

STATE OF NEW YORK

5303

2025-2026 Regular Sessions

IN SENATE

February 20, 2025

Introduced by Sen. SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to promoting the health and well-being of the citizens of the state of New York by establishing a comprehensive framework supporting public health and safety through regulated adult use, support services, and cultivation of psilocybin-containing fungi, and providing for the taxation of psilocybin regulated activities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 33 of the public health law is amended by adding a
2 new title 5-B to read as follows:

3 TITLE V-B

4 REGULATED HEALTH ACCESS AND SUPPORT SERVICES FOR PSILOCYBIN ACT

5 Section 3369-aa. Definitions.

6 3369-bb. Regulation of psilocybin programs.

7 3369-cc. Regulated adult use of psilocybin in connection with
8 public health framework and health conditions.

9 3369-dd. Certification and authorized services of support
10 services provider.

11 3369-ee. Cultivator license and requirements.

12 3369-ff. Relation to other laws.

13 3369-gg. Protections.

14 3369-hh. Regulated psilocybin advisory board.

15 3369-ii. Taxation of psilocybin regulated activities.

16 § 3369-aa. Definitions. For the purposes of this title, the following
17 terms shall have the following meanings:

18 1. "Business enterprise" means any entity, including a sole proprie-
19 torship, partnership, limited liability partnership, limited liability
20 company or corporation, including not-for-profit corporations, which is

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD03342-01-5

1 authorized to and engages in lawful business operations and transactions
2 in accordance with New York law.

3 2. "Adult use of psilocybin" means the authorized adult, non-commer-
4 cial use of psilocybin in connection with a public health framework as
5 provided under this title.

6 3. "Cultivator license" means a written authorization permitting
7 natural persons or business enterprises to engage in the specified
8 activities of cultivation, distribution, and testing of psilocybin, as
9 authorized pursuant to this title. Only a person or business enterprise
10 with a cultivator license may engage in commercial transactions with
11 psilocybin-containing fungi.

12 4. "Department" shall mean New York state department of health.

13 5. "Exclusion criteria" means certain physical or psychological indi-
14 cations, prescription medications, or consumption of other substances
15 that, based on currently available medical information and research, are
16 contraindicated or have a significant risk of medical or psychological
17 harm with the use of psilocybin. Exclusion criteria shall be estab-
18 lished, added, or removed by the department.

19 6. "Health screening" means a screening process, which includes
20 completion of a form to certify health conditions, both qualifying and
21 other health conditions as previously diagnosed or exclusion criteria.

22 7. "Health qualification" means an evaluation conducted by a licensed
23 healthcare provider to determine the qualification of a patient seeking
24 psilocybin permit for the use of psilocybin-containing mushrooms in
25 connection with qualifying health conditions. A health qualification
26 shall include a determination that a patient is qualified due to a qual-
27 ifying health condition and a lack of exclusion criteria.

28 8. "Licensed healthcare provider" means a person with a valid license
29 or certificate from the department of education for a profession
30 provided in article one hundred thirty-one, one hundred thirty-two, one
31 hundred thirty-six, one hundred thirty-nine, one hundred forty, one
32 hundred forty-one, one hundred forty-three, one hundred fifty-three, one
33 hundred fifty-four, one hundred fifty-seven, one hundred fifty-nine, one
34 hundred sixty, one hundred sixty-three, one hundred sixty-four, or one
35 hundred sixty-seven or otherwise related to wellness, medicine, health-
36 care, mental health, or behavioral health. To be a licensed healthcare
37 provider under this title, such licensed professional's authorized scope
38 of practice does not need to but may include medical diagnosis or treat-
39 ment of a qualifying health condition or the prescription of medica-
40 tions.

41 9. "Qualifying health conditions" mean certain health conditions that
42 include but are not limited to:

43 (a) adjustment disorder;

44 (b) amyotrophic lateral sclerosis;

45 (c) attention deficit/hyperactivity disorder;

46 (d) arthritis;

47 (e) autism;

48 (f) Alzheimer's;

49 (g) anxiety;

50 (h) anorexia nervosa;

51 (i) bacterial infection or disease;

52 (j) behavioral/process addiction, including gambling, pornography, or
53 shopping;

54 (k) body dysmorphia;

55 (l) cancer;

56 (m) cancer-related distress;

