section by an individual or group of persons 21 years of age or older, or the assisting or supervising of such persons in such use, within the context of counseling, spiritual guidance, community-based healing, or related services.
- “Financial gain” means the receipt of money or other valuable consideration in exchange for the item being transferred. Specifies that “financial gain” does not include reasonable fees for counseling, spiritual guidance, or related services that are provided in conjunction with facilitated or supported use of a controlled substance described in this section under the guidance and supervision, and on the premises, of the person providing those services.
- “Personal use” means for the personal ingestion or other personal and noncommercial use by the person in possession.
- “Preparation” means processing or otherwise preparing for use.

*This bill* provides that the transfer of DMT, ibogaine, psilocybin, and psilocyn without financial gain, between persons 21 years of age and older, and in the context of facilitated or supported use, is not be a violation of Health and Safety Code section 11352 or any other state or local law.

*This bill* contains uncodified legislative findings and declarations.

*This bill* contains a severability provision.

*This bill* contains technical and conforming changes.

## COMMENTS

### 1. Need for This Bill

According to the author:

Senate Bill 58, backed by a broad coalition of veterans, decriminalizes the possession and personal use of certain plant-based psychedelic drugs, specifically, psilocybin, psilocyn, dimethyltryptamine (“DMT”), mescaline, and ibogaine, for people 21 years and older. For California’s veterans, psychedelics have especially promising healing potential. Studies indicates that for veterans, many of whom live with PTSD, access to psychedelics can be effective in treating the sort of acute trauma they face, and may even save their life. Many veterans who have used psychedelic medicines to treat their PTSD report that without this treatment, they would have taken their life.

Growing scientific evidence shows that these substances have therapeutic benefits. In recent years, the California cities of Oakland, San Francisco, and Santa Cruz, as well as Washington, D.C., have passed resolutions decriminalizing plant-based psychedelics. In 2020, Oregon voters approved two ballot measures that decriminalize the personal use of all scheduled substances, and authorized the creation of a state-licensed, psilocybin-assisted therapy program over the next two years. This year, Colorado voters approved a ballot measure to decriminalize the noncommercial, personal possession of psychedelic plants and fungi.

Criminalizing people for the possession or use of controlled substances is a failed policy approach, as it does not improve public safety, deter use, or help people who may be experiencing substance use disorder. With thousands of Californians struggling with often treatment-resistant mental health issues, now more than ever, it is time that California take this step towards ending the failed War on Drugs policies by ending the criminalization of those who possess and use plant-based psychedelic substances with immense healing potential.

### 2. Hallucinogens

Hallucinogens<sup>1</sup> are a diverse group of drugs that alter a person’s perception or awareness of their surroundings. Some hallucinogens are found in plants and fungi, and some are synthetically produced. According to the National Institute on Drug Abuse, hallucinogens are commonly split into two categories: classic hallucinogens and dissociative drugs. Both types can cause hallucinations, and dissociative drugs can cause the user to feel disconnected from their body or environment. Hallucinogens can be consumed in a variety of ways, including swallowed as tablets, pills, or liquid, consumed raw or dried, snorted, injected, inhaled, vaporized, smoked, or absorbed through the lining of the mouth using drug-soaked pieces of paper. Common hallucinogens include DMT, psilocybin, peyote, and mescaline.

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<sup>1</sup> Some advocates and researchers use the term psychedelic rather than hallucinogen while others use the terms interchangeably. Notably, some sources define psychedelics as a subset of hallucinogens. The term entheogenic has come into use more recently to describe this class of substances. This analysis uses the term hallucinogen due to its use in the controlled substance schedules in the state’s Uniform Controlled Substances Act.

Many hallucinogenic substances, including DMT, mescaline, ibogaine, psilocybin, and psilocyn are classified as Schedule I substances under the state’s Uniform Controlled Substances Act. Schedule I substances are defined as those controlled substances having no medical utility and that have a high potential for abuse. There is research, however, that indicates that many of these substances have therapeutic benefits. (See Davis et. al, *Effects of Psilocybin-Assisted Therapy on Major Depressive Disorder*, JAMA Psychiatry (2020) available at <<https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2772630>>; D’Souza et al., *Exploratory Study of the Dose-Related Safety, Tolerability, and Efficacy of Dimethyltryptamine (DMT) in Healthy Volunteers and Major Depressive Disorder*, Neuropsychopharmacol (2022) available at <<https://www.nature.com/articles/s41386-022-01344-y>>; Köck et al., *A Systematic Literature Review of Clinical Trials and Therapeutic Applications of Ibogaine*, Journal of Substance Abuse Treatment (2022), available at <<https://www.sciencedirect.com/science/article/pii/S0740547221004438>>.)

