

May 9, 2023

Initiative 23-0004

RECEIVED

Office of the Attorney General
Attention: Initiative Coordinator Anabel Renteria
1300 "I" Street
Sacramento, CA 95814

May 10 2023

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

RE: Submission of Statewide Initiative Measure Requesting Title and Summary - California Psilocybin Initiative 2024 v 4.8

Dear Initiative Coordinator,

My name is Ryan Munevar and I am the Campaign Director for Decriminalize California, currently working on the California Psilocybin Initiative 2024 v 4.8.

On behalf of the campaign, I am formally requesting a Title and Summary.

Enclosed are the following documents:

1. The printed initiative language.
2. A signed authorization form from the proponent.
3. An enlarged print of the California Psilocybin Symbol.
4. \$2,000 in cash for the submission fee.

Sincerely,



Ryan Munevar - Campaign Director for Decriminalize California

ryan@decrimca.org

DecrimCA.org - [Linktr.ee/DecrimCA](https://linktr.ee/DecrimCA)



California Psilocybin Initiative 2024 v 4.8

SECTION 1. Title. This measure shall be known and may be cited as the “California Psilocybin Initiative 2024”.

SEC. 2. Sections 11395.100 to 11395.270 are added to the Health and Safety Code, to read:

§ 11395.100 Purposes.

The purpose of this act is to implement a comprehensive, statewide framework authorizing and regulating the cultivation, processing, and distribution of Psilocybin Mushrooms and the chemical compounds contained therein for medical, therapeutic, religious, spiritual, and recreational psilocybin use. The subjects addressed in this Act are a matter of statewide concern.

§ 11395.110 Definitions.

“Adult” means an individual eighteen (18) years of age or older.

“Excessive” means any requirement or fee that exceeds a normal, usual, or reasonable requirement based on expenses incurred.

“Impaired” refers to significantly diminished physical or mental capabilities to the extent a person cannot safely operate a motor vehicle.

“Individual” means a natural person.

“Indoors” means within a fully enclosed and secure structure that can only be entered through a locked door that requires a key or combination to open and is secured against unauthorized entry.

“Manufacture” means the manufacturing, planting, cultivation, growing, harvesting, production, preparation, propagation, compounding, conversion, or processing of a Psilocybin Mushroom product,

either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the psilocybin product or labeling or relabeling of its container.

“Minor” means an individual under 18 years of age.

“Outdoors” means any location that is not “indoors” as defined herein.

“Psilocybin” means Psilocybin ([3-[2-(dimethylamino)ethyl]-1H-indol-4-yl] dihydrogen phosphate), Psilocin (3-[2-(dimethylamino)ethyl]-1H-indol-4-ol), Baeocystin ([3-[2-(methylamino)ethyl]-1H-indol-4-yl] dihydrogen phosphate), Norbaeocystin ([3-(2-aminoethyl)-1H-indol-4-yl] dihydrogen phosphate), and their isomers and analogs, whether naturally derived or synthetically produced.

“Psilocybin Mushrooms” means Mushrooms, Truffles, Sclerotia, or Mycelium containing Psilocybin, or any of the aforementioned in extracted form, or spores capable of producing Psilocybin Mushrooms, or products containing Psilocybin, including but not limited to, powdered mushrooms, microdosing capsules, macrodosing capsules, teas, tinctures, chocolates, beverages, and edible products.

“Psilocybin Mushroom Business” is a California for-profit or nonprofit entity or natural person that is a resident of California that cultivates, manufactures, wholesales, or retails Psilocybin Mushrooms, and includes, but is not limited to, Psilocybin Mushroom cultivators, Psilocybin Mushroom manufacturers, Psilocybin Mushroom distributors, Psilocybin Mushroom retailers, analytical laboratories that test Psilocybin Mushrooms, and medical Psilocybin Mushroom organizations.

§ 11395.120 Psilocybin Mushrooms.

The medical, therapeutic, religious, spiritual, and recreational use of Psilocybin Mushrooms by adults 21 years of age and over, including but not limited to the cultivation, manufacturing, processing, distribution, transportation, possession, storage, and production of edible products and extracts (with or without solvents) derived from Psilocybin Mushrooms for consumption, social consumption, on-site consumption,

sales at public events, sales at farmers' markets, and retail sales, whether or not for profit, shall be lawful in this state and is a matter of statewide concern.

§ 11395.130 Personal Protections.