1 (n) chronic pain;
2 (o) chronic fatigue;
3 (p) cluster headaches;
4 (q) depressive disorder;
5 (r) degenerative disc or joint disease;
6 (s) eating disorder;
7 (t) effects from stroke;
8 (u) epilepsy;
9 (v) episodic migraines;
10 (w) fibromyalgia;
11 (x) functional gastrointestinal disorder, including irritable bowel
12 syndrome (IBS) and inflammatory bowel disease (IBD);
13 (y) headache disorders;
14 (z) HIV/AIDS;
15 (aa) insomnia;
16 (bb) Lyme disease;
17 (cc) mood disorder;
18 (dd) motor neuron disease;
19 (ee) migraine;
20 (ff) multiple sclerosis;
21 (gg) muscular dystrophy;
22 (hh) neurodegenerative disease including neuropathy;
23 (ii) obsessive-compulsive disorder;
24 (jj) Parkinson's disease;
25 (kk) panic disorder;
26 (ll) paresthesia;
27 (mm) phantom limb pain;
28 (nn) premenstrual syndrome or premenstrual dysphoric disorder;
29 (oo) prolonged grief disorder;
30 (pp) postpartum mental health disorder;
31 (qq) post-acute COVID-19 infection condition;
32 (rr) post-traumatic stress disorder (PTSD) or complex post-traumatic
33 stress disorder;
34 (ss) psychogenic pain disorder;
35 (tt) restless leg syndrome;
36 (uu) rheumatoid arthritis;
37 (vv) sexual disorder;
38 (ww) sensory processing disorder;
39 (xx) sleep disorder;
40 (yy) substance use disorder, including for use of opiates, tobacco,
41 and alcohol;
42 (zz) terminal illness or end-of-life distress;
43 (aaa) traumatic brain injury (TBI), including concussion;
44 (bbb) treatment resistant depression;
45 (ccc) unspecified mood disorder; and
46 (ddd) any novel or emergent health condition not categorized in the
47 Diagnostic and Statistical Manual of Mental Disorders or known physical
48 health conditions where there is evidence of potential use of psilocybin
49 with positive outcomes in connection with such health conditions that
50 has been identified in a study published in a medical or scientific
51 journal, including preprint servers.
52 10. "Licensed cultivator" means a person or business enterprise,
53 including a sole proprietorship, partnership, corporation, limited
54 liability company, or other business enterprise, that possesses a culti-
55 vator license pursuant to this title.

1 11. "Low-income" means (a) incomes at or below at least one hundred
2 percent of the federal poverty level, (b) between at least one hundred
3 one percent and one hundred fifty percent of the federal poverty level,
4 (c) incomes between at least one hundred fifty-one percent and two
5 hundred fifty percent of the federal poverty level, or (d) incomes
6 between at least two hundred fifty-one percent and three hundred percent
7 of the federal poverty level.

8 12. "Noncommercial" means an action or transaction of goods that is
9 without remuneration or the exchange of money.

10 13. "Permit course" means the psilocybin regulation educational permit
11 (PREP) course that includes educational material and a test that must be
12 successfully completed by a person who has received a health screening
13 and is applying for a psilocybin permit. There will be no limit in the
14 number of attempts to complete the test component of the permit course
15 in order to receive a psilocybin permit, as the purpose of such test is
16 to enable education and information to increase safety of adult use of
17 psilocybin.

18 14. "Person" means a natural person.

19 15. "Psilocybin" means fungi that contain naturally-occurring psilocy-
20 bin and psilocin compounds produced by such fungal species, including
21 but not limited to within the genus Psilocybin.

22 16. "Psilocybin permit" means a written authorization from the depart-
23 ment issued to a person at least eighteen years old who has received a
24 health screening and successfully completed the permit course to allow
25 adult use of psilocybin in connection with a public health framework.

26 17. "School grounds" means any building, structure, and surrounding
27 outdoor grounds, including entrances or exits, contained within a public
28 or private pre-school, nursery school, elementary or secondary school's
29 legally defined property boundaries as registered in a county clerk's
30 office.

31 18. "Support services" mean the services consistent with this title
32 through actions of supportive care and response to adverse health
33 circumstances, provision of educational information, and other conduct
34 provided by a certified support services provider that increase the
35 safety and reduce potential risks associated with a psilocybin permit
36 holder's authorized use of psilocybin.

37 19. "Support services provider certification" means a certification
38 that is regulated and issued by the department that authorizes the
39 support services of a support services provider.

40 20. "Support services provider" means a person who has been granted a
41 certification to provide risk reduction support services, upon
42 completion and continued satisfaction of all requirements under section
43 thirty-three hundred sixty-nine-cc of this title, including ongoing
44 education and training in connection with a permit holder's adult use of
45 psilocybin.

46 § 3369-bb. Regulation of psilocybin programs. 1. The department shall
47 manage all operations of this title.

48 2. The department shall promulgate regulations to implement this
49 title.

50 3. The department may provide for the analysis and evaluation of the
51 operation of this title. The department may enter into agreements with
52 one or more persons, not-for-profit corporations, universities, or other
53 organizations, for the performance of an evaluation of the implementa-
54 tion and effectiveness of this title.

