

HOUSE No. 4050

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick Joseph Kearney

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to amend the General Laws, in relation to promoting the health and well-being of the residents of the Commonwealth of Massachusetts 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 taxation and appropriation thereof.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>1/14/2025</i>

HOUSE No. 4050

By Representative Kearney of Scituate, a petition (accompanied by bill, House, No. 4050) of Patrick Joseph Kearney relative to adult use, support services, cultivation and taxation of psilocybin-containing fungi. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act to amend the General Laws, in relation to promoting the health and well-being of the residents of the Commonwealth of Massachusetts 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 taxation and appropriation thereof.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 6 of chapter 62 of the General Laws is hereby amended by adding
2 the following subsection:-

3 (jj) A cultivator licensed to engage in business in the commonwealth pursuant to chapter
4 94J who is not a business corporation subject to the excise under chapter 63, or individuals with
5 a criminal record for possession or cultivation of psilocybin engaged in existing agricultural
6 activities, such as fungi cultivation as food or food products may be allowed a credit in each
7 taxable year against the tax liability imposed by this chapter equal to \$5,000. The department
8 shall issue regulations to implement the tax credit.

9 SECTION 2. Chapter 63 of the General Laws is hereby amended by inserting after
10 section 38uu the following section:-

11 Section 38vv. A cultivator licensed to engage in business in the commonwealth pursuant
12 to chapter 94J who is not an individual subject to the excise under chapter 62 or individuals with
13 a criminal record for possession or cultivation of psilocybin who is a small business enterprise
14 and is engaged in existing agricultural activities, such as fungi cultivation as food or food
15 products may be allowed a credit in each taxable year against the tax liability imposed by this
16 chapter equal to \$5,000. For the purposes of this provision, a "small business enterprise" means a
17 small business as defined in chapter 30A of the general laws and shall apply for purposes of this
18 chapter where any inconsistencies exist. The department shall issue regulations to implement the
19 tax credit.

20 SECTION 3. Section 31 of chapter 94C of the General Laws, as appearing in the 2022
21 Official Edition, is hereby amended by inserting after the word "designation", in lines 180 and
22 242, the following words:- ; provided, that Psilocybin or Psilocyn shall not be included in this
23 paragraph.

24 SECTION 4. Said section 31 of said chapter 94C, as so appearing, is hereby further
25 amended by striking out, in lines 255 and 256, the following words:- (13) Psilocybin (14)
26 Psilocyn.

27 SECTION 5. Said section 31 of said chapter 94C, as so appearing, is hereby further
28 amended by inserting after the word "below", in line 279, the following words:- ; provided, that
29 Psilocybin or Psilocyn shall not be included in this paragraph.

30 SECTION 6. The General Laws are hereby amended by inserting after chapter 94I the
31 following chapter:-

32 CHAPTER 94J.

33 REGULATED HEALTH ACCESS AND SUPPORT SERVICES FOR PSILOCYBIN
34 ACT.

35 Section 1. For the purposes of this chapter, the following terms shall, unless the context
36 clearly requires otherwise, have the following meanings:

37 "Adult use of psilocybin", the authorized adult use of psilocybin by a permit holder in
38 connection with a public health framework as provided under this chapter.

39 "Business enterprise", any entity, including a sole proprietorship, partnership, limited
40 liability partnership, limited liability company or corporation, including not-for-profit
41 corporations, which is authorized to and engages in lawful business operations and transactions
42 in accordance with Massachusetts law.

43 "Caregiver", a person who provides assistance to a psilocybin permit holder for activities
44 related to the permit holder's adult use of psilocybin.

45 "Cultivator license", a written authorization permitting natural persons or business
46 enterprises to engage in the specified activities of cultivation, distribution and testing of
47 psilocybin, as authorized pursuant to this chapter. Only a person or business enterprise with a
48 cultivator license may engage in commercial transactions with psilocybin-containing fungi.

49 "Department", the department of public health.

50 "Exclusion criteria", certain physical or psychological indications, prescription
51 medications or consumption of other substances, including herbal supplements, that, based on
52 currently available medical information and research, are absolutely contraindicated or have a
53 significant risk of medical or psychological harm with the use of psilocybin. Exclusion criteria

54 are not established simply in response to the existence of risk, but rather that there are no
55 mitigating factors to such contraindication or risk. Exclusion criteria shall be established, added
56 or removed by the department.

57 "Health qualification", an evaluation conducted by a licensed healthcare provider to
58 determine the qualification of a patient seeking psilocybin permit for the use of psilocybin-
59 containing fungi in connection with qualifying health conditions. A health qualification shall
60 include a determination that a patient is qualified for adult use of psilocybin due to a qualifying
61 health condition and a lack of exclusion criteria.

