
Regulated Substances & Gaming Committee

HB 2151

Brief Description: Reassigning the accreditation of private cannabis testing laboratories from the department of ecology to the department of agriculture.

Sponsors: Representatives Reeves, Chapman and Kloba; by request of Department of Agriculture.

Brief Summary of Bill

- Reassigns agency authority and responsibility for accreditation of cannabis testing laboratories to the Department of Agriculture (WSDA), effective July 1, 2024.
- Grants the WSDA authority for expedited rulemaking to accomplish the reassignment of authority and responsibility.
- Modifies authorization related to the fee that may be imposed for the administration of the cannabis laboratory accreditation program.

Hearing Date: 1/15/24

Staff: Peter Clodfelter (786-7127).

Background:

On a schedule determined by the Liquor and Cannabis Board (LCB), every licensed cannabis producer and processor must submit representative samples of cannabis and cannabis products produced or processed by the licensee to an independent and accredited third-party testing laboratory. The purpose of testing representative samples is to certify compliance with quality assurance and product standards adopted by the LCB or the Department of Health (DOH).

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.

Current LCB rules require certified laboratories to be certified to conduct the following tests: (1) water activity; (2) potency analysis; (3) foreign matter inspection; (4) microbiological screening; (5) mycotoxin screening; (6) pesticide screening; and (7) residual solvent. Current LCB rules authorize labs to also be certified to conduct heavy metal testing.

In conducting tests of cannabis product samples, testing laboratories must adhere to laboratory quality standards adopted by the Washington State Department of Agriculture (WSDA). The WSDA established the laboratory quality standards following input and work of an interagency coordination team established by legislation in 2022 and the Cannabis Science Task Force established by legislation in 2019.

Laboratory quality standards include: (1) approved methods for testing cannabis for compliance with product standards established by rule by the LCB or the DOH; (2) method validation protocols; and (3) performance measures and criteria applied to testing of cannabis products. The laboratory quality standards established by the WSDA are also used in the laboratory accreditation process.

Pursuant to 2019 law, agency authority and responsibility for accrediting cannabis laboratories is scheduled to be reassigned from the LCB to the Department of Ecology (DOE), effective July 1, 2024. The DOE will be authorized determine, assess, and collect annual fees sufficient to cover the direct and indirect costs of implementing a cannabis product testing laboratory accreditation program, except for the initial program development costs.

Effective July 1, 2024, the DOE will be required to develop a fee schedule, to be reviewed and updated biennially, allocating the costs of the accreditation program among accredited laboratories and 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 costs of laboratory accreditation are the costs incurred by the DOE in administering and enforcing the accreditation program including: costs incurred in undertaking the evaluation of laboratory protocols and procedures, performing on-site audits, evaluating participation and successful completion of proficiency testing, determining a laboratory's capability to produce accurate and reliable test results, and other accreditation activities.

The cannabis product testing laboratory accreditation program initial development costs of the DOE must be fully paid from the Dedicated Cannabis Account. All fees collected must be deposited in the Dedicated Cannabis Account.

Summary of Bill:

Effective July 1, 2024, the authority and responsibility for cannabis product testing laboratory accreditation requirements is reassigned to the WSDA, instead of being reassigned on that date

from the LCB to the DOE .

The WSDA must, in consultation with the LCB, adopt rules by July 1, 2024 to implement the reassignment of authority and responsibility pertaining to cannabis laboratory accreditation. The WSDA may use expedited rulemaking to accomplish this task.

Several modifications are made to the authorizing language related to the annual fee that may be determined, assessed, and collected by the state to administer the cannabis laboratory accreditation requirements. Authority to determine, assess, and collect the fee is transferred to the WSDA. It is provided that the annual fee is to "support," instead of to be "sufficient to cover," the direct and indirect costs of implementing a cannabis product testing laboratory accreditation program.

Supporting the direct and indirect costs of implementing the laboratory quality standards program is also added to the fee authorization.

The requirements are removed that: (1) the DOE must develop a fee schedule allocating the costs of the accreditation program among accredited laboratories; (2) the fee schedule be established in amounts to fully cover, but not exceed, the administrative and oversight costs; and (3) the initial program development costs of the cannabis product testing laboratory accreditation program be fully paid from the Dedicated Cannabis Account.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately, except for section 2, relating to the reassignment of agency authority and responsibility, which takes effect July 1, 2024.