

SUBSTITUTE FOR
SENATE BILL NO. 434

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 3 COUNTIES IN THIS STATE FOR ROADSIDE DRUG TESTING
9 TO DETERMINE WHETHER AN INDIVIDUAL IS OPERATING A VEHICLE WHILE

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) THE DEPARTMENT OF STATE POLICE SHALL SELECT 3 COUNTIES IN
7 WHICH TO IMPLEMENT A PILOT PROGRAM ESTABLISHED UNDER THIS SECTION.

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

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

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

21 (7) WITHIN 90 DAYS AFTER THE CONCLUSION OF A PILOT PROGRAM
22 ESTABLISHED UNDER THIS SECTION, THE DEPARTMENT OF STATE POLICE
23 SHALL SUBMIT A REPORT TO THE LEGISLATIVE COMMITTEES OF THE SENATE
24 AND HOUSE OF REPRESENTATIVES WITH PRIMARY RESPONSIBILITY FOR
25 JUDICIAL AND CRIMINAL JUSTICE ISSUES. THE REPORT SHALL COVER ALL OF
26 THE FOLLOWING:

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

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

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

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

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

13 (8) AS USED IN THIS SECTION:

14 (A) "CERTIFIED DRUG RECOGNITION EXPERT" MEANS A LAW
15 ENFORCEMENT OFFICER TRAINED TO RECOGNIZE IMPAIRMENT IN A DRIVER
16 UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE RATHER THAN, OR IN
17 ADDITION TO, ALCOHOL.

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

20 Enacting section 1. This amendatory act shall be known and may
21 be cited as the "Barbara J. and Thomas J. Swift Law".

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

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