55 4. The department shall be responsible for regulating the adult use of
56 psilocybin with a permit, cultivation licenses and licensed cultivator

1 operation requirements, certification of support services providers, and
2 other authorized and related programs.

3 5. The department shall create a reporting program to allow permit
4 holders the optional opportunity to identify health and experience data
5 in connection with adult use of psilocybin, including on health condi-
6 tions and potential exclusion criteria, and also to make reports about
7 certified support services providers and the provision of ethical
8 services. Certified support providers shall be encouraged to use the
9 reporting program to identify data around risk reduction support
10 services.

11 6. The department shall report every two years, beginning two years
12 after the effective date of this title, to the governor and the legisla-
13 ture on the regulated access of psilocybin under this title and make
14 appropriate recommendations.

15 § 3369-cc. Regulated adult use of psilocybin in connection with public
16 health framework and health conditions. A psilocybin permit holder
17 shall be permitted to engage in the adult use of psilocybin in
18 connection with qualifying health conditions, provided that:

19 1. A person shall be provided a psilocybin permit upon completion of a
20 health screening and the permit course.

21 2. A person shall engage in a health screening that certifies the
22 existence of symptoms or diagnosis of any health conditions and no
23 existence of exclusion criteria.

24 3. A health screening shall include a structured screen of health with
25 a form completed by a person applying for a psilocybin permit.

26 4. As part of the health screening, a person may consult, as a
27 patient, with a licensed healthcare provider who may make the determi-
28 nation of a health qualification that states: "Based on the relationship
29 with the patient and professional judgment, the use of psilocybin in
30 connection with the patient's qualifying health condition is qualified."

31 5. As part of the health screening, a person may self-report symptoms
32 and any diagnosis that indicates any health conditions, whether qualify-
33 ing or otherwise, or exclusion criteria.

34 6. A health screening form shall be updated by the permit holder if
35 there are any changes to the certifications of health conditions,
36 including any new symptoms or diagnosis, that constitute exclusion
37 criteria on the form filed with the department and recompleted biennial-
38 ly to maintain the psilocybin permit. Any changes to such form shall not
39 precipitate a requirement to engage in the permit course until the four
40 year requirement provided in this section.

41 7. A health screening shall include clear disclosure that adult use of
42 psilocybin under this title is not to treat any health conditions and
43 the existence of health assessments and treatments for any potential
44 health conditions.

45 8. A health screening shall include clear disclosure that exclusion
46 criteria in connection with use of psilocybin may increase significant
47 health and safety risks.

48 9. Any indication of exclusion criteria shall disqualify a person from
49 a psilocybin permit due to health risks to such person or others.

50 10. A health screening shall be allowed to be taken in an entirely
51 online format provided by the department or with a licensed healthcare
52 provider, who shall then submit such screening to the department. The
53 department shall provide materials that shall assist persons in assist-
54 ing with a health screening at public locations with computers, such
55 public places shall include libraries.

1 11. The permit course, which shall be no longer than five (5) hours
2 and allowed to be taken in an in-person or entirely online format, shall
3 provide the appropriate education and information about psilocybin and
4 psilocybin-containing fungi using a curriculum developed by the depart-
5 ment regarding the history of indigenous, religious, and cultural use,
6 safety, potency and effects of dosing amounts, contraindicated health
7 conditions and substances, the value of preparation and integration, the
8 appropriate setting for use, and any medically available evidence of
9 benefits, health risks, the critical and sensitivity period subsequent
10 to psilocybin use, cultivation strategies and risks, optional support
11 services available, as well as appropriate conduct and informed consent
12 required for such services, and the department reporting system estab-
13 lished pursuant to this title. The department shall update the curric-
14 ulum for the permit course with medically available information bienni-
15 ally.

16 12. The permit course, if available online, shall be made available in
17 sections in order to allow for intermittent participation. The depart-
18 ment shall establish materials that allow assistance with the permit
19 course at public locations with computers, such public places shall
20 include libraries.

21 13. A permit holder must successfully complete an abbreviated renewal
22 permit course based on changes to the curriculum or this title every
23 four years to maintain such permit holder's permit.

24 14. The cost of the permit course and the permit application shall not
25 exceed reasonable, accessible fees consistent with other state permits.
26 A permit course shall not exceed two hundred dollars and the permit
27 application shall not exceed eighty dollars. A permit course with addi-
28 tional educational components to the department approved curriculum with
29 separate fees shall be permitted. Low-income waivers for fees for a
30 psilocybin permit application shall be established by the department
31 which shall require a permit course provider to provide a certain number
32 or percentage of low-income fee waivers.

