

IN THE SENATE

SENATE JOINT RESOLUTION NO. 101

BY STATE AFFAIRS COMMITTEE

A JOINT RESOLUTION

1 STATING FINDINGS OF THE LEGISLATURE; PROPOSING AN AMENDMENT TO ARTICLE III,  
2 OF THE CONSTITUTION OF THE STATE OF IDAHO BY THE ADDITION OF A NEW SEC-  
3 TION 30, ARTICLE III, OF THE CONSTITUTION OF THE STATE OF IDAHO RELATING  
4 TO THE PRODUCTION, MANUFACTURE, TRANSPORTATION, SALE, DELIVERY, DIS-  
5 PENSING, DISTRIBUTION, POSSESSION, OR USE OF PSYCHOACTIVE DRUGS IN THE  
6 STATE OF IDAHO; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE;  
7 DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY  
8 LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND  
9 ARGUMENTS AS REQUIRED BY LAW.  
10

11 Be It Resolved by the Legislature of the State of Idaho:

12 SECTION 1. That the Legislature finds that:

13 (1) Section 24, Article III, of the Constitution of the State of Idaho  
14 affirms that the "first concern of all good government is the virtue and so-  
15 briety of the people";

16 (2) It is sound public policy to promote the health, safety, and wel-  
17 fare of the citizens of Idaho through a drug-free environment where chil-  
18 dren, families, businesses, and communities can flourish;

19 (3) It has been truthfully said that it is easier to build strong chil-  
20 dren than repair broken adults;

21 (4) The normalization of illicit drug use is having a profound negative  
22 impact on Idaho citizens;

23 (5) The legalization of psychoactive drugs that have not been approved  
24 by the federal Food and Drug Administration would be harmful to Idaho citi-  
25 zens; and

26 (6) A constitutional amendment addressing these findings is hereby de-  
27 clared to be reasonable and necessary.

28 SECTION 2. That Article III, of the Constitution of the State of Idaho,  
29 be, and the same is hereby amended by the addition thereto of a NEW SECTION,  
30 to be known and designated as Section 30, Article III, of the Constitution of  
31 the State of Idaho and to read as follows:

32 Section 30. PRODUCTION, MANUFACTURE, TRANSPORTATION, SALE,  
33 DELIVERY, DISPENSING, DISTRIBUTION, POSSESSION, OR USE OF PSY-  
34 CHOACTIVE DRUGS. (1) Except as permitted pursuant to section  
35 37-2716(c), (d) (1), and (d) (2), Idaho Code, and section 37-2732A,  
36 Idaho Code, as such sections existed on July 1, 2020, the produc-  
37 tion, manufacture, transportation, sale, delivery, dispensing,  
38 distribution, possession, or use of a psychoactive drug shall not  
39 be permitted in the state of Idaho, unless the psychoactive drug is:

1 (a) Permitted under chapter 27, title 37, Idaho Code, and ap-  
 2 proved by the federal food and drug administration for sale as  
 3 a brand name or generic prescription drug or biological ther-  
 4 apeutic product on the basis of safety and effectiveness un-  
 5 der the federal food, drug, and cosmetic act and is also:

6 (i) Prescribed, dispensed, or administered to a pa-  
 7 tient by a licensed prescriber or practitioner; and

8 (ii) Possessed and used as prescribed;

9 (b) Part of a permitted and documented clinical investiga-  
 10 tion with the federal food and drug administration;

11 (c) An investigational drug, biological product, or device  
 12 provided to an eligible patient pursuant to the right to try  
 13 act, chapter 94, title 39, Idaho Code;

14 (d) Documented and held in evidence by a law enforcement  
 15 agency, a testing laboratory, court personnel, or a prosecut-  
 16 ing attorney for purposes relating to a criminal prosecution,  
 17 an investigation, training, or related statutory obliga-  
 18 tions; or

19 (e) Documented and held by a registered testing laboratory  
 20 for purposes relating solely to testing specimens or sub-  
 21 stances for the presence of any psychoactive drug.

22 (2) For purposes of this section:

23 (a) "Clinical investigation" means any experiment performed  
 24 by a sponsor, an investigator, an applicant, or a contract re-  
 25 search organization in which a drug is administered or dis-  
 26 pensed to, or used involving, one (1) or more human or ani-  
 27 mal subjects as part of an application to the federal food and  
 28 drug administration to evaluate, approve, or authorize new or  
 29 investigational new drugs under the federal food, drug, and  
 30 cosmetic act;

31 (b) "Eligible patient" and "investigational drug, biologi-  
 32 cal product, or device" shall have the same meanings as pro-  
 33 vided in section 39-9403, Idaho Code, as such section existed  
 34 on July 1, 2020;

35 (c) "Administer," "production," "manufacture," "delivery,"  
 36 "dispense," "distribute," "practitioner," "prescribe," and  
 37 "prescriber," or a variation of any such term, shall have the  
 38 same meanings as provided in section 37-2701, Idaho Code, as  
 39 such section existed on July 1, 2020; and

40 (d) "Psychoactive drug" means any amount or mixture thereof  
 41 of any schedule I or schedule II controlled substance as iden-  
 42 tified in sections 37-2701(t), 37-2705, and 37-2707, Idaho  
 43 Code, as such sections existed on July 1, 2021, as well as all  
 44 substances added in amendments to such sections made subse-  
 45 quent to July 1, 2021.

46 SECTION 3. The question to be submitted to the electors of the State of  
 47 Idaho at the next general election shall be as follows:

48 "Shall Article III of the Constitution of the State of Idaho be amended  
 49 by the addition of a new Section 30 to provide that the production, manu-  
 50 facture, transportation, sale, delivery, dispensing, distribution, posses-

1 sion, or use of certain psychoactive drugs shall not be lawful in the State of  
2 Idaho unless such drugs are: (a) approved by the federal Food and Drug Admin-  
3 istration and permitted by the state; (b) lawfully prescribed; and (c) law-  
4 fully dispensed?"

5 SECTION 4. The Legislative Council is directed to prepare the state-  
6 ments required by Section 67-453, Idaho Code, and file the same.

7 SECTION 5. The Secretary of State is hereby directed to publish this  
8 proposed constitutional amendment and arguments as required by law.