

AMENDED IN SENATE JULY 8, 1998  
AMENDED IN ASSEMBLY APRIL 14, 1998  
AMENDED IN ASSEMBLY MARCH 26, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2056**

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**Introduced by Assembly Member Floyd**

February 18, 1998

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An act to amend Section 1246.5 of the Business and Professions Code, relating to clinical laboratory technology.

LEGISLATIVE COUNSEL'S DIGEST

AB 2056, as amended, Floyd. Clinical laboratory tests.

Existing law authorizes any person to request, and any licensed clinical laboratory or public health laboratory to perform under certain circumstances, laboratory tests for pregnancy, glucose level, cholesterol, and occult blood. Existing law authorizes the test results to be given directly to the person requesting these tests and requires the test results to be provided in a manner that presents clear information and that identifies results indicating the need for referral to a physician and surgeon. Existing law authorizes the State Department of Health Services to add additional tests if the tests have been approved by the federal Food and Drug Administration for over-the-counter sale. Violation of the law regulating clinical laboratories is a misdemeanor.

This bill would revise those provisions to authorize any person to request, and any licensed clinical laboratory or

public health laboratory to perform, certain specified laboratory tests. The bill would, with specified exceptions, require the laboratory to only provide the test results directly to the person requesting the test, provided that the test is on or for that person’s own body. The bill would state legislative intent regarding its purposes, and would further state that it shall be known as the Consumer Access to Laboratory Testing Act. *It would require laboratories providing screens for drug abuse to ensure that the specimen collected is from the body of the person requesting the test. The bill would specifically exclude genetic testing.* By changing the definition of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. It is the intent of the Legislature in  
 2 enacting this act to promote health care in California by  
 3 increasing the opportunity for consumers to obtain high  
 4 quality laboratory testing by licensed clinical laboratories.  
 5 The Legislature recognizes that expanded access to  
 6 medical testing will result in a citizenry that is more  
 7 knowledgeable about the status of various bodily  
 8 conditions, and, therefore, more involved in maintaining  
 9 good health.

10 SEC. 2. Section 1246.5 of the Business and Professions  
 11 Code is amended to read:

12 1246.5. (a) This section shall be known, and may be  
 13 cited, as the Consumer Access to Laboratory Testing Act.

14 (b) Notwithstanding any other provision of law, any  
 15 person may request, and any licensed clinical laboratory  
 16 or public health laboratory may perform, the laboratory  
 17 tests specified in this section. A registered clinical



1 laboratory may perform the laboratory tests specified in  
2 this section if the test is subject to a certificate of waiver  
3 under the federal Clinical Laboratory Improvement Act  
4 of 1988 and the laboratory has registered with the  
5 department under paragraph (2) of subdivision (a) of  
6 Section 1265. Except for reporting as required by other  
7 provisions of law, the results from any test shall only be  
8 provided directly to the person requesting the test  
9 provided the test is on or for his or her own body. These  
10 test results shall be provided in a manner that presents  
11 clear information, *that provides referral to counseling as*  
12 *appropriate*, and that identifies results indicating the  
13 need for referral to a physician and surgeon.

14 (c) The tests that may be conducted pursuant to this  
15 section are as follows:

16 (1) Any test for which there is an over-the-counter test  
17 kit or collection kit, approved by the federal Food and  
18 Drug Administration, for sale to the public without a  
19 prescription.

20 (2) Cholesterols, including HDL and LDL, and  
21 triglycerides.

22 (3) Blood typing and Rh factor testing.

23 (4) Prothrombin time.

24 ~~(5) Drug screens.~~

25 (5) *Screens for drugs of abuse -- Schedule I, II, III, IV,*  
26 *or V drugs as specified in Sections 11054 to 11058,*  
27 *inclusive, of the Health and Safety Code.*

28 (6) Tests for antibody levels to determine ~~immunity to~~  
29 *the need for immunization against* rubella, rubeola,  
30 hepatitis B, mumps, and varicella-zoster.

31 (d) Any person requesting a laboratory test pursuant  
32 to this section shall be responsible for payment of the cost  
33 of that testing.

34 (e) A physician has no responsibility or liability for any  
35 act or omission arising out of a test result requested by a  
36 person pursuant to this section, unless that person  
37 requests a consultation with the physician concerning the  
38 results, the physician either has a current  
39 physician-patient relationship with the person, or

1 establishes a new physician-patient relationship with the  
2 person, and the physician receives the test results.

3 *(f) Laboratories providing screens for drugs of abuse*  
4 *shall assure through direct observation of specimen*  
5 *collection, specimen temperature monitoring, or other*  
6 *reliable methods that the specimen submitted has been*  
7 *obtained from the body of the person requesting the test.*

8 *(g) This section shall not be interpreted so as to*  
9 *include genetic testing.*

10 SEC. 3. No reimbursement is required by this act  
11 pursuant to Section 6 of Article XIII B of the California  
12 Constitution because the only costs that may be incurred  
13 by a local agency or school district will be incurred  
14 because this act creates a new crime or infraction,  
15 eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section  
17 17556 of the Government Code, or changes the definition  
18 of a crime within the meaning of Section 6 of Article  
19 XIII B of the California Constitution.

20 Notwithstanding Section 17580 of the Government  
21 Code, unless otherwise specified, the provisions of this act  
22 shall become operative on the same date that the act  
23 takes effect pursuant to the California Constitution.

