
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

AB 1458 (Quirk) - Cannabis testing laboratories

Version: January 23, 2020

Urgency: No

Hearing Date: August 13, 2020

Policy Vote: B., P. & E.D. 9 - 0

Mandate: No

Consultant: Janelle Miyashiro

Bill Summary: AB 1458 requires testing laboratories to include specified tetrahydrocannabinol (THC) concentration variance information on a certificate of analysis for edible cannabis products. Specifically, that the concentration of THC does not exceed 10 milligrams (mg) per serving, plus or minus 12 percent; and, by January 1, 2022, plus or minus 10 percent.

Fiscal Impact:

- Minor costs to the Bureau of Cannabis Control (BCC). The temporary change in the permissible variance as prescribed by the bill would require the BCC to make minor modifications to its regulations. The BCC reports that these changes would likely be absorbable within existing resources.
- One-time cost of \$133,590 to the California Department of Food and Agriculture for track and trace system updates. Other ongoing costs for routine maintenance and operational activities are anticipated to be absorbable within existing resources.

Background: The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) requires cannabis in its final form to be laboratory tested prior to sale. The analytical tests performed and their results are compiled into a report called a "certificate of analysis" (COA). Once issued, current law prohibits amending a COA or retesting samples, requiring the remediation or destruction of the cannabis product (except in very limited circumstances). Among the analytical test performed, cannabis testing laboratories are required to evaluate the levels of contaminants in samples, including any residual solvents, processing chemicals, foreign materials, or microbiological impurities. Testing also determines the concentrations of active chemicals, such as THC, to ensure compliance with safety standards and provide consumer protection.

The BCC regulations provide guidance on what constitutes a valid test for edible cannabis products in regards to THC concentration. However, there has been confusion in the cannabis industry in complying with two regulations that seem to be in conflict. The BCC Regulation section 5307.1 provides that a test is valid if an analysis of the THC concentration does not exceed plus or minus 10 percent of what is present on the COA. However, BCC Regulation section 5724(d)(1) states that THC concentration must not exceed 10 mg per serving. Additionally, the BCC released a clarification in 2019 that, for all edible cannabis products, a product sample would be considered to have "passed testing" if the THC concentration does not exceed 10 mg per serving plus 10 percent. This bill aims to resolve current confusion by codifying the variance of acceptable THC concentration per serving for edible cannabis products.

Proposed Law: This bill:

- Requires testing laboratories to include on a certificate of analysis for edible cannabis products that:
 - The concentration of THC does not exceed 10 milligrams per serving, plus or minus 12 percent; and
 - By January 1, 2022, the THC concentration does not deviate from 10 milligrams per serving, plus or minus 10 percent.
- Makes other technical changes.

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