It shall be lawful and not a violation of California law for an adult 21 years of age and over:

- (a) To use Psilocybin Mushrooms in one's home or on any privately owned property in a manner that does not endanger others or violate this division;
- (b) To possess an unlimited quantity of Psilocybin Mushrooms;
- (c) To be under the influence of Psilocybin Mushrooms, as provided for in this Act and as provided in subdivision (f) of section 647 of the Penal Code; and
- (d) To cultivate Psilocybin Mushrooms indoors, or outdoors on private property to which access is restricted by fencing where such cultivation is not visible from outside such property, and with the consent of the owner of such property. Cultivation must comply with any local or state nuisance regulations, provided the nuisance regulation is not based solely on the presence and/or cultivation of Psilocybin Mushrooms, nor crafted to primarily target Psilocybin Mushroom cultivation and/or possession. No local regulation may be so excessive or burdensome as to make it functionally impractical for adults who are 21 years of age and over to cultivate Psilocybin Mushrooms as otherwise authorized in this section.

§ 11395.140 Reasonable Regulation.

- (a) Implementation of this Act shall be the responsibility of the California Department of Food and Agriculture, hereafter "CDFA".
- (b) No license, fee, fine, or tax, on a Psilocybin Mushroom business shall exceed the amount charged or assessed for comparable non-Psilocybin Mushroom related businesses.
- (c) Psilocybin Mushrooms and Psilocybin Mushroom Businesses shall be regulated as closely as

practicable to non-psychoactive agriculturally produced mushrooms, except as defined in § 11395.180, provided that no regulation may be so excessive or burdensome as to make it impractical for Psilocybin Mushroom Businesses to operate and earn a profit unless otherwise authorized herein.

(d) The State of California and its agencies and employees shall not disclose and shall protect the identities of all persons, individuals, and legal entities engaged in Psilocybin Mushroom commerce or use unless there is a court order or search warrant expressly authorizing the release of such information on a case by case basis.

(e) Any Psilocybin Mushroom packaged for retail sale must list active substances.

§ 11395.150 Therapeutic and Medical Research and Treatment.

(a) The State of California and its agencies shall allow research into the therapeutic and medical applications of Psilocybin and Psilocybin Mushrooms.

(b) Qualified healthcare practitioners may use Psilocybin and Psilocybin Mushrooms for research, treatment, and personal development purposes.

(c) Psilocybin Mushroom-assisted therapy may be delivered by qualified practitioners who have obtained specialized training certifications to administer Psilocybin or Psilocybin Mushrooms for specific indications.

(d) Qualified healthcare practitioners may recommend Psilocybin or Psilocybin Mushrooms for use in minors and adults under the age of 21, for the treatment of specific and appropriate indications.

(e) Engaging in Psilocybin or Psilocybin Mushroom-assisted therapy shall not be grounds for revocation of the license of a licensed healthcare professional.

(f) The California Department of Consumer Affairs and the California Health and Human Services Agency shall adopt and implement the qualification requirements and protocols for Psilocybin Mushroom-assisted therapy created by an independent professional certifying body.

§ 11395.160 Implementation.

Starting January 1, 2025, any Psilocybin Mushroom Business operating on land that is zoned for commercial agricultural production and approved by the CDFA for food production can begin the cultivation, manufacturing, and wholesale distribution of Psilocybin Mushrooms. Starting April 19, 2025, any business that is incorporated in California and possesses a California Seller's Permit can begin retail sales of Psilocybin Mushrooms to adults 21 years of age and over.

§ 11395.170 Analytical Testing.

Any laboratory that is approved and permitted by the CDFA and holds an active ISO/IEC 17025 accreditation may test the Psilocybin content of Psilocybin Mushrooms.

§ 11395.180 Labeling.

The packaging of a Psilocybin Mushroom Product shall include:



(a) The California Psilocybin Symbol:

- (i) The Symbol shall be no smaller in size than one-half (0.5) inch by one-half (0.5) inch, shall be printed legibly, and be readily visible to alert consumers that the product is or contains Psilocybin. The symbol shall not be altered or cropped in any way, other than to adjust the sizing for placement on the packaging.

(b) The following statement is to be capitalized, in bold print, and in at least 6-point font:

- (i) **GOVERNMENT WARNING: THIS PACKAGE CONTAINS PSILOCYBIN, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. PSILOCYBIN MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS RECOMMENDED BY A MEDICAL PROFESSIONAL. CONSUMPTION OF**

**PSILOCYBIN IMPAIRS THE ABILITY TO DRIVE AND OPERATE
MACHINERY. PLEASE USE EXTREME CAUTION.**

- (c) The Psilocybin content of the product is expressed as milligrams per package, milligrams per serving (with a serving size defined by the manufacturer), and as a percentage.
- (d) A quick-response (QR) code linked to a unique public product webpage maintained by the manufacturer, with additional product information that is too extensive to be listed on the original packaging and can be amended as future regulations and testing technology evolve.

