

AMENDED IN SENATE JULY 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 599

Introduced by Assembly Member Hall

February 25, 2009

An act to amend ~~Section 100700~~ *Sections 100702 and 100703* of the Health and Safety Code, relating to laboratories.

LEGISLATIVE COUNSEL'S DIGEST

AB 599, as amended, Hall. Forensic blood alcohol testing laboratories.

Under existing law, the State Department of Public Health regulates laboratories engaged in the performance of forensic alcohol analysis tests by or for law enforcement agencies on blood, urine, tissue, or breath for the purpose of determining the concentration of ethyl alcohol in persons involved in traffic accidents or in traffic violations. ~~Existing law also requires the department to establish a committee for the review of regulations relating to these laboratories with this committee known as the Forensic Alcohol Review Committee. Existing law requires these laboratories to comply with American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) guidelines for proficiency testing.~~

This bill would ~~exempt from those regulations laboratories that are accredited~~ *provide that, until the effective date of specified regulatory changes, accreditation* in the forensic alcohol analysis discipline or subdiscipline by the ~~American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) or by another accrediting body approved by the Forensic Alcohol Review Committee~~

ASCLD/LAB is sufficient to comply with the proficiency testing requirements.

Under existing law, the department is required to establish a review committee to review the regulations and determine revisions that will limit those regulations to those that the review committee determines are reasonably necessary to ensure the competence of the laboratories and employees to prepare, analyze, and report the results of the tests and comply with applicable laws and to submit a summary of revisions to the California Health and Human Services Agency.

This bill would require the review committee to submit its report by December 31, 2010.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 100702 of the Health and Safety Code is
2 amended to read:

3 100702. (a) All laboratories that are subject to the requirements
4 of Section 100700 shall follow the American Society of Crime
5 Laboratory Directors/Laboratory Accreditation Board
6 (ASCLD/LAB) guidelines for proficiency testing. The required
7 proficiency test ~~must~~ shall be obtained from any ASCLD/LAB
8 approved test provider.

9 (b) Each laboratory shall participate annually in an external
10 proficiency test for alcohol analysis.

11 (c) Each examiner shall successfully complete at least one
12 proficiency test annually.

13 (d) Each laboratory shall have a procedure in writing that
14 describes a review of proficiency test results, and, if applicable,
15 the corrective action taken when proficiency test results are
16 inconsistent with expected test results.

17 (e) Prior to the effective date of the revisions to the regulations
18 made pursuant to Section 100703 that are adopted and take effect
19 after January 1, 2010, for laboratories accredited in the forensic
20 alcohol analysis discipline or subdiscipline by the ASCLD/LAB,
21 compliance with the standards of that accrediting body shall satisfy
22 the requirements of this section.

23 SEC. 2. Section 100703 of the Health and Safety Code is
24 amended to read:

1 100703. (a) On or before July 1, 2005, the department shall
2 establish a review committee.

3 (b) The review committee shall have eight members, including
4 one person representing each of the following:

- 5 (1) Prosecuting attorneys.
- 6 (2) Law enforcement agencies.
- 7 (3) Defense attorneys.
- 8 (4) Coroners, pathologists, or medical examiners.
- 9 (5) Criminalists.
- 10 (6) Toxicologists.
- 11 (7) Crime laboratory directors.
- 12 (8) The State Department of Health Services.

13 (c) The review committee shall meet at least once in each
14 five-year period after its initial meeting, or within 60 days of receipt
15 of a request by the department or a member of the review
16 committee.

17 (d) The review committee shall evaluate Group 8 (commencing
18 with Section 1215) of Subchapter 1 of Chapter 2 of Division 1 of
19 Title 17 of the California Code of Regulations and determine
20 revisions that will limit those regulations to those that the review
21 committee determines are reasonably necessary to ensure the
22 competence of the laboratories and employees to prepare, analyze,
23 and report the results of the tests and comply with applicable laws.
24 The review committee shall submit a summary of revisions to the
25 California Health and Human Services Agency by *December 31,*
26 *2010.*

27 (e) Within 90 days of receiving the review committee's
28 revisions, the California Health and Human Services Agency may
29 disapprove of one or more of the revisions.

30 (f) (1) Except as provided in paragraph (2), the department
31 shall adopt regulations pursuant to this section that shall incorporate
32 the review committee's revisions. Nothing in this section shall be
33 construed as exempting the regulations from the requirements of
34 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
35 3 of Title 2 of the Government Code.

36 (2) The department shall not adopt regulations to incorporate
37 any review committee revisions that were disapproved under
38 subdivision (e).

39 ~~SECTION 1. Section 100700 of the Health and Safety Code~~
40 ~~is amended to read:~~

1 ~~100700.—(a) Laboratories engaged in the performance of~~
2 ~~forensic alcohol analysis tests by or for law enforcement agencies~~
3 ~~on blood, urine, tissue, or breath for the purposes of determining~~
4 ~~the concentration of ethyl alcohol in persons involved in traffic~~
5 ~~accidents or in traffic violations shall comply with Group 8~~
6 ~~(commencing with Section 1215) of Subchapter 1 of Chapter 2 of~~
7 ~~Division 1 of Title 17 of the California Code of Regulations, as~~
8 ~~they exist on December 31, 2004, until the time when those~~
9 ~~regulations are revised pursuant to Section 100703.~~

10 ~~(b) Notwithstanding subdivision (a), the department shall not~~
11 ~~require laboratories to be licensed.~~

12 ~~(c) Laboratories that are accredited in the forensic alcohol~~
13 ~~analysis discipline or subdiscipline by the American Society of~~
14 ~~Crime Laboratory Directors/Laboratory Accreditation Board~~
15 ~~(ASCLD/LAB) or by another accrediting body approved by the~~
16 ~~Forensic Alcohol Review Committee established pursuant to~~
17 ~~Section 100703, shall be exempt from the requirements of this~~
18 ~~section.~~