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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 10. Cannabis [26000 - 26325] (*Heading of Division 10 amended by Stats. 2017, Ch. 27, Sec. 3.*)

CHAPTER 10. Testing Laboratories [26100 - 26104] (*Heading of Chapter 10 amended by Stats. 2017, Ch. 27, Sec. 64.*)

26100. (a) Except as otherwise provided by law, cannabis or cannabis products shall not be sold pursuant to a license provided for under this division unless a representative sample of the cannabis or cannabis products has been tested by a licensed testing laboratory.

(b) The department shall develop criteria to determine which batches shall be tested. All testing of the samples shall be performed on the final form in which the cannabis or cannabis product will be consumed or used.

(c) Testing of batches to meet the requirements of this division shall only be conducted by a licensed testing laboratory.

(d) For each batch tested, the testing laboratory shall issue a certificate of analysis for selected lots at a frequency determined by the department with supporting data, to report both of the following:

(1) Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following, unless limited through regulation by the department:

- (A) Tetrahydrocannabinol (THC).
- (B) Tetrahydrocannabinolic Acid (THCA).
- (C) Cannabidiol (CBD).
- (D) Cannabidiolic Acid (CBDA).
- (E) The terpenes required by the department in regulation.
- (F) Cannabigerol (CBG).
- (G) Cannabinol (CBN).
- (H) Other compounds or contaminants required by the department.

(2) That the presence of contaminants does not exceed the levels established by the department. In establishing the levels, the department shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (c) of Section 26060, and any other relevant sources. For purposes of this paragraph, "contaminants" includes, but is not limited to, all of the following:

- (A) Residual solvent or processing chemicals.
- (B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.
- (C) Microbiological impurities as identified by the department in regulation.

(3) For edible cannabis products, that the milligrams per serving of THC does not exceed 10 milligrams per serving, plus or minus 12 percent. After January 1, 2022, the milligrams of THC per serving shall not deviate from 10 milligrams by more than 10 percent.

(4) Notwithstanding paragraph (3), the department shall establish regulations to adjust testing variances for edible cannabis products that include less than five milligrams of THC in total.

(e) A testing laboratory may amend a certificate of analysis to correct minor errors, as defined by the department.

(f) (1) Standards for residual levels of volatile organic compounds shall be established by the department.

(2) On or before January 1, 2023, the department shall establish a standard cannabinoids test method, including standardized operating procedures, that shall be utilized by all testing laboratories. The department may establish more than one method for use by testing laboratories and these standards may be developed through a reference laboratory.

(g) The testing laboratory shall conduct all testing required by this section in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling and using verified methods.

(h) All testing laboratories performing tests pursuant to this section shall obtain and maintain ISO/IEC 17025 accreditation as required by the department in regulation.

(i) (1) If a test result falls outside the specifications authorized by law or regulation, the testing laboratory shall follow a standard operating procedure to confirm or refute the original result.

(2) If a test result falls outside the specifications authorized by law or regulation, the testing laboratory may retest the sample if both of the following occur:

(A) The testing laboratory notifies the department, in writing, that the test was compromised due to equipment malfunction, staff error, or other circumstances allowed by the department.

(B) The department authorizes the testing laboratory to retest the sample.

(j) A testing laboratory shall destroy the remains of the sample of cannabis or cannabis product upon completion of the analysis, as determined by the department through regulations.

(k) Presale inspection, testing transfer, or transportation of cannabis or cannabis products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

(l) This division does not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality control of the product in conjunction with reasonable business operations. This division also does not prohibit a licensee from performing testing on the licensee's premises of cannabis or cannabis products obtained from another licensee. Onsite testing by the licensee shall not be certified by the department and does not exempt the licensee from the requirements of compliance testing at a testing laboratory pursuant to this section.

(Amended by Stats. 2023, Ch. 267, Sec. 1. (AB 623) Effective January 1, 2024. Note: This section was added (as Section 26101) on Nov. 8, 2016, by initiative Prop. 64.)

26102. A testing laboratory shall not be licensed by the department unless the laboratory meets all of the following:

(a) Complies with any other requirements specified by the department.

(b) Notifies the department within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

(c) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.

(Amended by Stats. 2021, Ch. 70, Sec. 61. (AB 141) Effective July 12, 2021.)

26104. (a) A licensed testing laboratory shall, in performing activities concerning cannabis and cannabis products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The department shall develop procedures to do all of the following:

(1) Ensure that testing of cannabis and cannabis products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5.

(2) Specify how often licensees shall test cannabis and cannabis products, and that the cost of testing cannabis shall be borne by the licensed cultivators and the cost of testing cannabis products shall be borne by the licensed manufacturer, and that the costs of testing cannabis and cannabis products shall be borne by a nonprofit licensed under Section 26070.5.

(3) Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by the department, unless remedial measures can bring the cannabis or cannabis products into compliance with quality assurance standards as specified by law and implemented by the department.

(4) Ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by this division and that the testing laboratory employee transports the sample to the testing laboratory. The driver transporting the sample pursuant to this requirement shall be directly employed by the testing laboratory.

(c) (1) Except as provided in this division, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with this division, and shall not distribute, sell, or dispense cannabis or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(2) A testing laboratory may receive and test samples of cannabis or cannabis products from a state or local law enforcement, or a prosecuting or regulatory agency in order to test the cannabis or cannabis products. For purposes of this section, testing conducted by a testing laboratory for state or local law enforcement, a prosecuting agency, or a regulatory agency is not commercial cannabis activity and shall not be arranged or overseen by the department.

(d) A testing laboratory may receive and test samples of cannabis or cannabis products from a licensed manufacturer or licensed cultivator for quality control purposes. A testing laboratory shall not certify samples from a licensed manufacturer or licensed cultivator for retail sale. All tests performed by a testing laboratory for a licensed manufacturer or licensed cultivator shall be recorded with the name of the licensee and the amount of cannabis or cannabis product received.

(e) A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver with a valid physician's recommendation for cannabis for medicinal purposes. A testing laboratory shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another person or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of cannabis or cannabis product received.

(f) A testing laboratory may receive and test samples of cannabis or cannabis products from a person over 21 years of age when the cannabis has been grown by that person and will be used solely for that person's use, as authorized pursuant to Section 11362.1 of the Health and Safety Code. A testing laboratory shall not certify samples from the person over 21 years of age for resale or transfer to another person or licensee. All tests recorded pursuant to this subdivision shall be recorded with the name of the person submitting the sample and the amount of cannabis or cannabis product received.

(Amended by Stats. 2021, Ch. 70, Sec. 62. (AB 141) Effective July 12, 2021. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)