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Director & State Health Officer

State of California—Health and Human Services Agency
California Department of Public Health



EDMUND G. BROWN JR.
Governor

June 22, 2015

TO: Forensic Alcohol Analysis Laboratories

SUBJECT: AB 2425 and the Expression of Results in Breath Alcohol Analysis

As described in our advisory dated December 29, 2014, last year, Governor Brown signed a bill, AB 2425, into law. The bill added language to the Health and Safety Code that exempted laboratories accredited in forensic alcohol analysis by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board from two requirements of the current Title 17 California Code of Regulations pertaining to forensic alcohol analysis. The exemptions concerned the requirements for the determination of the concentrations of the standards used to calibrate a forensic alcohol method and the expression of forensic alcohol analytical results. The Department has determined that exemption from the requirements for the expression of results does not apply to law enforcement personnel performing breath alcohol analysis.

AB 2425 (Quirk, Chapter 570, Statutes of 2014) added a new subdivision [§100700 (a)(2)(B)] to the Health and Safety Code:

100700 (a) (2) (B) Laboratories that are accredited in forensic alcohol analysis by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board are not limited to reporting analytical results to the second decimal place.

This statutory provision provides an exemption to the requirement of Title 17, Section 1220.4 (b), pertaining to the methods of forensic alcohol analysis by forensic alcohol laboratories (Article 6, 17 § CCR 1220 et seq.), which states:

1220.4 (b) Analytical results shall be reported to the second decimal place, deleting the digit in the third decimal place when it is present.

When reporting the results of blood, urine or tissue analyses, H&S Code 100700 (a)(2)(B) provides the appropriately accredited forensic alcohol laboratory with an exemption from the requirements of Title 17 Section 1220.4 (b).

Breath alcohol analysis is normally performed by law enforcement personnel at sites other than the forensic alcohol laboratory. These analyses are governed by procedures under Article 7 (17 CCR §1221 et seq.).

Forensic Alcohol Analysis Laboratories

Page 2

June 22, 2015

Section 1221.5 of Article 7 requires the results of breath alcohol analysis to be expressed as set forth in section 1220.4, however, AB 2425's specific exemption for accredited "laboratories" provided by Health and Safety Code §100700 (a)(2)(B) does not include language that would extend the exemption to law enforcement personnel reporting the results of their breath tests.

Law enforcement personnel and the instruction provided to breath instrument operator trainees should continue to comply with the reporting requirements of Title 17, Section 1220.4 (b).

Sincerely,

A handwritten signature in black ink that reads "Bob Moezzi". The signature is written in a cursive style with a large, sweeping flourish at the end.

Bob Moezzi, Ph.D., Chief
Food and Drug Laboratory Branch