62 "Health screening", a screening process, which includes completion of a form to certify
63 health conditions, both qualifying and other health conditions as previously or currently
64 diagnosed or exclusion criteria. A health screening is a prerequisite to a psilocybin permit.

65 "Licensed cultivator", a person or business enterprise, including a sole proprietorship,
66 partnership, corporation, limited liability company or other business enterprise, that possesses a
67 cultivator license as provided under this chapter.

68 "Licensed healthcare provider", a person with a valid license or certificate from the
69 bureau of health professions licensure or otherwise related to wellness, medicine, healthcare,
70 mental health or behavioral health. To be a licensed healthcare provider under this chapter, such
71 licensed professional's authorized scope of practice does not need to but may include medical
72 diagnosis or treatment of a qualifying health condition or the prescription of medications.

73 "Low-income", (i) incomes at or below at least 100 per cent of the federal poverty level,
74 (ii) between at least 101 per cent and 150 per cent of the federal poverty level, (iii) incomes

75 between at least 151 per cent and 250 per cent of the federal poverty level, (iv) incomes between
76 at least 251 per cent and 300 per cent of the federal poverty level.

77 "Noncommercial", an action or transaction of goods that is without remuneration or the
78 exchange of money.

79 "Permit course", the psilocybin regulation educational permit (PREP) course that
80 includes educational material and a test that shall be successfully completed by a person who has
81 received a health screening and is applying for a psilocybin permit. There will be no limit in the
82 number of attempts to complete the test component of the permit course in order to receive a
83 psilocybin permit, as the purpose of the test is to enable education and information to increase
84 safety of adult use of psilocybin.

85 "Person", a natural person.

86 "Psilocybin", fungi that contain naturally-occurring psilocybin and psilocin compounds
87 produced by such fungal species, including but not limited to within the genus Psilocybe.

88 "Psilocybin permit", a written authorization from the department of public health issued
89 to a person at least 18 years old who has received a health screening and successfully completed
90 the permit course to allow adult use of psilocybin in connection with a public health framework.

91 "Psilocybin-containing fungi", any fungi species that naturally contain psilocybin and
92 psilocin compounds, including but not limited to species within the genus Psilocybe.

93 "Psychedelic-assisted therapy", therapeutic services provided by licensed healthcare
94 professionals with specific training in supporting clients during and after experiences with
95 psychedelic substances, including psilocybin.

96 "Qualifying health conditions", certain health conditions listed in section 2 that have
97 been identified as potentially appropriate for consideration in connection with the authorized
98 adult use of psilocybin.

99 "Risk reduction support services", non-medical, non-therapeutic and non-directive
100 services provided by certified support services providers to increase health and safety during
101 adult use of psilocybin.

102 "School grounds", any building, structure and surrounding outdoor grounds, including
103 entrances or exits, contained within a public or private pre-school, nursery school, elementary or
104 secondary school's legally defined property boundaries as registered in a county clerk's office.

105 "Support services", the services consistent with this chapter through actions of supportive
106 care and response to adverse health circumstances, provision of educational information and
107 other conduct provided by a certified support services provider that increase the safety and
108 reduce potential risks associated with the permit holder's authorized use of psilocybin.

109 "Support services provider", a person who has been granted a certification to provide risk
110 reduction support services, upon completion and continued satisfaction of all requirements under
111 section 3 of this chapter, including ongoing education and training in connection with a permit
112 holder's adult use of psilocybin.

113 "Support services provider certification", a certification that is regulated and issued by the
114 department that authorizes the support services of a support services provider.

115 Section 2. For the purposes of this chapter, "qualifying health conditions" shall include,
116 but are not limited to, the following:

117 (1) Mental health conditions: (i) adjustment disorder; (ii) anxiety; (iii) attention
118 deficit/hyperactivity disorder; (iv) autism; (v) body dysmorphia; (vi) depressive disorder; (vii)
119 eating disorders, including anorexia nervosa; (viii) mood disorders, including unspecified mood
120 disorder; (ix) obsessive-compulsive disorder; (x) panic disorder; (xi) post-traumatic stress
121 disorder or complex post-traumatic stress disorder; (xii) prolonged grief disorder; (xiii) sexual
122 disorder; (xiv) treatment resistant depression.

123 (2) Neurological conditions: (i) Alzheimer's; (ii) amyotrophic lateral sclerosis; (iii)
124 epilepsy; (iv) motor neuron disease; (v) multiple sclerosis; (vi) muscular dystrophy; (vii)
125 neurodegenerative disease, including neuropathy; (viii) Parkinson's disease; (ix) sensory
126 processing disorder; (x) traumatic brain injury, including concussion.

