

AMENDED IN SENATE APRIL 13, 2000

**SENATE BILL**

**No. 1849**

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**Introduced by Senator Johnson**

February 24, 2000

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An act to amend Sections 100700, 100710, 100715, 100720, 100735, 100745, and 100750 of, and to add Sections 100701, 100702, and 100703 to, the Health and Safety Code, relating to laboratories.

LEGISLATIVE COUNSEL'S DIGEST

SB 1849, as amended, Johnson. Laboratories: licensing and accreditation.

Under existing law, the State Department of Health Services is required to adopt and publish regulations to be used in approving and governing the operation of laboratories conducting testing by or for law enforcement agencies of blood, urine, or tissue for the purposes of determining the concentration of ethyl alcohol in the blood of persons involved in traffic accidents or in traffic violations, and the testing of breath samples under the same circumstances.

This bill would require the department to revise, adopt, and publish regulations, in accordance with specified reference materials, to be used in approving and governing the operation of laboratories engaging in breath testing under the circumstances described above. The bill would require the department to convene a review committee, with specified components and duties, prior to adopting the regulations, and to submit the proposed regulations to the committee for review.

This bill would additionally authorize the performance of the blood, urine, or tissue tests described above by a laboratory holding a current accreditation to perform the test from the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB), *if the director of the department determines that ASCLD/LAB standards meet or exceed the standards established by the department's regulations.* The bill would require the department to issue a license to a laboratory so accredited, *under the specified conditions*, and would exempt these laboratories from departmental regulations governing blood, urine, and tissue tests, except with respect to proficiency testing requirements. The bill would require the department to accept proof of inspection by the ASCLD/LAB in satisfaction of the department's existing inspection requirement, *if the director of the department determines that ASCLD/LAB standards meet or exceed the standards established by the department's regulations.* The bill would make additional conforming changes to existing law.

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 100700 of the Health and Safety  
 2 Code is amended to read:  
 3 100700. The department shall adopt and publish  
 4 regulations to be used in approving and governing the  
 5 operation of laboratories engaging in the performance of  
 6 tests referred to in Section 100710, including the  
 7 qualifications of the employees who perform the tests,  
 8 that are determined, pursuant to Sections 100701 and  
 9 100703, to be reasonably necessary to ensure the  
 10 competence of the laboratories and employees to  
 11 prepare, analyze, and report the results of the tests.  
 12 SEC. 2. Section 100701 is added to the Health and  
 13 Safety Code, to read:  
 14 100701. On or before July 1, 2002, the department  
 15 shall revise, adopt, and publish regulations to be used in  
 16 approving and governing the operation of laboratories



1 and law enforcement agencies engaging in the  
2 performance of the tests referred to in Section 100715.  
3 The regulations shall incorporate the Model  
4 Specifications for Evidential Breath Testing Devices and  
5 the Model Specifications for Calibrating Units for Breath  
6 Alcohol Testers as published in the Federal Register by  
7 the National Highway Traffic Safety Administration of  
8 the United States Department of Transportation. The  
9 revised regulations shall be adopted only after the  
10 department has convened a review committee pursuant  
11 to Section 100703, and the review committee has  
12 determined that the regulations are limited to  
13 requirements that the review committee finds are  
14 reasonably necessary to ensure the competence of the  
15 laboratories or persons conducting the tests.

16 SEC. 3. Section 100702 is added to the Health and  
17 Safety Code, to read:

18 100702. (a) Regulations adopted pursuant to this  
19 article governing the tests referred to in Section 100710  
20 shall not apply to a laboratory holding a current  
21 accreditation to perform the tests referred to in Section  
22 100710 from the American Society of Crime Laboratory  
23 Directors/Laboratory Accreditation Board  
24 (ASCLD/LAB), *if the director of the department*  
25 *determines that ASCLD/LAB standards meet or exceed*  
26 *the standards established by the department's*  
27 *regulations.*

28 (b) Notwithstanding subdivision (a), the department  
29 may continue to impose proficiency testing requirements  
30 on any laboratory engaging in the performance of tests  
31 referred to in Section 100710.

32 SEC. 4. Section 100703 is added to the Health and  
33 Safety Code, to read:

34 100703. (a) On or before July 1, 2001, and at least  
35 once in each five-year period thereafter, the department  
36 shall convene a review committee to evaluate regulations  
37 proposed or adopted by the department pursuant to this  
38 article. The review committee shall be appointed by the  
39 director of the department, and shall have nine members,  
40 including one person representing each of the following:



- 1 (1) The Attorney General.
- 2 (2) The California Highway Patrol.
- 3 (3) District attorneys.
- 4 (4) Public defenders.
- 5 (5) Coroners.
- 6 (6) Criminalists.
- 7 (7) Pathologists.
- 8 (8) Analytical chemists.
- 9 (9) Forensic laboratory managers.

10 (b) The review committee shall examine the  
 11 regulations adopted by the department pursuant to this  
 12 article, and recommend revisions that will limit the  
 13 regulations to requirements the review committee  
 14 determines are reasonably necessary to ensure the  
 15 competence of the laboratories and employees to  
 16 prepare, analyze, and report the results of the test.

