

ROADSIDE DRUG TESTING PILOT PROGRAM

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Senate Bill 718 as reported from House committee

Sponsor: Sen. Peter MacGregor

House Committee: Judiciary

Senate Committee: Judiciary and Public Safety

Complete to 5-19-20

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 87 of 2020)

BRIEF SUMMARY: Senate Bill 718 would amend the Michigan Vehicle Code to clarify the scope of a pilot program for roadside testing for controlled substances.

FISCAL IMPACT: Senate Bill 718 would not have a significant fiscal impact on the Department of State Police (MSP) or on other units of state or local government.

THE APPARENT PROBLEM:

The Barbara J. and Thomas J. Swift Law, 2016 PA 243, amended the Vehicle Code to authorize MSP to establish a one-year pilot program of roadside drug testing in five counties to be selected by MSP.¹ After the conclusion of the five-county pilot program, MSP was authorized to conduct a second one-year pilot program involving more counties. 2016 PA 242 established the parameters for the pilot programs, under which a peace officer certified as a drug recognition expert in a county participating in the pilot program could require a person to submit to a preliminary oral fluid (saliva) analysis under certain conditions to determine whether he or she was operating a vehicle while under the influence of a controlled substance (a drug, substance, or immediate precursor included in Schedules 1-5).²

The initial oral fluid roadside drug testing program began on November 8, 2017, and included Berrien, Delta, Kent, St. Clair, and Washtenaw Counties.³ The expanded pilot program (commonly called Phase 2) began on October 1, 2019, and includes participation from all drug recognition experts in the state.⁴

According to committee testimony, some feel that references in the law to the initial pilot program, and particularly to its limited five-county scope, could create confusion regarding enforcement authority in other counties now that the pilot program is in Phase 2 and has expanded across the state. Legislation has been proposed to remove references to the limited five-county scope of the initial oral fluid pilot program.

¹ <http://legislature.mi.gov/doc.aspx?2015-SB-0434>

² See <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-257-625r.pdf>

³ The MSP report on this pilot program is available here:

https://www.michigan.gov/documents/msp/Oral_Fluid_Report_646833_7.pdf

⁴ <https://www.michigan.gov/mspnewsroom/0,9602,7-398-94878-508752--,00.html>

See also p. 4: https://www.michigan.gov/documents/msp/SNN_Jan_2020_04_web_679099_7.pdf

THE CONTENT OF THE BILL:

Senate Bill 718 would amend section 625t of the Vehicle Code, which authorizes the oral fluid pilot program, to remove provisions that limited the initial pilot program to five counties, delineated the eligibility criteria for those counties, and referred to the initial pilot program in authorizing the expanded pilot program (Phase 2). The bill would not amend section 625r, which among other things describes the powers and duties of drug recognition experts participating in the program.

MCL 257.625t

HOUSE COMMITTEE ACTION:

The House Judiciary committee reported the Senate-passed version of the bill without amendment.

ARGUMENTS:

For:

Supporters of the bill argued that removing language from the law that is no longer applicable will provide necessary clarification for law enforcement officers and prosecutors regarding enforcement and violations under the program.

Against:

No arguments against the bill were offered during House committee testimony.

POSITIONS:

The following entities indicated support for the bill (5-6-20):

- Michigan State Police
- Prosecuting Attorneys Association of Michigan

Legislative Analyst: Emily S. Smith
Fiscal Analyst: Marcus Coffin

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.