127 (3) Pain and physical conditions: (i) arthritis, including rheumatoid arthritis; (ii) cancer;
128 (iii) cancer-related distress; (iv) chronic fatigue; (v) chronic pain; (vi) cluster headaches; (vii)
129 degenerative disc or joint disease; (viii) effects from stroke; (ix) episodic migraines; (x)
130 fibromyalgia; (xi) functional gastrointestinal disorder, including irritable bowel syndrome and
131 inflammatory bowel disease; (xii) headache disorders; (xiii) HIV/AIDS; (xiv) insomnia and other
132 sleep disorders; (xv) Lyme disease; (xvi) migraine; (xvii) paresthesia; (xviii) phantom limb pain;
133 (xix) post-acute COVID 19 infection condition; (xx) premenstrual syndrome or premenstrual
134 dysphoric disorder; (xxi) psychogenic pain disorder; (xxii) restless leg syndrome.

135 (4) Other qualifying conditions: (i) bacterial infection or disease; (ii) behavioral/process
136 addiction, including gambling, pornography or shopping; (iii) postpartum mental health disorder;
137 (iv) substance use disorder, including for use of opiates, tobacco and alcohol; (v) terminal illness
138 or end-of-life distress; (vi) any novel or emergent health condition not categorized in the

139 diagnostic and statistical manual of mental disorders or known physical health conditions where
140 there is evidence of potential use of psilocybin with positive outcomes in connection with such
141 health conditions that has been identified in a study published in a medical or scientific journal,
142 including preprint servers.

143 Section 3. (a) The department shall manage all operations of this chapter.

144 (b) The department shall promulgate regulations to implement this chapter.

145 (c) The department may provide for the analysis and evaluation of the operation of this
146 chapter. The department may enter into agreements with one or more persons, not-for-profit
147 corporations, universities or other organizations, for the performance of an evaluation of the
148 implementation and effectiveness of this chapter.

149 (d) The department shall be responsible for regulating the adult use of psilocybin with a
150 permit, cultivation licenses and licensed cultivator requirements, certification of support services
151 providers and other authorized and related programs.

152 (e) The department shall create a reporting program to allow permit holders the optional
153 opportunity to identify health and experience data in connection with adult use of psilocybin,
154 including on health conditions and potential exclusion criteria and also to make reports about
155 certified support services providers and the provision of ethical support services. The department
156 shall create incentives to encourage certified support providers to use the reporting program to
157 identify data around risk reduction support services.

158 (f) The department shall report every 2 years, beginning 2 years after the effective date of
159 this chapter, to the governor and the legislature on the regulated access of psilocybin under this
160 chapter and make appropriate recommendations.

161 (g) The department shall promulgate initial regulations required by this chapter within
162 180 days of the effective date of this act. The department shall prioritize regulations necessary
163 for the implementation of the psilocybin permit program, support services provider certification
164 and cultivator licensing process.

165 (h) The department shall publish guidance documents for: (1) Permit holders, detailing
166 their rights and responsibilities under this chapter; (2) Support services providers, outlining
167 ethical standards, best practices and procedures for providing risk reduction support services; and
168 (3) Licensed cultivators, providing standards for cultivation, testing, labeling and distribution of
169 psilocybin-containing fungi. (i) These guidance documents shall be published within 90 days
170 after the promulgation of initial regulations and shall be updated regularly as needed to reflect
171 current scientific understanding and best practices.

172 Section 4. (a) A psilocybin permit holder shall lawfully be permitted to engage in adult
173 use of psilocybin in connection with public health framework; provided, that:

174 (1) A person shall be provided a psilocybin permit upon completion of a health screening
175 and the permit course.

176 (2) A person shall engage in a health screening process to certify the health of the person
177 applying for a psilocybin permit, including the existence of any symptoms or diagnosis of any
178 health conditions and no existing exclusion criteria.

179 (3) A health screening process includes a structured screen of health with a health
180 screening form to be completed by a person applying for a psilocybin permit.

181 (4) As the health screening process, a person may consult, as a patient, with a licensed
182 healthcare provider to make a health determination, which may state: "Based on the relationship
183 with the patient and professional judgment, the use of psilocybin in connection with the patient's
184 qualifying health condition qualifies for a permit." This health qualification statement shall be
185 submitted with the health screening form.

186 (5) Alternatively, as the health screening process, a person may self-report symptoms and
187 any diagnosis that indicate any health conditions, whether qualifying or otherwise or exclusion
188 criteria on the health screening form.

189 (6) A health screening form shall be updated by the permit holder if there are any changes
190 to the certifications of health conditions, including any new symptoms or diagnosis, that
191 constitute exclusion criteria on the form filed with the department and recompleted biennially to
192 maintain the psilocybin permit. Any changes to such form does not precipitate a requirement to
193 engage in the permit course until the 4 year requirement provided in this section.

194 (7) A health screening form shall include clear disclosure that adult use of psilocybin
195 under this chapter is not to treat any health conditions.

196 (8) A health screening shall include clear disclosure that the existence of exclusion
197 criteria in connection with use of psilocybin may increase significant health and safety risks.