33 15. The department may approve a permit course developed by a person
34 or business enterprise that satisfies the curriculum requirements and
35 will provide certification that such permit course, including the test,
36 was successfully completed to the department. The department shall make
37 it a priority to approve online and equity-based permit course offerings
38 by persons or business enterprises to increase access. There shall be no
39 limitation on the number of approvals to providers of a permit course.

40 16. A psilocybin permit may be granted to a citizen of any state, but
41 such rights granted by the psilocybin permit only authorize the regu-
42 lated activities in this title within the state of New York.

43 17. A psilocybin permit holder may only lawfully acquire psilocybin
44 for adult use through engaging in commercial transactions for psilocybin
45 from a licensed cultivator pursuant to this title, cultivation of their
46 own psilocybin containing fungi, or receive it as a non-commercial gift
47 from another permit holder.

48 18. Permit holders have the option to engage support services provid-
49 ers for risk reduction support services during adult use of psilocybin.

50 19. Permit holders shall receive a document summarizing the rights and
51 limitations of a psilocybin permit, as well as the contact information
52 for the reporting program, a list of certified support services provid-
53 ers, and educational and risk reduction resources available, including
54 contact information for existing call centers providing risk reduction
55 services.

1 20. Adult use of psilocybin shall not be permitted in a public
2 location within five hundred feet of a school grounds.

3 21. A permit holder is authorized to purchase from a licensed cultiva-
4 tor, as provided under this title, an allowable amount of two ounces of
5 processed, dried psilocybin-containing fungi each calendar month. The
6 department may increase this allowable amount.

7 22. Measuring weight of psilocybin-containing fungi for adult use
8 shall be measured based on the dried, processed condition of psilocy-
9 bin-containing fungi, and does not include the weight of any material of
10 which the substance is a part or to which the substance is added,
11 dissolved, held in solution, or suspended, or any ingredient or material
12 combined with the substance as part of a preparation.

13 23. A permit holder is authorized to personally cultivate psilocybin-
14 containing fungi in a cultivation space that produces no more than a
15 limited space in volume, as regulated by the department, for adult use
16 of psilocybin. No psilocybin permit holder shall be penalized for
17 possession in excess of the allowable amount if it is stored in a locked
18 container within their residence for adult use. Notwithstanding any
19 provision to the contrary, personal cultivation does not permit commer-
20 cial sales or rights granted by a cultivation license.

21 24. A permit holder may provide psilocybin to other permit holders
22 only if the psilocybin is a non-commercial transaction and a psilocybin
23 permit is provided to demonstrate authorization pursuant to this title.
24 A permit holder is prohibited from the transfer of psilocybin as a
25 remunerated commercial transaction unless authorized to do so as a
26 licensed cultivator pursuant to section thirty-three hundred sixty-nine-
27 ee of this title.

28 25. A licensed healthcare provider may, within the scope of such
29 healthcare provider's practice, offer professional services to support
30 patients and clients who are permit holders in such patients' adult use
31 of psilocybin, including with respect to the health screening or in
32 preparation for or subsequent to certified support services.

33 26. A caregiver of a psilocybin permit holder shall be protected
34 pursuant to this article when such caregiver solely provides assistance
35 in the adult use of psilocybin by such permit holder, including with
36 respect to cultivation, possession, and consumption of psilocybin-con-
37 taining fungi.

38 27. Psilocybin permit holders who are in violation of this title in
39 more than two instances may be penalized by loss of such permit for a
40 period of two years and, after such penalization period, shall subse-
41 quently be entitled to apply for a psilocybin permit.

42 § 3369-dd. Certification and authorized services of support services
43 provider. 1. Support services providers shall be certified by the
44 department subsequent to training and satisfaction of requirements to
45 provide non-medical, non-therapeutic, and non-directive risk reduction
46 support services to increase the health and safety of a permit holder
47 during adult use of psilocybin.

48 2. No support services certification establishes any licensure,
49 certification, or other authority to provide therapy, coaching, or
50 treatment in connection with adult use of psilocybin, but support
51 services providers are not precluded from contracting or providing sepa-
52 rately for such services.

53 3. In order to receive a support services provider certification from
54 the department, a person shall complete a support services training
55 course with a curriculum and written exam that includes education and
56 information about psilocybin regarding its history of indigenous use and

1 cultural relevance, benefits and health risks based on currently avail-
2 able medical evidence, effects of dosing amounts, contraindicated health
3 conditions and interacting substances that increase risks, informed
4 consent, risk reduction strategies, and adverse event and emergency
5 protocol, as determined by the department in regulation.

6 4. The cost of any support services training course shall be a reason-
7 able, accessible amount and not exceed one thousand five hundred dollars
8 and the certification application shall not exceed eighty dollars.

