Session of 2022

HOUSE BILL No. 2708

By Committee on Federal and State Affairs

2-15

AN ACT concerning medical marijuana; relating to laboratory testing and licensure of persons; establishing standards for laboratory licenses that test medical marijuana.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) A laboratory licensee for medical marijuana testing shall:

(1) Not be owned by a person who is a direct or indirect beneficial owner of a retail dispensary, cultivator, processor or distributor;

(2) comply with all applicable local ordinances, including but not limited to zoning, occupancy, licensing and building codes;

(3) obtain a separate license for each laboratory;

(4) comply with the application requirements of this section and submit any information required by the director of alcoholic beverage control;

(5) establish policies to prevent the existence of or appearance of undue commercial, financial or other influences that diminish, or have the effect of diminishing the public confidence in, the competency, impartiality and integrity of the testing processes or results of such laboratory. Such policies shall prohibit employees, owners or agents of a laboratory who participate in any aspect of the analysis and results of a sample from improperly influencing the testing process, manipulating data or benefiting from any ongoing financial, employment, personal or business relationship with the licensee that submitted the sample for testing;

(6) not test samples for any licensee in which an owner, employee or agent of the laboratory has any form of ownership or financial interest in the licensee that submitted the sample for testing;

(7) promptly provide the director access to:

(A) A report of a test and any underlying data that is conducted on a sample at the request of a licensee or registered patient; and

(B) laboratory premises and to any material or information requested by the director to determine compliance with the requirements of this section;

(8) retain all results of laboratory tests conducted on medical marijuana or medical marijuana products for a period of at least two years

and shall make them available to the director upon request;

(9) establish standards, policies and procedures for laboratory testing procedures;

(10) (A) test samples from each harvest batch or product batch, as appropriate, of medical marijuana, medical marijuana concentrate and medical marijuana product for each of the following categories of testing, consistent with standards developed by the director:

(i) Microbials;

(ii) mycotoxins;

(iii) residual solvents;

(iv) pesticides;

(v) tetrahydrocannabinol and other cannabinoid potency;

(vi) terpenoid potency type and concentration;

(vii) moisture content;

(viii) homogeneity; and

(ix) heavy metals; and

(B) only accept a test batch of usable medical marijuana or medical marijuana product for testing purposes from a:

(i) Cultivator that has separated each harvest lot of usable marijuana into harvest batches containing no more than 10 pounds, except harvest batches of fresh, uncured medical marijuana or fresh or frozen medical marijuana to be sold to a processor in order to make a concentrate may be separated into batches containing no more than 20 pounds; and

(ii) processor that has separated each medical marijuana production lot into production batches containing no more than 10 pounds.

(b) A laboratory licensee may:

(1) Accept samples of medical marijuana, medical marijuana concentrate or medical marijuana product from:

(A) A licensee or any entity authorized for testing and research purposes only, including the provision of testing services for samples submitted by a licensee for product development. A laboratory shall not be prohibited from obtaining a license under this section due to such laboratory performing testing and research on medical marijuana and medical marijuana products; or

(B) an individual person for testing if such person is a:

(i) Registered patient or caregiver under this act and such person provides the laboratory with the individual's registration identification and a valid photo identification; or

(ii) participant in an approved clinical or observational study conducted by a research facility;

(2) transfer samples to another licensed laboratory for testing. All laboratory reports provided to or by a licensee or to a patient or caregiver shall identify the laboratory that performed the testing of the sample that is

submitted; and

(3) utilize a licensed distributor to transport samples of medical marijuana, medical marijuana concentrates and medical marijuana product for testing, in accordance with this act, between the original licensee requesting testing services and the destination licensed laboratory performing testing services.

Sec. 2. (a) The director of alcoholic beverage control shall propose rules and regulations as necessary to develop acceptable testing and research practices in consultation with the contracted compliance and quality assurance testing laboratory, including, but not limited to, testing, standards, quality control analysis, equipment certification and calibration and chemical identification and substances used in bona fide research methods. After the hearing on a proposed rule and regulation has been held as required by law, the director shall submit any such proposed rule and regulation to the secretary of revenue who, if the secretary approves it, shall adopt the rule and regulation.

(b) The director shall recommend rules and regulations for laboratory testing performed under this act concerning:

(1) The cleanliness and orderliness of the premises of a licensed laboratory and the establishing of licensed laboratories in secured locations;

(2) the inspection, cleaning and maintenance of any equipment or utensils used for the analysis of test samples;

(3) testing procedures and standards for cannabinoid and terpenoid potency and safe levels of contaminants and appropriate remediation and validation procedures;

(4) controlled access areas for storage of medical marijuana and medical marijuana product test samples, medical marijuana waste and reference standards;

(5) records to be retained and computer systems to be utilized by the laboratory;

(6) the possession, storage and use by the laboratory of reagents, solutions and reference standards;

(7) a certificate of analysis for each lot of reference standard;

(8) the transport and disposal of unused medical marijuana, medical marijuana products and medical marijuana waste;

(9) the mandatory use by a laboratory of an inventory tracking system to ensure all test harvest and production batches or samples containing medical marijuana, medical marijuana concentrate or medical marijuana products are identified and tracked from the point they are transferred from a licensee or a registered patient or caregiver through the point of transfer, destruction or disposal. The inventory tracking system reporting shall include the results of any tests that are conducted;

(10) the employment of laboratory personnel;

(11) a written standard operating procedure manual to be maintained and updated by the laboratory;

(12) the successful participation in a proficiency testing program approved by the director for conducting testing in order to obtain and maintain certification;

(13) the establishment of and adherence to a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and the quality of results reported;

(14) the immediate recall of medical marijuana or medical marijuana products that test above allowable thresholds or are otherwise determined to be unsafe;

(15) the establishment by the laboratory of a system to document the complete chain of custody for samples from receipt through disposal;

(16) the establishment by the laboratory of a system to retain and maintain all required records, including business records, and processes to ensure results are reported in a timely and accurate manner; and

(17) any other aspect of laboratory testing of medical marijuana or medical marijuana product deemed necessary by the director.

Sec. 3. (a) A laboratory licensee may:

(1) Obtain medical marijuana from one or more licensed cultivators, processors or retail dispensaries; and

(2) conduct medical marijuana testing as permitted by rules and regulations adopted by the secretary of revenue.

(b) (1) Licensure of laboratories shall be contingent upon the successful onsite inspection, participation in proficiency testing and ongoing compliance with the requirements of this act.

(2) A laboratory shall be inspected prior to initial licensure and up to six times annually by an inspector approved by the director of alcoholic beverage control. The director may enter the licensed premises of a laboratory to conduct investigations and additional inspections when the director believes an investigation or additional inspection is necessary due to a possible violation of this act.

(3) After January 1, 2022, accreditation by the national environmental laboratory accreditation program, ANSI/ASQ national accreditation board or another accrediting body approved by the director shall be required for licensure and renewal of licensure of laboratories.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.