In recent years, the U.S. Federal Drug Administration (FDA) has designated psilocybin as a “breakthrough therapy” to treat severe depression. (<<https://www.livescience.com/psilocybin-depression-breakthrough-therapy.html>> [as of Mar. 15, 2023].) The “breakthrough therapy” designation is “a process designed to expedite the development and review of drugs that are intended to treat a serious condition and preliminary clinical evidence indicates that the drug may demonstrate substantial improvement over available therapy on a clinically significant endpoint.” (<<https://www.fda.gov/patients/fast-track-breakthrough-therapy-accelerated-approval-priority-review/breakthrough-therapy>> [as of Mar. 15, 2023].)

### 3. Reform Efforts Related to Hallucinogens

#### *Local Efforts*

Efforts to deprioritize the policing or prosecution of conduct related to certain hallucinogens and to acknowledge the therapeutic value of hallucinogens have gained support in recent years. In 2019, voters in Denver approved a measure to make the personal use and possession of psilocybin by adults 21 years of age and older the lowest law enforcement priority and to prohibit the city from spending resources to impose criminal penalties related to such conduct. (Tom Angell, *Denver Voters Approve Measure to Decriminalize Psychedelic Mushrooms* (May 8, 2019) available at <<https://www.forbes.com/sites/tomangell/2019/05/08/denver-voters-approve-measure-to-decriminalize-psychedelic-mushrooms/?sh=7c3f101b3ddc>>.) The same year, the Oakland City Council passed a resolution prohibiting the use of city funding “to assist in the enforcement of laws imposing criminal penalties for the use and possession of entheogenic plants by adults” and specifies that investigating people for growing, buying, distributing or possessing those substances “shall be amongst the lowest law enforcement priority for the City of Oakland.” (Merritt Kennedy, *Oakland City Council Effectively Decriminalizes Psychedelic Mushrooms* (Jun. 5, 2019) available at <<https://www.npr.org/2019/06/05/730061916/oakland-city-council-effectively-decriminalizes-psychedelic-mushrooms>>.) A resolution passed by the Santa Cruz City Council in 2020 made the personal possession and use of entheogenic plants and fungi a low priority for law enforcement. (David E. Carpenter, *Santa Cruz is Third U.S. City to Decriminalize Psilocybin, Plant Medicine, as Advocacy Expands* (Feb. 1 2020) available at <<https://www.forbes.com/sites/davidcarpenter/2020/02/01/santa-cruz-is-third-us-city-to-decriminalize-psilocybin-plant-medicine-as-advocacy-expands/?sh=16cd782c5d0d>>.) A similar measure was passed by the Ann Arbor City Council the same year. (Associated Press, *Ann Arbor*



*Decriminalizes Magic Mushrooms, Psychedelic Plants* (Sept. 26, 2020) available at <<https://apnews.com/article/plants-archive-fungi-ann-arbor-b0ce69ca0961c150e0f900e8ea4cf432>>.) Initiative 81, the Entheogenic Plant and Fungus Policy Act of 2020, makes “the investigation and arrest of persons 18 years of age or older, for non-commercial planting, cultivating, purchasing, transporting, distributing, engaging in practices with, and/or possessing entheogenic plants and fungi” among the lowest enforcement priorities for Washington D.C.’s local police department. ([https://decrimnaturedc.org/wp-content/uploads/2020/02/Entheogenic\\_Plant\\_and\\_Fungus\\_Policy\\_Act\\_of\\_2020\\_published\\_2\\_18\\_2020.pdf](https://decrimnaturedc.org/wp-content/uploads/2020/02/Entheogenic_Plant_and_Fungus_Policy_Act_of_2020_published_2_18_2020.pdf)) Additional jurisdictions have passed similar measures since 2020.

### *Statewide Efforts*

In 2020, Oregon voters approved Measure 109, the Psilocybin Services Act, which directed the Oregon Health Authority to create a state-licensed, psilocybin-assisted therapy program over a two-year period. (Kristian Foden-Vencil, *Oregon Voters Legalize Therapeutic Psilocybin* (Nov. 4, 2020) available at <<https://www.opb.org/article/2020/11/04/oregon-measure-109-psilocybin/>>.) In implementing Measure 109, Oregon had to determine how to license and regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products as well as the provision of psilocybin services.

(<https://www.oregon.gov/oha/ph/preventionwellness/pages/oregon-psilocybin-services.aspx>)

Following the two-year development period for psilocybin services, the state began taking license applications on January 2, 2023.