9 5. A support services provider is obligated to participate in biennial
10 continued education courses with a curriculum determined by the depart-
11 ment in regulation.

12 6. Any training course for support services providers shall be avail-
13 able for a reasonable fee and may be provided entirely online to create
14 affordability, accessibility, recognize need for culturally competent
15 risk reduction support, and diversity.

16 7. The department may approve a support services training course
17 developed by a person or business enterprise that satisfies the curric-
18 ulum requirements under this title and will provide certification that
19 such training course, including the exam, was successfully completed to
20 the department.

21 8. Support services providers may provide support services in any
22 location, as determined by the department and to create accessibility,
23 including but not limited to appropriately zoned settings such as
24 private offices and commercial use, or residences of the permit holder
25 or the support services provider where a home occupation is allowed.

26 9. The department shall develop an informed consent document that must
27 be used and may be modified to include additional but not conflicting
28 information by a support services provider in each instance of provision
29 of such services to a psilocybin permit holder.

30 10. One or more support services providers may provide support
31 services to one or more permit holders simultaneously consistent with
32 certain rules, such as the proportion of service providers to permit
33 holders, as determined by the department in regulation.

34 11. A person may, but shall not be required to, have a psilocybin
35 permit and support services certification concurrently.

36 12. The department may establish additional levels of certification
37 pursuant to research and medical standards.

38 13. The department shall create a certification board to review
39 support services provider certification and the compliance of a support
40 services provider.

41 14. A support services provider shall be entitled to offer support
42 services in exchange for compensation as a commercial transaction.

43 15. A support services provider may engage in the commercial trans-
44 action of their authorized support services under this title and, if a
45 permit holder, simultaneously engage in the noncommercial transaction of
46 gifting psilocybin to the permit holder engaging such provider for
47 support services.

48 16. A support services provider shall require confirmation of a valid
49 psilocybin permit and review the health screening form provided by the
50 permit holder engaging support services prior to provision of services
51 during the adult use of psilocybin authorized under this title. A permit
52 holder shall confirm accuracy of responses on the health screening form
53 before each instance of support services.

54 17. The department shall allocate a portion of the proceeds and tax
55 revenue generated in connection with the programs established under this
56 title to subsidize compensation for support services providers engaged

1 by low-income individuals with psilocybin permits seeking authorized
2 risk reduction support services in connection with adult use of psilocy-
3 bin. The department shall establish, within one year of the commence-
4 ment of the psilocybin permit program, a program where certified support
5 services providers may apply to be eligible to receive funds for an
6 approved rate of compensation in order to provide partially or fully
7 subsidize risk reduction support services.

8 18. The department shall allocate a portion of the proceeds and tax
9 revenue generated in connection with the programs established pursuant
10 to this title to subsidize compensation for licensed healthcare profes-
11 sionals with experience with psychedelic-assisted therapy engaged by
12 low-income individuals with psilocybin permits seeking therapy services
13 in connection with adult use of psilocybin. The department shall estab-
14 lish, within one year of the commencement of the psilocybin permit
15 program, a program where licensed healthcare professionals may apply to
16 be eligible to receive funds for an approved rate of compensation in
17 order to provide partially or fully subsidized licensed psychedelic-as-
18 sisted therapy services.

19 19. A support services certification under this title shall not be a
20 professional license under the education law.

21 20. The department of education, the department, and any applicable
22 state licensing boards may establish certifications, licensure, or
23 related regulations to allow a licensed professional to provide profes-
24 sional services simultaneously with support services with a support
25 services provider certification or as otherwise determined in regu-
26 lation.

27 21. This title shall allow the licensed professionals to share
28 patient-approved information with support service providers through
29 lawful disclosures and agreements, as consistent with the health insur-
30 ance portability and accountability act, as applicable.

31 § 3369-ee. Cultivator license and requirements. 1. For the purposes
32 of this title, psilocybin-containing fungi shall not constitute a
33 "food," or "food product," as defined and regulated by section 161.21 of
34 title one of the compilation of codes, rules, and regulations of the
35 state of New York, to be distinguished from fungi that do not contain
36 psilocybin that are cultivated under controlled conditions.

37 2. The department may issue a cultivator license to a cultivator of
38 psilocybin-containing fungi to cultivate and engage in commercial trans-
39 actions of psilocybin-containing fungi consistent with this title to
40 psilocybin permit holders. Cultivation of psilocybin-containing fungi
41 includes production, manufacture, processing, and required testing and
42 disclosures. Commercial transaction of psilocybin-containing fungi
43 include, sale, distribution, and delivery.

44 3. To obtain a cultivator license, an applicant must show ability to
45 satisfy the requirements of this section. Maintenance of a cultivator
46 license requires the demonstration of the satisfaction of all require-
47 ments of this section and any regulations promulgated by the department
48 pursuant to this section.