17 (c) The department shall ~~adopt~~ *consider* the revisions  
 18 recommended by the review committee.

19 SEC. 5. Section 100710 of the Health and Safety Code  
 20 is amended to read:

21 100710. The testing by or for law enforcement  
 22 agencies of blood, urine, or tissue for the purposes of  
 23 determining the concentration of ethyl alcohol in the  
 24 blood of persons involved in traffic accidents or in traffic  
 25 violations shall be performed only by a laboratory  
 26 approved and licensed by the director for the  
 27 performance of these tests, or by a laboratory holding a  
 28 current accreditation to perform those tests from the  
 29 American Society of Crime Laboratory  
 30 Directors/Laboratory Accreditation Board  
 31 (*ASCLD/LAB*), *if the director of the department*  
 32 *determines that ASCLD/LAB standards meet or exceed*  
 33 *the standards established by the department's*  
 34 *regulations.*

35 SEC. 6. Section 100715 of the Health and Safety Code  
 36 is amended to read:

37 100715. The testing of breath samples by or for law  
 38 enforcement agencies for purposes of determining the  
 39 concentration of ethyl alcohol in the blood of persons  
 40 involved in traffic accidents or in traffic violations shall be



1 performed in accordance with regulations adopted by the  
2 department pursuant to Section 100701.

3 The regulations shall establish the procedures to be  
4 used by law enforcement agencies in administering  
5 breath tests for the purposes of determining the  
6 concentration of ethyl alcohol in a person's blood. The  
7 regulations shall be adopted and published in accordance  
8 with Chapter 3.5 (commencing with Section 11340) of  
9 Part 1 of Division 3 of Title 2 of the Government Code.

10 SEC. 7. Section 100720 of the Health and Safety Code  
11 is amended to read:

12 100720. Each laboratory in the state that performs the  
13 tests referred to in Sections 100710 and 100715, shall be  
14 licensed by the director. The director shall issue a license  
15 to any laboratory that presents proof of a current  
16 accreditation to perform the tests referred to in Section  
17 100710 from the American Society of Crime Laboratory  
18 Directors/Laboratory Accreditation Board  
19 (*ASCLD/LAB*), *if the director of the department*  
20 *determines that ASCLD/LAB standards meet or exceed*  
21 *the standards established by the department's*  
22 *regulations.* Each of these laboratories, other than a  
23 laboratory operated by the state, city or county or other  
24 public agency shall upon application for licensing pay a  
25 fee to the department in an amount, to be determined by  
26 the department, that will reimburse the department for  
27 the costs incurred by the department in the issuance and  
28 renewal of these licenses. On or before each January 1 of  
29 each year thereafter, each of these laboratories shall pay  
30 to the department a fee so determined by the  
31 department.

32 SEC. 8. Section 100735 of the Health and Safety Code  
33 is amended to read:

34 100735. (a) Every approved and licensed laboratory  
35 shall be periodically inspected by the department.  
36 Reports of each inspection shall be prepared on forms  
37 furnished by the department and shall be filed with the  
38 department.

39 (b) The department shall accept proof of inspection  
40 by the American Society of Crime Laboratory



1 Directors/Laboratory Accreditation Board  
 2 (ASCLD/LAB), with respect to a laboratory exempt  
 3 from departmental regulatory requirements pursuant to  
 4 Section 100702, as satisfying the requirements of this  
 5 section, *if the director of the department determines that*  
 6 *ASCLD/LAB standards meet or exceed the standards*  
 7 *established by the department's regulations.*

8 SEC. 9. Section 100745 of the Health and Safety Code  
 9 is amended to read:

10 100745. The director may deny a license if the  
 11 applicant or any partner, officer or director thereof:

12 (a) Except as provided in Section 100702, fails to meet  
 13 the qualifications established by the department  
 14 pursuant to this article for the issuance of the license  
 15 applied for.

16 (b) Was previously the holder of a license issued under  
 17 this article that was revoked and never reissued or that  
 18 was suspended and the terms of the suspension have not  
 19 been fulfilled.

20 (c) Has committed any act involving dishonesty,  
 21 fraud, or deceit whereby another was injured or whereby  
 22 the applicant has benefited.

23 SEC. 10. Section 100750 of the Health and Safety Code  
 24 is amended to read:

25 100750. The director may suspend, revoke, or take  
 26 other disciplinary action against a licensee as provided in  
 27 this article if the licensee or any partner, officer or  
 28 director thereof:

29 (a) Except as provided in Section 100702, violates any  
 30 of the regulations adopted by the department pursuant  
 31 to this article.

32 (b) Commits any act of dishonesty, fraud, or deceit  
 33 whereby another is injured or whereby the licensee  
 34 benefited.

35 (c) Misrepresents any material fact in obtaining a  
 36 license.

37 (d) With respect to a laboratory exempt from  
 38 departmental regulatory requirements pursuant to  
 39 Section 100702, has its accreditation by the Proficiency  
 40 Review Committee of the American Society of Crime



- 1 Laboratory Directors/Laboratory Accreditation Board
- 2 suspended or revoked.

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