198 (9) Any indication of exclusion criteria shall disqualify a person from a psilocybin permit
199 due to significant health and safety risks to such person or others.

200 (10) A health screening shall be allowed to be taken in an entirely online format provided
201 by the department or with a licensed healthcare provider, who shall then submit to the
202 department. The department shall establish materials that allow assistance with the health
203 screening at public locations with computers, such as public libraries.

204 (11) The permit course, which shall be no longer than 5 hours and allowed to be taken in
205 an in-person or entirely online format, shall provide the appropriate education and information
206 about psilocybin and psilocybin-containing fungi using a curriculum developed by the
207 department regarding history of indigenous, religious and cultural use; safety, potency and
208 effects of dosing amounts; contraindicated health conditions and substances; the value of
209 preparation and integration; appropriate setting for use; medically-available evidence of benefits,
210 health risks, the critical and sensitivity period subsequent to psilocybin use; cultivation strategies
211 and risks; optional support services available, as well as appropriate conduct and informed
212 consent required for such services; and the department reporting system, consistent with this
213 chapter. The department shall update the curriculum for the permit course with medically
214 available information biennially.

215 (12) The permit course, if available online, shall be made available in sections in order to
216 allow intermittent participation. The department shall establish materials that allow assistance
217 with the permit course at public locations with computers, such as public libraries.

218 (13) A permit holder shall successfully complete an abbreviated renewal permit course
219 based on changes to the curriculum or this chapter every 4 years to maintain their permit.

220 (14) The cost of the permit course and the permit application shall not exceed reasonable,
221 accessible fees consistent with other commonwealth permits. A permit course shall not exceed

222 \$200 and the permit application shall not exceed \$80 for the first year of the programs
223 implemented under this chapter and may not be increased more than 2 per cent each year. A
224 permit course with additional educational components to the department-approved curriculum
225 with separate fees shall be permitted. Low income waivers for fees for a psilocybin permit
226 application shall be established by the department and the department shall require a permit
227 course provider to provide a certain number or percentage of low-income fee waivers.

228 (15) The department may approve a permit course developed by a person or business
229 enterprise that satisfies the curriculum requirements and shall provide certification that such
230 permit course, including the test, was successfully completed to the department. The department
231 shall make it a priority to approve online and equity-based permit course offerings by persons or
232 business enterprises to increase access. There shall be no limitation on the number of approvals
233 to providers of a permit course.

234 (16) A psilocybin permit may be granted to a resident of any state, but such rights granted
235 by the psilocybin permit only authorize the regulated activities in this chapter within the
236 commonwealth.

237 (17) A psilocybin permit holder may only lawfully acquire psilocybin for adult use
238 through engaging in commercial transactions for psilocybin from a licensed cultivator pursuant
239 to this chapter, cultivation of their own psilocybin-containing fungi or receive it as a
240 noncommercial gift from another permit holder.

241 (18) Permit holders have the option to engage certified support services providers for risk
242 reduction support services during adult use of psilocybin.

243 (19) Permit holders shall receive an information document summarizing the rights and
244 limitations of a psilocybin permit, as well as the contact information for the reporting program, a
245 list of certified support services providers and educational and risk reduction resources available,
246 including contact information for existing call centers providing risk reduction services.

247 (20) Adult use of psilocybin shall not be permitted in a public location within 500 feet of
248 school grounds.

249 (21) A permit holder is authorized to purchase from a licensed cultivator, as provided
250 under section 5 of this chapter, an allowable amount of 1 ounce of processed, dried psilocybin-
251 containing fungi per transaction. The department may increase this allowable amount.

252 (22) Measuring weight of psilocybin-containing fungi for adult use shall be based on the
253 dried, processed condition of psilocybin-containing fungi and does not include the weight of any
254 material of which the substance is a part or to which the substance is added, dissolved, held in
255 solution or suspended or any ingredient or material combined with the substance as part of a
256 preparation.

257 (23) A permit holder is authorized to personally cultivate psilocybin-containing fungi in a
258 cultivation space that produces no more than a limited space in volume as regulated by the
259 department for adult use of psilocybin. No psilocybin permit holder shall be penalized for
260 possession in excess of the allowable amount if it is stored in a locked container within their
261 residence for adult use. Notwithstanding anything to the contrary, personal cultivation does not
262 permit commercial sales or rights granted by a cultivation license.

263 (24) A psilocybin permit holder may provide psilocybin to other permit holders only if
264 the psilocybin is a noncommercial transaction and a psilocybin permit is provided to demonstrate

265 authorization under this chapter. A permit holder is prohibited from the transfer of psilocybin as
266 a remunerated commercial transaction unless authorized to do so as a licensed cultivator as
267 contemplated in section 5 of this chapter.

