

HOUSE BILL REPORT

HB 1859

As Passed House:
February 12, 2022

Title: An act relating to quality standards for laboratories conducting cannabis analysis.

Brief Description: Concerning quality standards for laboratories conducting cannabis analysis.

Sponsors: Representatives Kloba, Chambers, Wylie and Wicks; by request of Department of Agriculture, Liquor and Cannabis Board.

Brief History:

Committee Activity:

Commerce & Gaming: 1/18/22, 1/28/22 [DP];

Appropriations: 2/3/22, 2/4/22 [DP].

Floor Activity:

Passed House: 2/12/22, 97-1.

Brief Summary of Bill

- Establishes an interagency coordination team for cannabis laboratory quality standards, consisting of the Department of Agriculture (WSDA), the Liquor and Cannabis Board (LCB), and the Department of Health (DOH).
- Requires the WSDA to establish and maintain cannabis testing laboratory quality standards, which cannabis laboratories must adhere to in conducting tests of cannabis product samples.
- Allocates funding from the Dedicated Marijuana Account beginning in fiscal year 2023 to the WSDA, the LCB, and the DOH to implement cannabis testing laboratory quality standards.

HOUSE COMMITTEE ON COMMERCE & GAMING

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 9 members: Representatives Kloba, Chair; Wicks, Vice Chair; MacEwen, Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Chambers, Kirby, Morgan, Vick and Wylie.

Staff: Peter Clodfelter (786-7127)

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 31 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Minority Report: Without recommendation. Signed by 1 member: Representative Dye.

Staff: Linda Merelle (786-7092).

Background:

Cannabis Laboratory Testing.

On a schedule determined by the Liquor and Cannabis Board (LCB), licensed cannabis producers and processors must submit representative samples of cannabis and cannabis products produced or processed by the licensee to an independent, third-party testing laboratory, meeting the accreditation requirements established by the LCB, for inspection and testing to certify compliance with quality assurance and product standards adopted by the LCB.

A separate law also grants the Department of Health (DOH), in conjunction with the LCB, authority to adopt rules establishing additional quality assurance and product standards for cannabis products that may be labeled as meeting the DOH's standards and sold or provided at no charge to qualifying patients and designated providers at a retail outlet holding a medical endorsement.

As directed by House Bill 2052, Chapter 277, Laws of 2019, which also established the Cannabis Science Task Force (Task Force), agency authority over cannabis testing laboratory accreditation changes July 1, 2024.

Changes to Cannabis Laboratory Accreditation Effective July 1, 2024.

Effective July 1, 2024, the Department of Ecology (DOE), instead of the LCB, becomes responsible for establishing and maintaining laboratory accreditation requirements for cannabis laboratories. Subject to certain requirements, the DOE may determine, assess, and

collect annual fees sufficient to cover the direct and indirect costs of implementing a state cannabis product testing laboratory accreditation program, except for the initial program development costs.

The Cannabis Science Task Force.

The Legislature established the Task Force in 2019 to collaborate on the development of appropriate laboratory quality standards for cannabis product testing laboratories. The Task Force was required to create a proficiency testing program work group led by the DOE and a laboratory quality standards work group led by the Washington State Department of Agriculture (WSDA). The Task Force submitted a report to the Legislature in July 2020 on laboratory quality standards for pesticides in plants for cannabis testing laboratories. The Task Force submitted a final report to the Legislature in December 2021 with findings and recommendations on additional laboratory quality standards, proficiency testing, and next actions including related to establishing an interagency cooperative team.

Summary of Bill:

Interagency Coordination Team for Cannabis Laboratory Quality Standards.

An interagency coordination team for cannabis laboratory quality standards is created. The team consists of the Washington State Department of Agriculture (WSDA), the Washington State Liquor and Cannabis Board (LCB), and the Washington State Department of Health (DOH). The WSDA is designated lead agency for the team and must provide all necessary administrative support.

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. The team must coordinate among all participating agencies on agency policies, actions, and regulatory activities that relate to cannabis testing laboratory quality standards. The team must also advise the WSDA on implementation and maintenance of cannabis 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 the legislation. In making its recommendations, the team must take into account the Cannabis Science Task Force recommendations.

Laboratory Quality Standards Established by the Washington State Department of Agriculture.

The WSDA must establish and maintain cannabis testing laboratory quality standards by rule. Cannabis testing laboratory quality standards must include, but are not limited to: approved methods for testing cannabis for compliance with product standards established by rule by the LCB or the DOH; method validation protocol; and performance measures and criteria applied to testing of cannabis products. The WSDA must take into account the recommendations of the interagency coordination team. Standards created must be provided to the Department of Ecology (DOE) for use in the laboratory accreditation

process. Testing laboratories must adhere to laboratory quality standards adopted by the WSDA.