No law or regulation may be enacted which:

- (a) Limits the amount of Psilocybin in a manufactured product.
- (b) Defines a serving or dose of Psilocybin or Psilocybin Mushrooms.

§ 11395.190 Penalties.

Violations of any statute or regulation enacted or promulgated to implement this Act shall not constitute a public offense and shall not be punishable by incarceration or imprisonment.

§ 11395.200 Local Control.

A city and or county may only ban or limit the number of Psilocybin Mushroom Businesses only within its boundaries if such a restriction has been placed on the ballot by petition in accordance with the procedures for an initiative, or by the city council or board of supervisors, and approved by the voters within that jurisdiction at a statewide election held in November.

§ 11395.210 Discrimination Prohibited.

This section shall not apply to employers or employees in safety-sensitive occupations covered by U.S.

Department of Transportation regulations (49 CFR Part 40). Except as provided in this division, no person shall refuse to provide services or benefits or increase the charge for services or benefits, based on the lawful use, cultivation, possession, storage, or sales of Psilocybin Mushrooms including but not limited to the following: (a) A license, permit, or other entitlement for use including all business, professional, trade, and land use licenses and permits, and all other entitlements for use, and all entitlements for land use, all contracts, and all franchises; (b) Utility services.

§ 11395.220 Minors.

(a) Unless the health or wellbeing of a minor is in danger as a result of the cultivation of Psilocybin Mushrooms in compliance with this division, the mere presence of one or more minors in a household shall not render such cultivation unlawful, per se, nor shall such cultivation be used to make a jurisdictional determination of the risk of harm to a child in the state of California, nor shall such cultivation diminish parental rights or justify the removal of a child from the home, even temporarily.

(b) If a minor, or an adult 18 years of age or older but under 21 years of age, is found to be cultivating, extracting, manufacturing, distributing, transporting, in possession of, or consuming Psilocybin Mushrooms without parental consent, the maximum penalty for such offense shall be no greater than a mandatory drug education program, and no conviction shall remain on the juvenile record of such a minor.

§ 11395.230 Taxes.

Psilocybin Mushrooms that are sold or grown for medical, therapeutic, religious, or spiritual purposes shall not be subject to any sales, use, or excise tax. Products labeled and sold as recreational psilocybin shall be taxed only at the local sales tax rate at the location of sale.

§ 11395.240 Lawful Conduct.

No conduct deemed lawful by this initiative shall constitute the basis for detention, search, or arrest. Psilocybin Mushrooms involved in any manner of conduct deemed lawful by this initiative are not contraband nor subject to seizure.

§ 11395.250 Federal Prosecution Assistance.

No information is required to be provided to any State or local governmental agency by this division, or in connection with any activity regulated by this division, may be released to an agency or agent of the Federal government in connection with a Federal investigation or prosecution of a person for any activity that is lawful under California law.

§ 11395.260 Out-of-State Distribution and Transport.

This Act shall not be construed to authorize or permit the transportation or distribution or cause to be transported or distributed Psilocybin Mushrooms or Psilocybin Mushroom products outside the state and country unless authorized by Federal law.

§ 11395.270 Criminal Records, And Resentencing.

A person who has completed a sentence for a conviction, whether by trial or plea of guilty or nolo contendere, who would not have been guilty of an offense under this act had it been in effect at the time of the offense, may file a petition before the trial court that entered the judgment of conviction in the person's case to seal the record of the conviction at no cost. If there is no objection from the district attorney, the court shall automatically seal such record. If there is an objection by the district attorney, a hearing shall be held and the court shall determine if the prior conviction does not qualify to be sealed under this Act. If the record does not qualify to be sealed, the court shall deny the sealing of the record. Nothing in this section shall be construed to diminish or abrogate any rights or remedies otherwise

available to the petitioner or applicant.

SEC. 3. Liberal Construction.

This Act shall be liberally construed to effectuate its purposes.

SEC. 4. Severability.

The provisions of this act are severable. If any provision of this act or its application is held to be invalid, that invalidity shall not affect any other provisions or applications that can be given effect without the invalid provision or application.

SEC. 5. Conflicting Measures.

In the event that this measure and another measure or measures concerning Psilocybin Mushrooms appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.

SEC. 6. Sections 11390 and 11391 of the California Health and Safety Code - HSC are hereby repealed.

SEC. 7. Amendment.

The Legislature may amend the provisions of this Act to further the purposes of this Act by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring. Any implementation legislation enacted pursuant to this Act shall require only a majority vote in each

house.

SEC. 8. Legal Defense by the Attorney General.

The California Attorney General shall protect and defend this Act from any and all challenges in the courts of any jurisdiction to final judgment.