268 (25) A licensed healthcare provider may, within scope of practice, offer professional
269 services to support patients and clients who are permit holders in their adult use of psilocybin,
270 including with respect to the health screening or in preparation for or subsequent to certified
271 support services.

272 (26) A caregiver of a psilocybin permit holder shall be protected under this chapter for
273 activities that solely provide assistance in the adult use of psilocybin by such permit holder,
274 including with respect to cultivation, possession and consumption of psilocybin-containing fungi.

275 (27) Psilocybin permit holders who are in violation of this chapter in more than 2
276 instances may be penalized by loss of a psilocybin permit for a period of 2 years and, after such
277 penalization period, shall subsequently be entitled to apply for a psilocybin permit.

278 Section 5. (a) Support services providers shall be certified by the department subsequent
279 to training and satisfaction of requirements to provide non-medical, non-therapeutic and non-
280 directive risk reduction support services to increase the health and safety of a permit holder
281 during adult use of psilocybin.

282 (b) No support services certification establishes any licensure, certification or other
283 authority to provide therapy, coaching or treatment in connection with adult use of psilocybin,
284 but support services providers are not precluded from contracting or providing separately for
285 such services.

286 (c) In order to receive a support services provider certification from the department, a
287 person shall complete a support services training course with a curriculum and written exam that
288 includes education and information about psilocybin regarding its history of indigenous use and
289 cultural relevance, benefits and health risks based on currently available medical evidence,
290 effects of dosing amounts, contraindicated health conditions and interacting substances that
291 increase risks, informed consent, risk reduction strategies and adverse event and emergency
292 protocol, as determined by the department in regulation.

293 (d) The cost of any support services training course shall be a reasonable, accessible
294 amount and not exceed \$1,500 and the certification application shall not exceed \$80.

295 (e) A support services provider is obligated to participate in biennial continued education
296 courses with a curriculum determined by the department in regulation.

297 (f) Any training course for support services providers shall be available for a reasonable
298 fee and may be provided entirely online to create affordability, accessibility, recognize need for
299 culturally competent risk reduction support and diversity.

300 (g) The department may approve a support services training course developed by a
301 person or business enterprise that satisfies the curriculum requirements and shall provide
302 certification that such training course, including the exam, was successfully completed to the
303 department.

304 (h) Support services providers may provide support services in any location, as
305 determined by the department and to create accessibility, including but not limited to
306 appropriately zoned settings such as private offices and commercial use or residences of the
307 permit holder or the support service provider where a home occupation use is allowed.

308 (i) The department shall develop an informed consent document that shall be used and
309 may be modified to include additional but not conflicting information by a support services
310 provider in each instance of provision of such services to a psilocybin permit holder.

311 (j) One or more support services providers may provide support services to one or more
312 permit holders simultaneously consistent with certain rules, such as the proportion of service
313 providers to permit holders, as determined by the department in regulation.

314 (k) A person may have a psilocybin permit and support services certification
315 concurrently, but it is not required.

316 (l) The department may establish additional levels of certification pursuant to research
317 and medical standards.

318 (m) The department shall create a certification board to review support services provider
319 certification and compliance of a support services provider.

320 (n) A support services provider shall be entitled to offer support services in exchange for
321 compensation as a commercial transaction.

322 (o) A support services provider may engage in the commercial transaction of their
323 authorized support services under this chapter and, if a permit holder, simultaneously engage in
324 the noncommercial transaction of gifting psilocybin to the permit holder engaging such provider
325 for support services.

326 (p) A support services provider shall require confirmation of a valid psilocybin permit
327 and review the health screening form provided by the permit holder engaging support services
328 prior to provision of services during the adult use of psilocybin authorized under this chapter. A

329 permit holder shall confirm accuracy of responses on the health screening form before each
330 instance of support services.

331 (q) The department shall allocate a portion of the proceeds and tax revenue generated in
332 connection with the programs provided under this chapter to subsidize compensation for support
333 services providers engaged by low-income individuals with psilocybin permits seeking
334 authorized risk reduction support services in connection with adult use of psilocybin. The
335 department shall establish, within 1 year of the commencement of the psilocybin permit
336 program, a program where certified support services providers may apply to be eligible to
337 receive funds for an approved rate of compensation in order to provide partially or fully
338 subsidized risk reduction support services.

339 (r) The department shall allocate a portion of the proceeds and tax revenue generated in
340 connection with the programs provided under this chapter to subsidize compensation for licensed
341 healthcare professionals with experience with psychedelic-assisted therapy engaged by low-
342 income individuals with psilocybin permits seeking therapy services in connection with adult use
343 of psilocybin. The department shall establish, within 1 year of the commencement of the
344 psilocybin permit program, a program where licensed healthcare professionals may apply to be
345 eligible to receive funds for an approved rate of compensation in order to provide partially or
346 fully subsidized licensed psychedelic-assisted therapy services.