49 4. A licensed cultivator must cultivate psilocybin-containing fungi in
50 a properly zoned and licensed facility approved for cultivation pursuant
51 to regulations, but zoning approval shall not be more restrictive than
52 generally allowed zoning for food cultivation and other agricultural
53 enterprises. Processing and packaging of psilocybin-containing fungi
54 must be performed in a manner consistent with the relevant safety regu-
55 lations. Psilocybin-containing fungi must be stored under sanitary
56 conditions.

1 5. A licensed cultivator shall cultivate psilocybin-containing fungi
2 using controlled conditions that adhere to current food safety protocol
3 in order to reasonably reduce fungi contaminants.

4 6. A licensed cultivator shall clearly label the psilocybin-containing
5 fungi with the required disclosures, including the full registered name
6 of the licensed cultivator, such cultivator's office address, a
7 description of contents providing the disclosure of the strain, and the
8 culture-specific approximate psilocybin equivalent potency of the psilo-
9 cybin-containing fungi.

10 7. A licensed cultivator shall engage in annual testing for each
11 culture used for cultivation in order to reasonably confirm satisfaction
12 of all relevant protocol, including strain and potency, through author-
13 ized in-state testing facilities, as regulated by the department. Any
14 new cultures shall be subject to the requirements of this section.

15 8. A licensed cultivator may sell directly to permit holders within an
16 intrastate system established by the department. Sales by licensed
17 cultivators may be accomplished using direct to consumer delivery
18 services solely to permit holders in the state. Deliveries may be facil-
19 itated by contracting with additional persons or business enterprises
20 and remain an authorized activity pursuant to a cultivator license.

21 9. Sales shall not be required to be through a dispensary, however
22 the department may promulgate rules related to a dispensary contracted
23 with a licensed cultivator and meets other applicable requirements of
24 this title.

25 10. Any commercial transaction requires provision of an informational
26 document that gives information about strength of psilocybin-containing
27 fungi and dosing and identifies optional support service providers.

28 11. Any person or business enterprise that is contracted for services
29 by a licensed cultivator, for or to accomplish an authorized activity
30 under such cultivator license, such as delivery services to permit hold-
31 ers or testing of potency, shall be considered a licensee to the extent
32 of the performance of the contracted services and shall not be in
33 violation of this title.

34 12. Licensed cultivators shall maintain secure storage of psilocybin
35 prior to distribution to prevent diversion and in a manner that will
36 maintain the disclosed potency and prevent contamination.

37 13. Licensed cultivators must maintain records of all cultivation
38 production and sales. Upon request by the department, licensed cultiva-
39 tors must provide these records and engage in annual inspections.

40 14. The department shall maintain a registry of cultivators who are
41 licensed for permit holders to purchase psilocybin-containing fungi.

42 § 3369-ff. Relation to other laws. 1. Nothing under this title permits
43 or authorizes the promotion of use of psilocybin as a drug, substance,
44 or product intended to diagnose, treat, cure, or prevent any disease or
45 mental health or other health conditions.

46 2. Section thirty-three hundred six of this article shall be amended
47 to remove "psilocybin" and "psilocin" from the schedules of controlled
48 substances and to provide an exception for "psilocybin" and "psilocin"
49 from "hallucinogenic substances".

50 3. For the purposes of this title, psilocybin and psilocin shall not
51 be deemed to be a "drug" for purposes of subdivision twelve of section
52 thirty-three hundred two of this article.

53 4. For the purposes of this title, psilocybin-containing mushrooms
54 shall not be deemed a food or food product under the agriculture and
55 markets law.

1 5. For the purposes of this title, psilocybin shall not be deemed to
2 be a "drug" for purposes of article one hundred thirty-seven of the
3 education law and is not intended to be distributed through any pharma-
4 cy.

5 6. To use, manufacture, deliver, sell, or distribute psilocybin with-
6 out authorization by psilocybin permit or cultivator license shall not
7 exceed a finding of a violation pursuant to section 55.10 of the penal
8 law, except where there are sales or gifts of psilocybin to minors and
9 in such case there may be a finding of a criminal misdemeanor.

10 7. Any individual who is a citizen of the state of New York may file a
11 motion to seal conviction records for an offense for activities that
12 were unlawful involving psilocybin upon enactment of this title. No fees
13 or costs shall be charged in connection with any such motion. Processing
14 fees may be assessed, however not to any low-income individual.

15 8. Where a provision of this title conflicts with another provision of
16 this chapter, this title shall apply.

