AB-1458 Cannabis testing laboratories. (2019-2020)

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Assembly Bill No. 1458

CHAPTER 269

An act to amend Section 26100 of the Business and Professions Code, relating to cannabis.

[Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1458, Quirk. Cannabis testing laboratories.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), approved by the voters at the November 8, 2016, statewide general election, regulates the cultivation, distribution, transport, storage, manufacturing, testing, processing, sale, and use of marijuana for nonmedical purposes by people 21 years of age and older. The existing Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities.

MAUCRSA prohibits cannabis and cannabis products from being sold unless a representative sample of specified batches has been tested by a licensed testing laboratory. MAUCRSA requires the testing laboratory to issue a certificate of analysis for selected lots of each batch to report specified information, including whether the chemical profile of the sample conforms to the labeled content of compounds. MAUCRSA requires a testing laboratory to follow a standard operating procedure to confirm or refute the original result that falls outside the specifications authorized by law or regulation.

This bill, for edible cannabis products, would require the certificate of analysis to report that the milligrams of THC per serving does not exceed 10 milligrams per serving, plus or minus 12% until January 1, 2022, and plus or minus 10% after January 1, 2022.

This bill would incorporate additional changes to Section 26100 of the Business and Professions Code proposed by AB 1470 to be operative only if this bill and AB 1470 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 26100 of the Business and Professions Code is amended to read:

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 bureau 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 bureau 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 bureau:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

(E) The terpenes required by the bureau in regulation.

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(H) Other compounds or contaminants required by the bureau.

(2) That the presence of contaminants does not exceed the levels established by the bureau. In establishing the levels, the bureau shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (d) 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 bureau 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.

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

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

(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 bureau 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 bureau, in writing, that the test was compromised due to equipment malfunction, staff error, or other circumstances allowed by the bureau.

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

(j) A testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis, as determined by the bureau 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 assurance 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 bureau and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

SEC. 1.5. Section 26100 of the Business and Professions Code is amended to read:

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) (1) The bureau 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.

(2) For purposes of this subdivision, "final form" means the unpackaged product as it will be consumed. The cannabis or cannabis product does not have to be delivered to the licensed testing laboratory in the final retail packaging to be considered in its final form.

(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 bureau 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 bureau:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

(E) The terpenes required by the bureau in regulation.

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(H) Other compounds or contaminants required by the bureau.

(2) That the presence of contaminants does not exceed the levels established by the bureau. In establishing the levels, the bureau shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (d) 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 bureau in regulation.

(3) For edible cananbis 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.

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

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

(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 bureau 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 bureau, in writing, that the test was compromised due to equipment malfunction, staff error, or other circumstances allowed by the bureau.

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

(j) A testing laboratory shall destroy the remains of the sample of medicinal cannabis or medicinal cannabis product upon completion of the analysis, as determined by the bureau 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 assurance 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 bureau and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 26100 of the Busienss and Professions Code proposed by both this bill and Assembly Bill 1470. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2021, (2) each bill amends Section 26100 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 1470, in which case Section 1 of this bill shall not become operative.