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**HOUSE BILL 1859**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Kloba, Chambers, Wylie, and Wicks; by request of Department of Agriculture and Liquor and Cannabis Board

AN ACT Relating to quality standards for laboratories conducting cannabis analysis; amending RCW 69.50.348, 69.50.348, and 69.50.540; adding a new chapter to Title 15 RCW; creating a new section; providing an effective date; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The purpose of this act is to create an interagency coordination team responsible for the program that establishes and maintains quality standards for laboratories conducting analysis of recreational and medicinal cannabis with THC levels greater than 0.3 percent. The interagency team includes the department of agriculture, the liquor and cannabis board, and the department of health. The standards must be adopted by rule by the department of agriculture, and changes to standards may require reference in liquor and cannabis board and department of health rules. This authority to establish these rules transfers from the liquor and cannabis board to the department of agriculture. This act implements the recommendations of the cannabis science task force established in RCW 43.21A.735.

According to the task force's recommendations: "Laboratory quality standards are the elements used in the evaluation of a product's compliance with established product standards. They consist of approved methods, method validation protocols, and performance measures and criteria applied to the testing of the product. Establishing appropriate and well-defined laboratory quality standards is essential to communicate to the testing laboratories what standardized practices and procedures are appropriate.

Laboratory quality standards help ensure the data that laboratories generate are credible and can be used to provide consumer protections. They should represent sound scientific protocols, and detail practical and specific guidance for the testing subject matter. Together, well-established product standards, laboratory quality standards, and accreditation standards should function to garner confidence for consumers and the industry they support."

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cannabis lab" means a laboratory that tests cannabis for compliance with product standards established by rule by the state liquor and cannabis board.

(2) "Team" means the interagency coordination team for cannabis laboratory quality standards created in this chapter.

NEW SECTION. **Sec.**  (1) The interagency coordination team for cannabis laboratory quality standards is created. The team consists of the department, the liquor and cannabis board, and the department of health. The department is designated lead agency for the team and must provide the team with all necessary administrative support.

(2) The agencies that make up the team must each dedicate administrative, policy, scientific, or other staff necessary to successfully accomplish the duties assigned to the team.

(3) The team must:

(a) Coordinate among all participating agencies on agency policies, actions, and regulatory activities that relate to marijuana testing laboratory quality standards; and

(b) Advise the department on implementation and maintenance of marijuana testing laboratory quality standards topics including, but not limited to, analytical methods, validation protocols, quality assurance and quality control practices, project planning and sampling guides, and other topics as necessary to fulfill the purposes of the team and this act. In making its recommendations, the team must take into account the cannabis science task force recommendations.

NEW SECTION. **Sec.**  (1) The department must establish and maintain marijuana testing laboratory quality standards by rule in accordance with chapter 34.05 RCW.

(2) Marijuana testing laboratory quality standards must include, but are not limited to, approved methods for testing marijuana for compliance with product standards established by rule by the state liquor and cannabis board or the department of health, method validation protocol, and performance measures and criteria applied to testing of marijuana products.

(3) The department must take into account the recommendations of the team created in section 3 of this act.

(4) Standards created under this chapter must be provided to the state department of ecology for use in the lab accreditation process described in RCW 69.50.348.

**Sec.**  RCW 69.50.348 and 2019 c 277 s 1 are each amended to read as follows:

(1) On a schedule determined by the state liquor and cannabis board, every licensed marijuana producer and processor must submit representative samples of marijuana, useable marijuana, or marijuana-infused products produced or processed by the licensee to an independent, third-party testing laboratory ((~~meeting the accreditation requirements established by the state liquor and cannabis board, for inspection and testing~~)). The purpose of testing representative samples is to certify compliance with quality assurance and product standards adopted by the state liquor and cannabis board under RCW 69.50.342 or the department of health under RCW 69.50.375. In conducting tests of marijuana product samples, testing laboratories must adhere to laboratory quality standards adopted by the state department of agriculture under chapter 15.--- RCW (the new chapter created in section 10 of this act). Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee submitting the sample.

(2) Independent, third-party testing laboratories performing marijuana product testing under subsection (1) of this section must obtain and maintain accreditation.

(3) Licensees must submit the results of inspection and testing for quality assurance and product standards required under subsection (1) of this section to the state liquor and cannabis board on a form developed by the state liquor and cannabis board.

((~~(3)~~)) (4) If a representative sample inspected and tested under this section does not meet the applicable quality assurance and product standards established by the state liquor and cannabis board, the entire lot from which the sample was taken must be destroyed.

((~~(4)~~)) (5) The state liquor and cannabis board may adopt rules necessary to implement this section. The state liquor and cannabis board may adopt rules necessary to implement subsection (2) of this section until a successor state agency or agencies assume responsibility for establishing and administering laboratory standards and accreditation.

