

SUBSTITUTE FOR
SENATE BILL NO. 434

(As amended January 14, 2016)

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
(MCL 257.1 to 257.923) by adding sections 43b and 625q.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 43B. "PRELIMINARY ORAL FLUID ANALYSIS" MEANS THE ON-SITE
2 TAKING OF A PRELIMINARY ORAL FLUID TEST, PERFORMED BY A CERTIFIED
3 DRUG RECOGNITION EXPERT, AS THAT TERM IS DEFINED IN SECTION 625Q,
4 FROM THE ORAL FLUID OF A PERSON FOR THE PURPOSE OF DETECTING THE
5 PRESENCE OF A CONTROLLED SUBSTANCE, AS THAT TERM IS DEFINED IN
6 SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7104.

7 SEC. 625Q. (1) THE DEPARTMENT OF STATE POLICE MAY ESTABLISH A
8 PILOT PROGRAM IN <<5>> COUNTIES IN THIS STATE FOR ROADSIDE DRUG TESTING
9 TO DETERMINE WHETHER AN INDIVIDUAL IS OPERATING A VEHICLE WHILE

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1 UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE IN VIOLATION OF
2 SECTION 625.

3 (2) A PILOT PROGRAM ESTABLISHED UNDER THIS SECTION SHALL BE
4 FOR A PERIOD OF 1 CALENDAR YEAR. THE FUNDING OF A PILOT PROGRAM
5 ESTABLISHED UNDER THIS SECTION IS SUBJECT TO APPROPRIATION.

6 (3) EXCEPT AS PROVIDED IN SUBSECTION (8), THE DEPARTMENT OF
7 STATE POLICE SHALL SELECT <<5>> COUNTIES IN WHICH TO IMPLEMENT A PILOT
8 PROGRAM ESTABLISHED UNDER THIS SECTION.

9 (4) A COUNTY IS ELIGIBLE TO PARTICIPATE IN THE PILOT PROGRAM
10 IF THE COUNTY HAS A LAW ENFORCEMENT AGENCY WITHIN ITS BOUNDARY,
11 INCLUDING, BUT NOT LIMITED TO, A STATE POLICE POST, A SHERIFF'S
12 DEPARTMENT, OR A MUNICIPAL POLICE DEPARTMENT, THAT EMPLOYS NOT
13 FEWER THAN 1 LAW ENFORCEMENT OFFICER WHO IS A CERTIFIED DRUG
14 RECOGNITION EXPERT.

15 (5) THE DEPARTMENT OF STATE POLICE SHALL DEVELOP A WRITTEN
16 POLICY FOR THE IMPLEMENTATION OF THE PILOT PROGRAM AND THE
17 ADMINISTRATION OF ROADSIDE DRUG TESTING.

18 (6) THE DEPARTMENT OF STATE POLICE MAY PROMULGATE RULES UNDER
19 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201
20 TO 24.328, TO IMPLEMENT A PILOT PROGRAM ESTABLISHED UNDER THIS
21 SECTION.

22 (7) NOT MORE THAN 90 DAYS AFTER THE CONCLUSION OF A PILOT
23 PROGRAM ESTABLISHED UNDER THIS SECTION, THE DEPARTMENT OF STATE
24 POLICE SHALL SUBMIT A REPORT TO THE LEGISLATIVE COMMITTEES OF THE
25 SENATE AND HOUSE OF REPRESENTATIVES WITH PRIMARY RESPONSIBILITY FOR
26 JUDICIAL AND CRIMINAL JUSTICE ISSUES. THE REPORT SHALL COVER ALL OF
27 THE FOLLOWING:

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1 (A) HOW PILOT PROGRAM PARTICIPANT COUNTIES WERE SELECTED.

2 (B) THE DIFFERENT TYPES OF LAW ENFORCEMENT AGENCIES IN THE
3 PILOT PROGRAM PARTICIPANT COUNTIES THAT ENGAGED IN ROADSIDE DRUG
4 TESTING.

5 (C) RELEVANT STATISTICAL DATA, INCLUDING, BUT NOT LIMITED TO,
6 THE FOLLOWING:

7 (i) THE NUMBER OF TRAFFIC STOPS RESULTING IN AN ARREST FOR
8 OPERATING UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE IN
9 VIOLATION OF SECTION 625 AS A RESULT OF ROADSIDE DRUG TESTING BY A
10 CERTIFIED DRUG RECOGNITION EXPERT.

11 (ii) THE NUMBER AND TYPE OF CONVICTIONS RESULTING FROM AN
12 ARREST MADE BASED ON THE RESULT OF A ROADSIDE DRUG TEST BY A
13 CERTIFIED DRUG RECOGNITION EXPERT.

14 (8) UPON THE CONCLUSION OF A PILOT PROGRAM ESTABLISHED UNDER
15 THIS SECTION, THE DEPARTMENT OF STATE POLICE MAY, SUBJECT TO
16 APPROPRIATION, ESTABLISH ADDITIONAL PILOT PROGRAMS IN ELIGIBLE
17 COUNTIES NOT INCLUDED AMONG THE <<5>> COUNTIES INITIALLY SELECTED UNDER
18 SUBSECTION (3). THE DURATION OF A PILOT PROGRAM ESTABLISHED UNDER
19 THIS SUBSECTION SHALL BE FOR A PERIOD OF 1 YEAR.

20 (9) AS USED IN THIS SECTION:

21 (A) "CERTIFIED DRUG RECOGNITION EXPERT" MEANS A LAW
22 ENFORCEMENT OFFICER TRAINED TO RECOGNIZE IMPAIRMENT IN A DRIVER
23 UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE RATHER THAN, OR IN
24 ADDITION TO, ALCOHOL.

25 (B) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN
26 SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7104.

27 Enacting section 1. This amendatory act shall be known and may

1 be cited as the "Barbara J. and Thomas J. Swift Law".

2 Enacting section 2. This amendatory act takes effect 90 days
3 after the date it is enacted into law.

4 Enacting section 3. This amendatory act does not take effect
5 unless Senate Bill No. 207 of the 98th Legislature is enacted into
6 law.