347 (s) A support services certification under this chapter shall not be a professional license
348 under the commonwealth's education law.

349 (t) The department of education, the department and any applicable commonwealth
350 licensing boards may establish certifications, licensure or related regulations to allow a licensed

351 professional to provide professional services simultaneously with support services consistent
352 with a support services provider certification or as otherwise determined in regulation.

353 (u) This chapter allows the licensed professionals to share patient-approved information
354 with support service providers through lawful disclosures and agreements, such as consistent
355 with the Health Insurance Portability and Accountability Act, as applicable.

356 Section 6. (a) For the purposes of this chapter, psilocybin-containing fungi shall not
357 constitute a "food" or "food product," as defined by chapter 94, to be distinguished from fungi
358 that do not contain psilocybin that are cultivated under controlled conditions.

359 (b) The department may issue a cultivator license to a cultivator of psilocybin-containing
360 fungi to cultivate and engage in commercial transactions of psilocybin-containing fungi
361 consistent with this chapter to psilocybin permit holders. Cultivation of psilocybin-containing
362 fungi includes production, manufacture, processing and required testing and disclosures.
363 Commercial transactions of psilocybin-containing fungi include sale, distribution and delivery.

364 (c) To obtain a cultivator license, an applicant shall show ability to satisfy the
365 requirements of this section. Maintenance of a cultivator license requires an annual
366 demonstration of the satisfaction of all requirements of this section and regulations; the annual
367 compliance procedure is to be determined by the department.

368 (d) A licensed cultivator shall cultivate psilocybin-containing fungi in a properly zoned
369 and licensed facility approved for cultivation pursuant to regulations, but zoning approval shall
370 not be more restrictive than generally allowed zoning for food cultivation and other agricultural
371 enterprises. Processing and packaging of psilocybin-containing fungi shall be performed

372 consistent with safety regulations. Psilocybin-containing fungi shall be stored under sanitary
373 conditions.

374 (e) A licensed cultivator shall cultivate psilocybin-containing fungi using controlled
375 conditions that adhere to current food safety protocol in order to reasonably reduce fungi
376 contaminants.

377 (f) A licensed cultivator shall clearly label the psilocybin-containing fungi with the
378 required disclosures including the full registered name of the licensed cultivator, office address,
379 description of contents providing disclosure of the strain and culture-specific approximate
380 psilocybin equivalent potency of the psilocybin-containing fungi.

381 (g) A licensed cultivator shall engage in annual testing for each culture used to cultivate
382 in order to reasonably confirm satisfaction of protocol, including strain and potency through
383 authorized in-state testing facilities, as regulated by the department. Any new cultures are subject
384 to the requirements in this section.

385 (h) A licensed cultivator may sell directly to permit holders within an intrastate system
386 established by the department. Sales by licensed cultivators may be accomplished using direct to
387 consumer delivery services solely to permit holders in the commonwealth. Deliveries may be
388 facilitated by contracting with persons or business enterprises and remain an authorized activity
389 pursuant to a cultivator license.

390 (i) Sales are not required to be through a dispensary, however the department may
391 promulgate rules related to a dispensary contracted with a licensed cultivator and meets other
392 applicable requirements of this chapter.

393 (j) Any commercial transaction requires provision of an informational document that
394 gives information about strength of psilocybin-containing fungi, dosing and identifying the
395 option of support service providers.

396 (k) Any person or business enterprise that is contracted for services by a licensed
397 cultivator for or to accomplish an authorized activity under such cultivator license, such as
398 delivery services to permit holders or testing of potency, shall be considered a licensee to the
399 extent of the performance of the contracted services and not be in violation of this chapter.

400 (l) Licensed cultivators shall maintain secure storage of psilocybin to prevent diversion
401 and in a manner that will maintain the disclosed potency and prevent contamination.

402 (m) Licensed cultivators shall maintain records of all cultivation production and sales.
403 Upon request by the department, licensed cultivators shall provide these records and engage in
404 annual inspections.

405 (n) The department shall keep a registry of cultivators who are licensed for permit holders
406 to purchase psilocybin-containing fungi.

407 Section 7. (a) Nothing under this chapter permits or authorizes the promotion or use of
408 psilocybin as a drug, substance or product intended to diagnose, treat, cure or prevent any disease
409 or mental health or other health conditions.

410 (b) For the purposes of this chapter: (1) Psilocybin and psilocin shall not be deemed to be
411 "drugs"; (2) Psilocybin is not intended to be distributed through any pharmacy; and (3)
412 Psilocybin-containing fungi shall not be deemed food under chapter 94 of the general laws.

413 (c) The use, manufacture, delivery, sale or distribution of psilocybin without
414 authorization by psilocybin permit or cultivator license shall constitute a violation pursuant to
415 Massachusetts law, except where there are sales or gifts of psilocybin to minors, in which case
416 there may be a finding of a criminal misdemeanor.