(<https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le4226.pdf>.) Psilocybin services refers to preparation, administration, and integration sessions provided by a licensed facilitator. (*Id.*) Psilocybin services are available to individuals aged 21 and older and do not require a prescription or medical referral. (*Id.*) The psilocybin products consumed must be cultivated or produced by a licensed psilocybin manufacturer and can only be provided to a client at a licensed psilocybin service center during an administration session. (*Id.*) Psilocybin services are expected to be available to the public later this year. (Andrew Selsky and Mike Corder, *Oregon Closer to Magic Mushroom Therapy, But Has Setback* (Mar. 10, 2023) available at <<https://apnews.com/article/magic-mushroom-therapy-psilocybin-legalization-oregon-bd1b3c43cab74437e8868751c9c9591d>>.)

During the same election, Oregon voters approved Measure 110 which reduced the personal noncommercial possession of small amounts of a Schedule I-IV controlled substance, including several hallucinogens, from a criminal offense to a civil violation resulting in a maximum fine of \$100. (Legislative Policy and Research Office, *Measure 110 (2020): Background Brief* (December 2020) available at <[https://www.oregonlegislature.gov/lpro/Publications/Background-Brief-Measure-110-\(2020\).pdf](https://www.oregonlegislature.gov/lpro/Publications/Background-Brief-Measure-110-(2020).pdf)>.)

More recently, Colorado voters approved Proposition 122 which, among things, decriminalized the personal possession and use of psilocybin, psilocyn, DMT, ibogaine and mescaline for adults aged 21 and older. (Andrew Kenney, *Coloradans Voted to Legalize Psilocybin. What’s Next?* (Nov. 25, 2022) available at <<https://www.cpr.org/2022/11/25/colorado-psilocybin-legalization-whats-next/>>.) The measure additionally establishes a program for licensed “healing centers” to administer psilocybin and psilocyn to adults by licensed professionals, and creates a regulatory framework for the manufacture, cultivation, testing, storage, transport, transfer, delivery, sale, and purchase of the covered substances between healing centers and other permitted entities.

(*Id.*; <https://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2021-2022/58Final.pdf>)

#### 4. Major Provisions of This Bill

##### Decriminalization of Specified Conduct

This bill provides that all of the following is lawful for a natural person 21 years of age or older:

- The possession, preparation, obtaining, or transportation of mescaline, DMT, ibogaine, psilocybin, and psilocyn for personal use or for facilitated or supported use.
- The ingesting of mescaline, DMT, ibogaine, psilocybin, and psilocyn.
- The possession, planting, cultivating, harvesting, or processing of plants capable of producing mescaline, DMT, ibogaine, psilocybin, and psilocyn, on property owned or controlled by a person, for personal use or social sharing by that person, and possession of any product produced by those plants.
- The assisting of another person, 21 years of age or older, with any of the above acts.

This bill defines the following terms:

- “Allowable amount” means specified amounts of mescaline, DMT, ibogaine, psilocybin, and psilocyn per person or, in the context of facilitated or supported use involving multiple persons, the aggregate of allowable amounts per participant. Specifies “allowable amount” does not include the weight of any material of which the substance is a part or to which the substance is added, dissolved, held in solution, or suspended, or any ingredient or material combined with the substance specified in this subdivision to prepare a topical or oral administration, food, drink, or other product, including, but not limited to, a brew or tea.
  - The allowable amounts per substance are as follows: 4 grams of mescaline, 2 grams of DMT, 15 grams of ibogaine, 2 grams of psilocybin, and 2 grams of psilocyn
- “Facilitated or supported use” means the supervised or assisted personal use of the substance by an individual or group of persons 21 years of age or older, or the assisting or supervising of such persons in such use, within the context of counseling, spiritual guidance, community-based healing, or related services.
- “Financial gain” means the receipt of money or other valuable consideration in exchange for the item being transferred. Specifies “financial gain” does not include reasonable fees for counseling, spiritual guidance, or related services that are provided in conjunction with facilitated or supported use of mescaline under the guidance and supervision, and on the premises, of the person providing those services.
- “Personal use” means for the personal ingestion or other personal and noncommercial use by the person in possession.
- “Preparation” means processing or otherwise preparing for use.

