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## Commerce & Gaming Committee

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### HB 2052

**Brief Description:** Clarifying marijuana product testing by revising provisions concerning marijuana testing laboratory accreditation and establishing a cannabis science task force.

**Sponsors:** Representatives Stanford, MacEwen, Kloba and Reeves.

#### Brief Summary of Bill

- Transfers authority and responsibility for marijuana product testing laboratory accreditation requirements to the Department of Ecology (Ecology), from the Liquor and Cannabis Board (LCB), effective July 1, 2022.
- Requires Ecology to determine, assess, and collect an annual fee to cover the direct and indirect costs of implementing the marijuana product testing laboratory accreditation program, subject to requirements.
- Establishes the Cannabis Science Task Force (Task Force), to collaborate on the development of appropriate laboratory quality standards and to establish a work group on proficiency testing and another work group on laboratory quality standards.
- Requires the Task Force to submit a report to the Legislature by December 2020, with findings and recommendations for laboratory quality standards for cannabis testing laboratories.
- Requires Ecology to adopt rules, in consultation with the LCB, to implement the new marijuana product testing laboratory accreditation program.

**Hearing Date:** 2/18/19

**Staff:** Peter Clodfelter (786-7127).

#### Background:

##### Marijuana Product Testing and Laboratory Accreditation Requirements.

*Marijuana Product Testing.* On a schedule determined by the Liquor and Cannabis Board (LCB), licensed marijuana producers and processors must submit representative samples of

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marijuana or marijuana products produced or processed by the licensee to an independent, third-party testing laboratory meeting accreditation requirements established by the LCB, for inspection and testing to certify compliance with standards adopted by the LCB. The product standards adopted by the LCB include quality assurance testing through which representative samples of different types marijuana products are subject different fields of testing, depending on the type of marijuana product.

Representative samples of marijuana are subject to testing for potency, moisture content, and foreign matter. Additionally, representative samples of marijuana must undergo microbiological and mycotoxin screenings, and certain marijuana products like marijuana concentrates, depending on the processing method, are subject to testing for residual solvents. For marijuana products to qualify for labelling and sale as medically compliant products under rules adopted by the Department of Health, generally representative samples must additionally be tested for pesticides and heavy metals. Any sample remaining after testing is destroyed by the lab or returned to the licensee. Marijuana licensees must submit the results of inspections and testing to the LCB. If a sample inspected and tested does not meet the standards developed by the LCB, the entire lot from which the sample was taken must be destroyed.

*Accreditation of Marijuana Testing Laboratories.* Initiative 502 (2012) directed the LCB to adopt rules, in consultation with the Department of Health and the Department of Agriculture, establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with product standards adopted by the LCB. The LCB has developed a proficiency testing program to certify marijuana testing laboratories who demonstrate an ability to perform accurate laboratory tests of marijuana products in a given field of testing. Pursuant to agency rules, the LCB may require a third-party validation and ongoing monitoring of a certified lab's basic proficiency to correctly execute the analytical methodologies employed by the lab. Certified labs are responsible for paying all vendor fees for validation and ongoing monitoring directly to the LCB's vendor.

In the 2018 Supplemental Operating Budget, \$98,000 was provided to the Department of Ecology to begin conducting research into appropriate protocols and accreditation standards for marijuana testing laboratories, with a directive to submit a report to the appropriate committees of the legislature by January 15, 2019, containing recommendations regarding laboratory accreditation standards that should be applied to marijuana testing laboratories.

### **Summary of Bill:**

#### Marijuana Product Testing and Laboratory Accreditation Requirements.

Effective July 1, 2022, authority and responsibility for marijuana testing laboratory accreditation requirements is transferred to the Department of Ecology (Ecology), from the Liquor and Cannabis Board (LCB). Ecology must determine, assess, and collect annual fees sufficient to cover the direct and indirect costs of implementing a marijuana product testing laboratory accreditation program from laboratories seeking marijuana product testing accreditation or renewal. Ecology must develop a fee schedule allocating the costs of the accreditation program among its accredited marijuana product testing laboratories.

Ecology may establish a payment schedule requiring periodic installments of the annual fee, which is deposited in the Dedicated Marijuana Account. The fee schedule must be established in

amounts to fully cover, but not exceed, administration costs, program development costs, and oversight costs. Ecology must review and update its fee schedule biennially. The costs of marijuana 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: (1) evaluating the protocols and procedures used by a laboratory; (2) performing on-site audits; (3) evaluating participation and successful completion of proficiency testing; (4) determining the capability of a laboratory to produce accurate and reliable test results; and (5) such other accreditation activities as Ecology deems appropriate.

By July 1, 2022, Ecology must, in consultation with the LCB, adopt rules to implement Ecology's duties pertaining to the marijuana product testing laboratory accreditation program. Effective July 1, 2022, the directive to the LCB to establish, by rule, accreditation requirements for marijuana testing laboratories, is repealed. Until July 1, 2022, the LCB is granted additional rulemaking authority to adopt rules necessary to implement the marijuana laboratory accreditation program and to adopt quality assurance and product standards.

#### Cannabis Science Task Force.

A Cannabis Science Task Force (Task Force) is established. Membership includes a representative appointed by Ecology, the Department of Agriculture, the Department of Health, and the LCB. A majority of the agency members must select additional members, who must include representatives from state and local agencies, and tribal and local governments with expertise in chemistry, microbiology, toxicology, public health, or food and agricultural testing methods, as well as nongovernmental cannabis industry scientists.

The representative from Ecology must serve as chair of the work group. The Task Force must collaborate on the development of appropriate laboratory quality standards for cannabis testing laboratories, and must establish two work groups: (1) a proficiency testing program work group led by Ecology; and (2) a laboratory quality standards work group to be led by the WSDA.

The Task Force may create additional advisory work groups as necessary. Ecology must provide staff support and pay Task-Force expenses. The Task Force must submit a report to the relevant committees of the legislature by December 1, 2020, that includes the findings and recommendations for laboratory quality standards for cannabis testing laboratories. The report must specifically include recommendations relating to the following: (1) appropriate approved testing methods; (2) method validation protocols; (3) method performance criteria; and (4) sampling and homogenization protocols. The Task Force must meet at least four times during 2019, with the first meeting held by September 1, 2019. The entire act is null and void if specific funding for the act is not provided by June 30, 2019, in the omnibus appropriations act.

**Appropriation:** None.

**Fiscal Note:** Requested on February 15, 2019.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for Sections 2 and 5 relating to the transfer of authority and responsibility for marijuana product testing laboratory accreditation requirements to the Department of Ecology, which take effect July 1, 2022.