417 (d) Any individual who is a resident of the commonwealth may file a motion to seal
418 conviction records for an offense for activities that were unlawful involving psilocybin upon
419 enactment of this chapter. No fees or costs shall be charged in connection with any such motion.
420 Processing fees may be assessed, however not to any low-income individual.

421 (e) Where a provision of this chapter conflicts with another provision of this title, this
422 chapter shall apply.

423 Section 8. (a) Psilocybin permit holders, licensed healthcare providers, licensed
424 cultivators and certified support services providers shall not be subject to arrest, prosecution or
425 penalty in any manner or denied any right or privilege, including but not limited to suspension or
426 revocation of probation proceedings, civil penalty or disciplinary action including by a business
427 or occupational or professional licensing board or bureau, solely for the adult use of psilocybin
428 or for any other action or conduct in accordance with this chapter.

429 (b) An applicant or holder of a professional or occupational license, certification or
430 registration under commonwealth law and through a state department shall not be subject to
431 disqualification, denial, suspension, revocation, professional discipline or loss of a professional
432 license or certification for any activities legally authorized under this chapter.

433 (c) No person shall be disqualified from any authorized rights, programs or provision of
434 this chapter due to a violation of any federal or state laws relating to controlled substances.

435 (d) A professional or occupational licensee or any person with licensure, certification or
436 registration under state law or through a state department shall have the right to provide services
437 within the scope of such license or certification to support clients or patients who want to be or
438 are psilocybin permit holders in connection with conduct legally authorized under this chapter,
439 including but not limited to discussions with their patients or clients about the potential benefits
440 and risks of adult use of psilocybin.

441 (e) This section shall not bar the enforcement of a policy prohibiting an employee from
442 performing his or her employment duties while impaired by a controlled substance. This section
443 shall not require any person or business enterprise to engage in any act that would put the person
444 or business enterprise in direct violation of federal law or cause it to lose a federal contract or
445 funding.

446 (f) An otherwise enforceable contract related to programs or activities authorized under
447 this chapter shall not be unenforceable on the basis of state or federal controlled substances laws.

448 (g) Use of psilocybin by ingestion may only be considered to cause an intoxicated state
449 when substantially impaired and any related conduct, including driving, shall be regulated
450 consistent with applicable state laws including laws restricting driving under the influence. A
451 drug screening that contains positive results of the use of psilocybin is not sufficient evidence to
452 demonstrate intoxication without other conduct that indicates impairment.

453 (h) The fact that a person is a psilocybin permit holder, a support services provider, a
454 licensed cultivator or acting in accordance with this chapter shall not be a consideration in a
455 proceeding pursuant to applicable sections of the domestic relations law, family and
456 guardianship law or any protective social services law.

457 (i) Conduct permitted by this chapter, shall not, by itself: (1) constitute child abuse or
458 neglect without a finding of actual threat to the health or welfare of a child based on all relevant
459 factors; or (2) be the basis to restrict parenting time with a child without finding that the
460 parenting time would endanger such child's emotional development.

461 (j) Conduct permitted by this chapter shall not, by itself, be the basis to deny eligibility
462 for any public assistance program, unless required by federal law.

463 (k) (1) Information contained in any registry or database created as part of this chapter
464 shall be deemed exempt from public disclosure under sections 87 and 89 of the public officers
465 law.

466 (2) The name, contact information and other information relating to support services
467 providers registered with the department under this chapter shall be public information and shall
468 be maintained on the department's website accessible to the public in searchable form. However,
469 if a support services provider notifies the department in writing that he or she does not want his
470 or her name and other information disclosed, that support services provider's name and other
471 information shall thereafter not be public information or maintained on the department website,
472 unless the support services provider cancels the request.

473 (3) The Massachusetts attorney general and department shall decline to submit any data
474 in connection with the programs under this chapter in response to any federal subpoena.

475 Section 9. (a) The regulated psilocybin advisory board or "advisory board" is established
476 within the department to advise and issue recommendations on the adult use of psilocybin and all
477 programs under this chapter in the commonwealth.

478 (b) The advisory board shall consist of 13 voting appointed members, along with the
479 following members serving as non-voting ex-officio members: (1) the commissioner or a
480 designee; and (2) a representative from the department who is familiar with public health
481 programs and public health activities in the commonwealth.

482 (c) The governor shall have 7 appointments, at least 1 of which shall be a member of an
483 unrecognized or federal or state recognized tribal nation, the president pro tempore of the senate
484 and the speaker of the assembly shall each have 3 appointments to the board. Advisory board
485 members shall have statewide geographic representation that is balanced and diverse in its
486 composition. Appointed members shall have an expertise in public health, agriculture and
487 mycology, public and behavioral health, psilocybin-assisted therapy research, mental health
488 (including PTSD, depression and anxiety), substance use or behavioral disorders, pain
489 management, access to care in underserved communities, veteran health care, policy or legal
490 expertise related to psilocybin, pharmacology, harm reduction or risk reduction training and
491 traditional and indigenous practices with natural medicines, like psilocybin.