**Sec.**  RCW 69.50.348 and 2019 c 277 s 2 are each amended to read as follows:

(1) On a schedule determined by the state liquor and cannabis board, every licensed marijuana producer and processor must submit representative samples of marijuana, useable marijuana, or marijuana-infused products produced or processed by the licensee to an independent, third-party testing laboratory meeting the accreditation requirements established by the state department of ecology((~~, for inspection and testing~~)). The purpose of testing representative samples is to certify compliance with quality assurance and product standards adopted by the state liquor and cannabis board under RCW 69.50.342 or the department of health under RCW 69.50.375. In conducting tests of marijuana product samples, testing laboratories must adhere to laboratory quality standards adopted by the state department of agriculture under chapter 15.--- RCW (the new chapter created in section 10 of this act). Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee submitting the sample.

(2) Independent, third-party testing laboratories performing marijuana product testing under subsection (1) of this section must obtain and maintain accreditation.

(3) Licensees must submit the results of inspection and testing for quality assurance and product standards required under RCW 69.50.342 to the state liquor and cannabis board on a form developed by the state liquor and cannabis board.

((~~(3)~~)) (4) If a representative sample inspected and tested under this section does not meet the applicable quality assurance and product standards established by the state liquor and cannabis board, the entire lot from which the sample was taken must be destroyed.

((~~(4)~~)) (5)(a) The department of ecology may determine, assess, and collect annual fees sufficient to cover the direct and indirect costs of implementing a state marijuana product testing laboratory accreditation program, except for the initial program development costs. The department of ecology must develop a fee schedule allocating the costs of the accreditation program among its accredited marijuana product testing laboratories. The department of ecology may establish a payment schedule requiring periodic installments of the annual fee. The fee schedule must be established in amounts to fully cover, but not exceed, the administrative and oversight costs. The department of ecology must review and update its fee schedule biennially. The costs of marijuana product testing laboratory accreditation are those incurred by the department of ecology in administering and enforcing the accreditation program. The costs may include, but are not limited to, the costs incurred in undertaking the following accreditation functions:

(i) Evaluating the protocols and procedures used by a laboratory;

(ii) Performing on-site audits;

(iii) Evaluating participation and successful completion of proficiency testing;

(iv) Determining the capability of a laboratory to produce accurate and reliable test results; and

(v) Such other accreditation activities as the department of ecology deems appropriate.

(b) The state marijuana product testing laboratory accreditation program initial development costs must be fully paid from the dedicated marijuana account created in RCW 69.50.530.

((~~(5)~~)) (6) The department of ecology and the ((~~liquor and cannabis board~~)) interagency coordination team created in section 3 of this act must act cooperatively to ensure effective implementation and administration of this section.

((~~(6)~~)) (7) All fees collected under this section must be deposited in the dedicated marijuana account created in RCW 69.50.530.

**Sec.**  RCW 69.50.540 and 2021 c 334 s 986 are each amended to read as follows:

The legislature must annually appropriate moneys in the dedicated marijuana account created in RCW 69.50.530 as follows:

(1) For the purposes listed in this subsection (1), the legislature must appropriate to the respective agencies amounts sufficient to make the following expenditures on a quarterly basis or as provided in this subsection:

(a) One hundred twenty-five thousand dollars to the health care authority to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and board. The survey must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(b) Fifty thousand dollars to the health care authority for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in RCW 69.50.550. This appropriation ends after production of the final report required by RCW 69.50.550;

(c) Five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(d)(i) An amount not less than one million two hundred fifty thousand dollars to the board for administration of this chapter as appropriated in the omnibus appropriations act;

(ii) One million three hundred twenty-three thousand dollars for fiscal year 2020 to the health professions account established under RCW 43.70.320 for the development and administration of the marijuana authorization database by the department of health;

(iii) Two million four hundred fifty-three thousand dollars for fiscal year 2020 and two million four hundred twenty-three thousand dollars for fiscal years 2021, 2022, and 2023 to the Washington state patrol for a drug enforcement task force. It is the intent of the legislature that this policy will be continued in the 2021-2023 fiscal biennium; and

(iv) Ninety-eight thousand dollars for fiscal year 2019 to the department of ecology for research on accreditation of marijuana product testing laboratories. Beginning in fiscal year 2023, three hundred fifteen thousand eight hundred ninety dollars to the board, seven hundred eighty thousand dollars to the department of agriculture, and seven hundred seventy-seven thousand dollars to the department of health to implement marijuana testing laboratory quality standards pursuant to this act;

(e) Four hundred sixty-five thousand dollars for fiscal year 2020, four hundred sixty-four thousand dollars for fiscal year 2021, two hundred seventy thousand dollars in fiscal year 2022, and two hundred seventy-six thousand dollars in fiscal year 2023 to the department of ecology for implementation of accreditation of marijuana product testing laboratories;

(f) One hundred eighty-nine thousand dollars for fiscal year 2020 to the department of health for rule making regarding compassionate care renewals;

(g) Eight hundred eight thousand dollars for each of fiscal years 2020 through 2023 to the department of health for the administration of the marijuana authorization database;

(h) Six hundred thirty-five thousand dollars for fiscal year 2020, six hundred thirty-five thousand dollars for fiscal year 2021, six hundred twenty-one thousand dollars for fiscal year 2022, and six hundred twenty-seven thousand dollars for fiscal year 2023 to the department of agriculture for compliance-based laboratory analysis of pesticides in marijuana;