##### Conduct That Remains Subject to Criminal Penalties

With respect to mescaline, DMT, ibogaine, psilocybin, and psilocyn, the conduct described below remains subject to the following criminal penalties:

- Possession of one of these substances on the grounds of any public or private elementary, vocational, junior high, or high school, during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility is a misdemeanor.
- Knowingly giving away or administering one of these substances to a person under 18 is a wobbler.
- For a person 18 years of age or older, knowingly giving away or administering one of these substances to a person under 14 is a felony with a state prison term of 3, 5, or 7 years.
- Knowingly giving away or administering one of these substances to a person at least 18 years old but under 21 is an infraction.
- Possession of one of these substances by a person under 18 years of age is an infraction and requires completion of drug education or counseling and community service.
- Possession of one of these substances by a person at least 18 years of age but under 21 is an infraction.

## 5. Arguments in Support

According to the Law Enforcement Action Partnership:

In our field of work, we see how destructive outdated drug laws can be to individuals and communities. Decriminalizing the possession and personal use of certain psychedelics will allow law enforcement officials to prioritize serious threats to public safety and redirect resources to strategies that work, rather than requiring a disproportionate criminal response. ...

Our current system fails to acknowledge the religious and medicinal uses of many non-addictive plant medicines decriminalized in this bill, which have been used for thousands of years by indigenous cultures and present-day communities.

Generations of anecdotal evidence and current clinical research at leading universities...point to therapeutic uses for psychedelic drugs in treating complex mental health issues ...

Drugs are classified arbitrarily and not based on science. In a time of rampant opioid overdoses, police and veteran suicides caused by PTSD, and an unaddressed mental health crisis in this country, no one should go to jail for using a healing psychedelic to treat serious mental health issues. ...

California Association of Social Rehabilitation Agencies writes:

As integral parts of California's county-operated public behavioral health system, [our member organizations] have first-hand knowledge of the difficulties their clients have in overcoming the barriers associated with having been prosecuted for drug possession and use. They also recognize the treatment potential of the substances identified in the legislation.

The stigma behind psychedelic substances often overshadows their legitimate medicinal value and promise. In the 1960s, psychedelics were legal, and many researchers were conducting promising studies on the effectiveness of substances as a medicine. However, the War on Drugs halted this scientific progress and among many things, created a system of criminalization to deter drug use that is not founded in science. Today, we have research that clearly demonstrates psychedelics' value as a tool for healing, and many experts consider them the most promising advancement in mental health treatment in decades.

For California's veterans, psychedelics have especially promising healing potential. Too many veterans live with the debilitating effects of PTSD, and studies indicate that ... access to psychedelics can be effective in treating this acute trauma. Such treatment has the potential to save lives—veterans die by suicide at a rate of one and a half times the general public. ...

It is time that California stops criminalizing people that possess and use substances that have immense medicinal potential and look towards how California should thoughtfully regulate legal use to these substances. SB 58 is an incremental measure that relies on a more modern understanding of these substances and provides space for California to start a more sensible conversation about how we really ought to treat people who are using psychedelic substances for their own personal and medical purposes.

## 6. Arguments in Opposition

According to the California District Attorneys Association:

While we appreciate the thoughtful changes that SB 58 has made over SB 519 from last year, CDAA is concerned that making these drugs legal for recreational use, as opposed to strictly for research-related therapeutic use, is not grounded in scientific evidence about the dangers these drugs pose to individuals and communities.

While we are sympathetic to proponents who argue that the veteran population might benefit therapeutically from exploration of these substances, these drugs are Schedule I controlled substances for a reason. They have no federally accepted medical use and have a high probability of misuse. Given the lack of significant, appropriately controlled research, this legislation strikes CDAA as “too much, too soon.”

...

... CDAA fears SB 58 would unduly affect those experiencing mental health conditions. This community, already susceptible to the phenomenon of “self-medicating” with street drugs, is a built-in customer base for drug pushers, yet this population is even less able to effectively access help for any ensuing addiction disorder, precisely for the reasons that drove them to illicit drugs in the first place.

The California Contract Cities Association writes:

This legislation is very similar to SB 519, which failed to pass in 2021 and faced significant opposition from public safety stakeholders . . . While we acknowledge SB 58 was adjusted to exclude lysergic acid diethylamide (LSD) and 3,4-methylenedioxymethamphetamine (MDMA) from its proposal, we remain very concerned about public safety risks associated with decriminalizing psychedelic drugs like DMT and psilocybin.

Further, SB 58 would allow the cultivation and transportation of materials which contain psilocybin or psilocyn. This means that more hallucinogenic drugs would be able to move across local jurisdictions in far greater numbers with insufficient oversight or accountability from local agencies. This is very worrisome from the perspective of local decision-making authorities like our member cities. Ultimately, we feel that any potential health benefits associated with decriminalizing these drugs, many of which have been vastly understudied, do not outweigh public safety risks and local management issues that could detrimentally impact communities.

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