492 (d) The members shall be appointed to the advisory board to each serve 4-year terms and
493 in the event of a vacancy, the vacancy shall be filled in the manner of the original appointment
494 for the remainder of the term. The appointed members and representatives shall receive no
495 compensation for their services but shall be allowed their actual and necessary expenses incurred
496 in the performance of their duties as board members.

497 (e) The chairperson of the advisory board and the vice chairperson shall be elected from
498 among the members of the advisory board by the members of such advisory board. The vice

499 chairperson shall represent the advisory board in the absence of the chairperson at all official
500 advisory board functions.

501 (f) The advisory board shall enact and from time to time may amend bylaws or rules in
502 relation to its meetings and the transaction of its business. The board may also establish
503 committees and subcommittees necessary for the operation of the board. The advisory board is
504 expected to work with established religious, cultural and community-based psilocybin groups
505 and cultivators on recommendations to the department regarding guidelines for safe and effective
506 services, safety standards, industry best practices, code of professional conduct, education,
507 training and examination for support services providers, production and long term strategic plans
508 for service. A majority of the total number of voting members which the board would have were
509 there no vacancies, shall constitute a quorum and shall be required for the board to conduct
510 business. All meetings of the advisory board shall be conducted in accordance with the
511 provisions of article 7 of the public officers law.

512 (g) Within the first 2 years of the establishment of the advisory board, the board shall
513 meet at least once every calendar month at a time and place determined by the chairperson or a
514 majority of the voting members of the board. After the first 2 years, the advisory board shall
515 meet at least once every calendar quarter at a time and place determined by the chairperson or a
516 majority of the voting members of the board. The advisory board may also meet at other times
517 and places specified by the call of the chairperson or of a majority of the voting members of the
518 board.

519 (h) After the first year of the implementation of the programs, there shall be: (1) a
520 program audit incorporating permit holder optional feedback through the reporting program; and

521 (2) a state and independent review of efficacy, efficiency, cost and equity. The audit shall include
522 consideration of whether and how to expand psilocybin access, including additional certifications
523 and licenses relating to use of psilocybin and psilocybin assisted therapy.

524 (i) The advisory board shall have the following duties:

525 (1) Provide advice to the department regarding the provisions of this chapter and make
526 recommendations on available medical, psychological, scientific studies, research and other
527 information relating to the safety of use of psilocybin.

528 (2) Determine exclusion criteria to preclude issuance of psilocybin permit.

529 (3) Make recommendations to the department on the requirements, specifications and
530 guidelines for providing support services to a permit holder, including development of the
531 informed consent form.

532 (4) Advise on the development of the curriculum and test that are required for a
533 psilocybin regulation educational permit (PREP) course.

534 (5) Develop educational materials to be shared with permit holders.

535 (6) Develop educational materials to be shared with law enforcement personnel, police
536 officers and other emergency first responders.

537 (7) Make recommendations to the department on public health and safety standards and
538 industry best practices under this chapter.

539 (8) Develop a long-term strategic plan for ensuring that psilocybin services in the state
540 will become and remain a safe, accessible, equitable and affordable option, including in

541 therapeutic and medical treatments, for all persons 18 years of age and older for whom
542 psilocybin services may be appropriate.

543 (9) Monitor and study federal laws, regulations and policies regarding psilocybin.

544 (10) Advise on and help develop public awareness, the permit course and education
545 campaigns.

546 Section 10. (a) Notwithstanding any laws to the contrary, persons or business enterprises
547 who collect any amounts of monies under this chapter, including but not limited to for support
548 services, remuneration for psilocybin properly distributed by a licensed cultivator and fees for
549 courses, shall be taxed as income under Massachusetts law.

550 (b) Any expenses incurred in any business operated in accordance with this chapter shall
551 be treated as tax-deductible under Massachusetts law.

552 (c) Proceeds and fees under this chapter shall be used to support the costs of the
553 department towards administration and other costs relating to programs pursuant to this chapter,
554 including but not limited to public education and risks of using psilocybin.

555 (d) Pursuant to subsection (jj) of section 6 of chapter 62 and section of 38vv of chapter
556 63, the commonwealth shall establish tax-credits in connection with a cultivator license for
557 individuals and small business enterprises that are engaged in existing agricultural activities,
558 such as fungi cultivation as food or food products or individuals with a criminal record for
559 possession or cultivation of psilocybin. For the purposes of this provision, a "small business
560 enterprise" means a small business as defined in chapter 30A of the general laws and shall apply

561 for purposes of this chapter where any inconsistencies exist. The department shall issue
562 regulations to implement and impose the tax.