Miscellaneous Changes to Cannabis Laboratory Testing and Accreditation Requirements.

A reference to the quality assurance and product standards that the DOH may adopt is added to the statute governing cannabis laboratory testing.

It is provided that independent, third-party laboratories performing cannabis product testing must obtain and maintain accreditation.

Until July 1, 2024, the LCB may adopt rules necessary to implement accreditation requirements for third-party laboratories until a successor state agency or agencies assume responsibility for establishing and administering laboratory standards and accreditation. Beginning July 1, 2024, the DOE and the interagency coordination team (instead of the DOE and the LCB) must act cooperatively to ensure effective implementation of cannabis laboratory testing and accreditation requirements.

Dedicated Marijuana Account Distributions.

Beginning in fiscal year 2023, the following sums are directed from the Dedicated Marijuana Account to the LCB, the WSDA, and the DOH to implement cannabis testing laboratory quality standards: \$315,890 to the LCB; \$780,000 to the WSDA; and \$777,000 to the DOH.

A reference to the cannabis social equity technical assistance grant program is corrected.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 6, relating to cannabis laboratory testing and accreditation, which takes effect July 1, 2024.

Staff Summary of Public Testimony (Commerce & Gaming):

(In support) This bill is a continuation of work begun in 2019 related to cannabis testing laboratories. At that time, it was discovered that some labs had inflated test results in a way favorable to the producer or processor. The bill is about fairness, truth, and integrity. The fairness and integrity of the cannabis laboratory system are at stake if the results of some laboratories cannot be trusted. To have a high-quality and safe market, it is key that the information listed on a package be truthful. To help address this issue, the Cannabis Science Task Force (Task Force) was formed in 2019 by House Bill 2052 (2019). This bill arises out of the work and recommendations of the Task Force, and years of collaborative work between the Liquor and Cannabis Board, the Department of Ecology (DOE), the

Department of Agriculture (WSDA), and the Department of Health (DOH). The current laboratory accreditation system lacks standardized procedures necessary for the DOE's accreditation program as well as for improving accuracy and consistency in testing results. The Task Force focused on providing recommendations for standardized testing protocols; however, the Task Force recognized there are still critical implementation steps. This legislation accomplishes two of the implementation steps. The interagency coordination team created in the bill will have the requisite expertise to evaluate requested changes to testing protocols and make recommendations for adaptations needed in rule to accommodate the evolving industry. Without this team, many key testing protocols could not be implemented. The WSDA rules establishing laboratory testing protocols will provide the baseline information that the DOE's accreditation program needs to evaluate the labs. It also allows the DOE, as a future accreditation provider, to avoid conflicts of interest by remaining independent from the coordination team. The bill allows for cross-agency coordination to solve a difficult problem that does not have the typical federal support. A main problem the bill addresses is that federal testing standards for cannabis do not exist. Typically, the DOE's accreditation programs are based on federal standards. The WSDA is the appropriate authority to establish laboratory quality standards because the WSDA is a nonregulatory agency in the cannabis area that has experience with laboratories as well as cannabis. The DOH is the state's regulatory authority on medical cannabis, including administering the Authorization Database, credentialing of medical cannabis consultants, and establishing standards for products that may be beneficial for medical use, and the DOH worked closely with other agencies on developing the bill. Medical cannabis patients look to the DOH to ensure medically compliant products do not include unknown compounds or chemicals that may be detrimental to their health. This bill will facilitate these safer products by helping to establish cannabis lab requirements that will ensure all labs are held to the same standards and testing rules. This will help ensure the medical community is not left behind as product and safety standards continue to evolve. The bill aligns with the goals of the DOH's medical cannabis program. The laboratory testing system for cannabis is integral to the overall cannabis market, and it needs the updates included in this bill.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) This is joint agency request legislation with the Department of Agriculture. This is an important step forward for the cannabis industry, and it is a vital piece of infrastructure.

(Opposed) None.

Persons Testifying (Commerce & Gaming): Representative Shelley Kloba, prime sponsor; Annette Hoffmann, Washington Department of Ecology; Kelly McLain, Washington State Department of Agriculture; Chris Thompson, Washington State Liquor and Cannabis Board; and Ryan Black, Washington State Department of Health.

Persons Testifying (Appropriations): Chris Thompson, Liquor and Cannabis Board.

Persons Signed In To Testify But Not Testifying (Commerce & Gaming): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.