17 § 3369-gg. Protections. 1. Psilocybin permit holders, licensed culti-
18 vators, and certified support services providers shall not be subject to
19 arrest, prosecution, or penalty in any manner, or denied any right or
20 privilege, including but not limited to suspension or revocation of
21 probation proceedings, civil penalty or disciplinary action by a busi-
22 ness or occupational or professional licensing board or bureau, solely
23 for the adult use of psilocybin or for any other action or conduct in
24 accordance with this title.

25 2. An applicant or holder of a professional or occupational license,
26 certification, or registration under state law and through a state
27 department shall not be subject to disqualification, denial, suspension,
28 revocation, professional discipline, or loss of a professional license
29 or certification for any activities authorized under this title.

30 3. No person shall be disqualified from any authorized rights,
31 programs, or provision of this title due to a violation of any federal
32 or state laws relating to controlled substances.

33 4. A professional or occupational licensee or any person with licen-
34 sure, certification, or registration under state law or through a state
35 department shall have the right to provide services within the scope of
36 such license or certification to support clients or patients who are
37 seeking to become or are psilocybin permit holders in connection with
38 conduct authorized under this title, including but not limited to
39 discussions with such licensee's patients about the potential benefits
40 and risks of adult use of psilocybin.

41 5. This subdivision shall not bar the enforcement of a policy prohib-
42 iting an employee from performing such employee's employment duties
43 while impaired by a controlled substance. This subdivision shall not
44 require any person or business enterprise to engage in any act that
45 would put the person or business enterprise in direct violation of
46 federal law or cause it to lose a federal contract or funding.

47 6. An otherwise enforceable contract related to programs or activities
48 authorized under this title shall not be unenforceable on the basis of
49 state or federal controlled substances laws.

50 7. Use of psilocybin by ingestion may only be considered to cause an
51 intoxicated state when substantially impaired, and any related conduct,
52 including driving, shall be regulated consistent with applicable state
53 laws including laws restricting driving under the influence. A drug
54 screening that contains positive results of the use of psilocybin is not
55 sufficient evidence to demonstrate intoxication without other conduct
56 that indicates impairment.

1 8. (a) The fact that a person is a psilocybin permit holder, a support
2 services provider, a licensed cultivator and/or acting in accordance
3 with this title shall not be a consideration in a proceeding pursuant to
4 applicable sections of the domestic relations law, the family court act,
5 or the social services law.

6 (b) Conduct permitted by this title shall not, by itself:

7 (i) constitute child abuse or neglect without a finding of actual
8 threat to the health or welfare of a child based on all relevant
9 factors;

10 (ii) be the basis to restrict parenting time with a child without
11 finding that the parenting time would endanger such child's emotional
12 development; or

13 (iii) be the basis to deny eligibility for any public assistance
14 program, unless required by federal law.

15 9. (a) Information contained in any database created as part of this
16 title shall be deemed exempt from public disclosure under sections
17 eighty-seven and eighty-nine of the public officers law.

18 (b) The name, contact information, and other information relating to
19 support services providers registered with the department under this
20 title shall be public information and shall be maintained on the depart-
21 ment's website and accessible to the public in searchable form. Howev-
22 er, if a support services provider notifies the department in writing
23 that such support services provider does not want such provider's name
24 and other information disclosed, such support services provider's name
25 and other information shall thereafter not be public information or
26 maintained on the department of education's website, unless the support
27 services provider cancels the request.

28 (c) The attorney general and the commissioner shall decline to submit
29 any data in connection with the programs established pursuant to this
30 title in response to any federal subpoena.

31 § 3369-hh. Regulated psilocybin advisory board. 1. The regulated
32 psilocybin advisory board or "advisory board" is established within the
33 department to advise and issue recommendations on the adult use of
34 psilocybin and all programs under this title in the state of New York.

35 2. The advisory board shall consist of thirteen voting appointed
36 members, along with the following members serving as non-voting ex-offi-
37 cio members: (a) the commissioner, or their designee; and (b) a repre-
38 sentative from the department who is familiar with public health
39 programs and public health activities in the state.

40 3. The governor shall have seven appointments, at least one of which
41 shall be a member of an unrecognized or federal or state recognized
42 Native American tribe, the president pro tempore of the senate and the
43 speaker of the assembly shall each have three appointments to the board.
44 Advisory board members shall have statewide geographic representation
45 that is balanced and diverse in its composition. Appointed members shall
46 have an expertise in agriculture and mycology, public and behavioral
47 health, psilocybin-assisted therapy research, mental health (including
48 PTSD, depression and anxiety), substance use disorders, pain management,
49 access to care in underserved communities, veteran health care, policy
50 or legal expertise related to psilocybin, pharmacology, harm reduction,
51 risk reduction training and traditional and indigenous practices with
52 natural medicines like psilocybin.

