

SENATE BILL REPORT

2SHB 2151

As Passed Senate, February 28, 2024

Title: An act relating to reassigning the accreditation of private cannabis testing laboratories from the department of ecology to the department of agriculture.

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

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Reeves, Chapman and Kloba; by request of Department of Agriculture).

Brief History: Passed House: 2/12/24, 96-1.

Committee Activity: Labor & Commerce: 2/19/24, 2/20/24 [DP].

Floor Activity: Passed Senate: 2/28/24, 49-0.

Brief Summary of Bill

- Reassigns agency authority and responsibility for accreditation of cannabis testing laboratories to the Department of Agriculture, effective July 1, 2024, and authorizes expedited rulemaking.
- Modifies authorization related to the fee that may be imposed for the administration of the cannabis product testing laboratory accreditation program, and modifies a provision requiring destruction of cannabis in the context of a sample not meeting applicable quality assurance and product standards.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun, Hansen, MacEwen, Schoesler and Stanford.

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.

Staff: Susan Jones (786-7404)

Background: Cannabis Product Testing and Labs. Until July 1, 2024, on a schedule determined by the Liquor and Cannabis Board (LCB), every licensed cannabis producer and processor must submit representative samples of cannabis, useable cannabis, or cannabis-infused products produced or processed by the licensee to an independent, third-party testing laboratory. LCB may adopt rules related to the testing until successor agencies assume responsibility for establishing and administering laboratory standards and accreditation.

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). In conducting tests of cannabis product samples, testing laboratories must adhere to laboratory quality standards adopted by the Department of Agriculture (WSDA).

Independent, third-party testing laboratories performing cannabis product testing must obtain and maintain accreditation. Licensees must submit the results of inspection and testing for quality assurance and product standards to the LCB.

The Department of Ecology (Ecology) 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.

Effective July 1, 2024, an independent, third-party testing laboratory must meet the accreditation requirements established by Ecology.

Destruction of Samples and Lots Not Meeting Standards. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee submitting the sample. If a representative sample inspected and tested does not meet the applicable quality assurance and product standards established by LCB, the entire lot from which the sample was taken must be destroyed.

Fees and Costs. Effective July 1, 2024, Ecology 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. Ecology must develop a fee schedule allocating the costs of the accreditation program among its accredited cannabis product testing laboratories. 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. Ecology must review and update its fee schedule biennially.

The costs of cannabis product testing laboratory accreditation are those incurred by 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:

- evaluating the protocols and procedures used by a laboratory;
- performing on-site audits;
- evaluating participation and successful completion of proficiency testing;
- determining the capability of a laboratory to produce accurate and reliable test results; and
- other accreditation activities as Ecology deems appropriate.

The state cannabis product testing laboratory accreditation program initial development costs must be fully paid from, and all fees collected must be deposited in, the Dedicated Cannabis Account.

Interagency Coordination Team for Cannabis Laboratory Quality Standards. Ecology and the interagency coordination team for cannabis laboratory quality standards must act cooperatively to ensure effective implementation and administration the product testing and labs.

The interagency coordination team consists of WSDA, LCB, and DOH. WSDA is designated lead agency for the team and must provide the team with 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; and
- advise 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 matters.

In making its recommendations, the team must take into account the Cannabis Science Task Force recommendations.

Summary of Bill: Cannabis Product Testing Lab Accreditation Requirements Moved to Department of Agriculture. Effective July 1, 2024, the authority and responsibility for cannabis product testing laboratory accreditation requirements is reassigned to WSDA, instead of being reassigned on that date from LCB to Ecology.

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

Destruction of Samples and Lots Not Meeting Standards. An exception is added to the requirement that the entire lot from which a sample was taken must be destroyed if a

representative sample of cannabis or a cannabis product inspected and tested by an independent, third-party testing laboratory does not meet the applicable quality assurance and product standards established by LCB. Destruction is not required as may be provided by LCB in rule.

Fees and Costs. Supporting the direct and indirect costs of implementing the laboratory quality standards program is also added to the fee authorization. The requirements related to the fee are removed that: (1) Ecology 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.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony: PRO: Previous legislation allowed Ecology to do this work. Ecology has made it clear this is not a scope of work they feel suited to do. WSDA is willing and already does this type of work. Moving the bills ensures there is no disruption for producers, processors, or the market.

The cannabis industry generates a \$1 billion each year. Washington's testing labs, all small businesses, are a public health necessity that protects consumers and agricultural land from pesticides residual solvents, and beyond. There are hundreds of cannabis retailers, producers and processors. There are only eight cannabis labs and the entire industry relies on them. By providing continuous funding for the existing WSDA team to perform accreditation, we avoid hitting labs with expensive accreditation fees that could harm these necessary small businesses. DOH has provided much of the rule language and needed infrastructure. There are additional requirements. WSDA would like to continue to consider other issues to make labs stronger and safer.

Ecology supports the change. Lab accreditation provides consumer protection in for health and safety and in marketing. The cannabis science taskforce, led by Ecology, developed stronger accreditation standards. Ecology would have to hire additional specialize staff. WSDA can utilize existing staff. This would save the state money.

The transfer of responsibility will ensure more trust in the testing. If the bill doesn't pass, there will be a huge increase in costs and labs will close, creating a bottleneck in the supply chain.

Everyone thinks this bill will make labs better. All the labs want this bill. It makes sure testing remains viable and safe. We are still competing with the illicit market. If the bill does not pass, labs may close because of the additional costs. Labs are open to law makers for testing.

Persons Testifying: PRO: Representative Kristine Reeves, Prime Sponsor; Trecia Ehrlich, Washington State Department of Agriculture; Dr. Annette Hoffmann, Department of Ecology; Lukas Hunter, Harmony Farms; Caitlein Ryan, THE CANNABIS ALLIANCE; Amber Wise, Medicine Creek Analytics; Ezra Eickmeyer, Producers NW.

Persons Signed In To Testify But Not Testifying: No one.