(i) One million six hundred fifty thousand dollars for fiscal year 2022 and one million six hundred fifty thousand dollars for fiscal year 2023 to the department of commerce to fund the ((~~marijuana~~)) cannabis social equity technical assistance ((~~competitive~~)) grant program under RCW 43.330.540; and

(j) One hundred sixty-three thousand dollars for fiscal year 2022 and one hundred fifty-nine thousand dollars for fiscal year 2023 to the department of commerce to establish a roster of mentors as part of the cannabis social equity technical assistance grant program under Engrossed Substitute House Bill No. 1443 (cannabis industry/equity) ((~~[chapter 169, Laws of 2021]~~)) chapter 169, Laws of 2021; and

(2) From the amounts in the dedicated marijuana account after appropriation of the amounts identified in subsection (1) of this section, the legislature must appropriate for the purposes listed in this subsection (2) as follows:

(a)(i) Up to fifteen percent to the health care authority for the development, implementation, maintenance, and evaluation of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women; PROVIDED, That:

(A) Of the funds appropriated under (a)(i) of this subsection for new programs and new services, at least eighty-five percent must be directed to evidence-based or research-based programs and practices that produce objectively measurable results and, by September 1, 2020, are cost-beneficial; and

(B) Up to fifteen percent of the funds appropriated under (a)(i) of this subsection for new programs and new services may be directed to proven and tested practices, emerging best practices, or promising practices.

(ii) In deciding which programs and practices to fund, the director of the health care authority must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute.

(iii) For each fiscal year, the legislature must appropriate a minimum of twenty-five million five hundred thirty-six thousand dollars under this subsection (2)(a);

(b)(i) Up to ten percent to the department of health for the following, subject to (b)(ii) of this subsection (2):

(A) Creation, implementation, operation, and management of a marijuana education and public health program that contains the following:

(I) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;

(II) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and

(III) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by marijuana use; and

(B) The Washington poison control center.

(ii) For each fiscal year, the legislature must appropriate a minimum of nine million seven hundred fifty thousand dollars under this subsection (2)(b);

(c)(i) Up to six-tenths of one percent to the University of Washington and four-tenths of one percent to Washington State University for research on the short and long-term effects of marijuana use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research.

(ii) For each fiscal year, except for the 2019-2021 and 2021-2023 fiscal biennia, the legislature must appropriate a minimum of one million twenty-one thousand dollars to the University of Washington. For each fiscal year, except for the 2019-2021 and 2021-2023 fiscal biennia, the legislature must appropriate a minimum of six hundred eighty-one thousand dollars to Washington State University under this subsection (2)(c). It is the intent of the legislature that this policy will be continued in the 2023-2025 fiscal biennium;

(d) Fifty percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

(e) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(f)(i) Up to three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW.

(ii) For each fiscal year, the legislature must appropriate a minimum of five hundred eleven thousand dollars to the office of the superintendent of public instruction under this subsection (2)(f); and

(g) At the end of each fiscal year, the treasurer must transfer any amounts in the dedicated marijuana account that are not appropriated pursuant to subsection (1) of this section and this subsection (2) into the general fund, except as provided in (g)(i) of this subsection (2).

(i) Beginning in fiscal year 2018, if marijuana excise tax collections deposited into the general fund in the prior fiscal year exceed twenty-five million dollars, then each fiscal year the legislature must appropriate an amount equal to thirty percent of all marijuana excise taxes deposited into the general fund the prior fiscal year to the treasurer for distribution to counties, cities, and towns as follows:

(A) Thirty percent must be distributed to counties, cities, and towns where licensed marijuana retailers are physically located. Each jurisdiction must receive a share of the revenue distribution under this subsection (2)(g)(i)(A) based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535, from licensed marijuana retailers physically located in each jurisdiction. For purposes of this subsection (2)(g)(i)(A), one hundred percent of the proportional amount attributed to a retailer physically located in a city or town must be distributed to the city or town.

(B) Seventy percent must be distributed to counties, cities, and towns ratably on a per capita basis. Counties must receive sixty percent of the distribution, which must be disbursed based on each county's total proportional population. Funds may only be distributed to jurisdictions that do not prohibit the siting of any state licensed marijuana producer, processor, or retailer.

(ii) Distribution amounts allocated to each county, city, and town must be distributed in four installments by the last day of each fiscal quarter.

(iii) By September 15th of each year, the board must provide the state treasurer the annual distribution amount, if any, for each county and city as determined in (g)(i) of this subsection (2).

(iv) The total share of marijuana excise tax revenues distributed to counties and cities in (g)(i) of this subsection (2) may not exceed fifteen million dollars in fiscal years 2018, 2019, 2020, and 2021, and twenty million dollars per fiscal year thereafter.

NEW SECTION. **Sec.**  Section 5 of this act expires July 1, 2024.

NEW SECTION. **Sec.**  Section 6 of this act takes effect July 1, 2024.

NEW SECTION. **Sec.**  Sections 2 through 4 of this act constitute a new chapter in Title 15 RCW.

**--- END ---**