53 4. The members shall be appointed to the advisory board to each serve
54 four-year terms and in the event of a vacancy, the vacancy shall be
55 filled in the manner of the original appointment for the remainder of
56 the term. The appointed members and representatives shall receive no

1 compensation for their services but shall be allowed their actual and
2 necessary expenses incurred in the performance of their duties as board
3 members.

4 5. The chairperson of the advisory board and the vice chairperson
5 shall be elected from among the members of the advisory board by the
6 members of such advisory board. The vice chairperson shall represent the
7 advisory board in the absence of the chairperson at all official advi-
8 sory board functions.

9 6. The advisory board shall enact, and from time to time may amend,
10 bylaws or rules in relation to its meetings and the transaction of its
11 business. The board may also establish committees and subcommittees
12 necessary for the operation of the board. The advisory board shall work
13 with established religious, cultural and community-based psilocybin
14 groups and cultivators on recommendations to the department regarding
15 guidelines for safe and effective services, safety standards, industry
16 best practices, code of professional conduct, education, training, and
17 examination for support services providers, production, and long-term
18 strategic plans for service. A majority of the total number of voting
19 members which the board would have were there no vacancies, shall
20 constitute a quorum and shall be required for the board to conduct busi-
21 ness. All meetings of the advisory board shall be conducted in accord-
22 ance with the provisions of article seven of the public officers law.

23 (a) Within the first two years of the establishment of the advisory
24 board, the board shall meet at least once every calendar month at a time
25 and place determined by the chairperson or a majority of the voting
26 members of the board. After the first two years, the advisory board
27 shall meet at least once every calendar quarter at a time and place
28 determined by the chairperson or a majority of the voting members of the
29 board. The advisory board may also meet at other times and places speci-
30 fied by the call of the chairperson or of a majority of the voting
31 members of the board.

32 (b) After the first year of the implementation of the programs, there
33 shall be: (i) a program audit incorporating permit holder optional feed-
34 back through the reporting program; and (ii) a state and independent
35 review of efficacy, efficiency, cost, and equity. The audit will include
36 consideration of whether and how to expand psilocybin access, including
37 additional certifications and licenses relating to use of psilocybin in
38 connection with qualifying health conditions and psilocybin assisted
39 therapy.

40 7. The advisory board shall have the following duties:

41 (a) Provide advice to the department regarding the provisions of this
42 title and make recommendations on available medical, psychological,
43 scientific studies, research and other information relating to the safe-
44 ty of use of psilocybin.

45 (b) Determine exclusion criteria to preclude issuance of psilocybin
46 permits.

47 (c) Make recommendations to the department on the requirements, spec-
48 ifications, and guidelines for providing support services to a permit
49 holder, including development of the informed consent form.

50 (d) Advise on the development of the curriculum and test that are
51 required for a psilocybin regulation educational permit course.

52 (e) Develop educational materials to be shared with permit holders.

53 (f) Develop educational materials to be shared with law enforcement
54 personnel, police officers, and other emergency first responders.

55 (g) Make recommendations to the department on public health and safety
56 standards and industry best practices under this title.

1 (h) Develop a long-term strategic plan for ensuring that psilocybin
2 services in the state will become and remain a safe, accessible and
3 affordable therapeutic option, including in therapeutic and medical
4 treatments, for all persons eighteen years of age and older for whom
5 psilocybin services may be appropriate.

6 (i) Monitor and study federal laws, regulations and policies regarding
7 psilocybin.

8 (j) Advise on and help develop public awareness, the permit course,
9 and education campaigns.

10 § 3369-ii. Taxation of psilocybin regulated activities. 1. Notwith-
11 standing any laws to the contrary, persons or business enterprises who
12 collect any amounts of monies under this title, including but not limit-
13 ed to for support services, remuneration for psilocybin properly
14 distributed by a licensed cultivator, and fees for courses, shall be
15 taxed as income under state law.

16 2. Any expenses incurred in any business operated in accordance with
17 this title shall be treated as tax-deductible under state law.

18 3. Proceeds and fees under this title shall be used to support the
19 costs of the department towards administration and other costs relating
20 to programs pursuant to this title, including but not limited to public
21 education and risks of using psilocybin.

22 4. The department shall establish tax-credits in connection with a
23 cultivator license for individuals and small business enterprises that
24 are engaged in existing agricultural activities, such as fungi culti-
25 vation as food or food products, or individuals with a criminal record
26 for possession or cultivation of psilocybin. For the purposes of this
27 provision, a "small business enterprise" means a small business as
28 defined in section one hundred thirty-one of the economic development
29 law, and shall apply for purposes of this title where any inconsisten-
30 cies exist.

31 5. The department shall issue regulations to implement and impose the
32 tax.

33 § 2. This act shall take effect immediately.