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On Wednesday, November 8, 2017, Michigan will begin the Roadside Drug Testing Pilot Program in Berrien, Delta, Kent, St. Clair and Washtenaw counties. The general provisions of the program set forth are set below.

257.625t Roadside drug testing pilot program. (The Preliminary Oral Fluid Analysis Program – a.k.a. *Saliva testing*.)

Sec. 625t.

(1) The department of state police may establish a pilot program in 5 counties in this state for roadside drug testing to determine whether an individual is operating a vehicle while under the influence of a controlled substance in violation of section 625.

(2) A pilot program established under this section shall be for a period of 1 calendar year. The funding of a pilot program established under this section is subject to appropriation.

(3) Except as provided in subsection (8), the department of state police shall select 5 counties in which to implement a pilot program established under this section.

(4) A county is eligible to participate in the pilot program if the county has a law enforcement agency within its boundary, including, but not limited to, a state police post, a sheriff's department, or a municipal police department, that employs not fewer than 1 law enforcement officer who is a certified drug recognition expert.

(5) The department of state police shall develop a written policy for the implementation of the pilot program and the administration of roadside drug testing.

(6) The department of state police may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement a pilot program established under this section.

(7) Not more than 90 days after the conclusion of a pilot program established under this section, the department of state police shall submit a report to the legislative committees of the senate and house of representatives with primary responsibility for judicial and criminal justice issues. The report shall cover all of the following:

- (a) How pilot program participant counties were selected.
- (b) The different types of law enforcement agencies in the pilot program participant counties that engaged in roadside drug testing.
- (c) Relevant statistical data, including, but not limited to, the following:



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- (i) The number of traffic stops resulting in an arrest for operating under the influence of a controlled substance in violation of section 625 as a result of roadside drug testing by a certified drug recognition expert.
 - (ii) The number and type of convictions resulting from an arrest made based on the result of a roadside drug test by a certified drug recognition expert.
- (8) Upon the conclusion of a pilot program established under this section, the department of state police may, subject to appropriation, establish additional pilot programs in eligible counties not included among the 5 counties initially selected under subsection (3). The duration of a pilot program established under this subsection shall be for a period of 1 year.
- (9) As used in this section:
- (a) "Certified drug recognition expert" means a law enforcement officer trained to recognize impairment in a driver under the influence of a controlled substance rather than, or in addition to, alcohol.
 - (b) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

DRE's fall under the following provision:

257.625r Authority of peace officer certified as drug recognition expert to require person to submit to preliminary oral fluid analysis; arrest; admissibility of results; refusal; ordering person out of service.

- (1) A peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the roadside drug testing pilot program under section 625t who has reasonable cause to believe that a person was operating a vehicle upon a highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state and that the person by the consumption of a controlled substance, may have affected his or her ability to operate a vehicle, or reasonable cause to believe that a person had in his or her body any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214, may require the person to submit to a preliminary oral fluid analysis administered under this subsection.
- (2) A peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the roadside drug testing pilot program under section 625t may arrest a person in whole or in part upon the results of a preliminary oral fluid analysis.
- (3) The results of a preliminary oral fluid analysis are admissible in a criminal prosecution for a crime enumerated in section 625c(1) or in an administrative hearing for 1 or more of the following purposes:



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- (a) To assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.
- (b) As evidence of the presence or nonpresence of a controlled substance in the defendant's oral fluid if offered by the defendant to rebut testimony elicited on cross-examination of a defense witness that a preliminary oral fluid analysis of the defendant's oral fluid showed the presence of a controlled substance that was not found to be present when a chemical test of the defendant's blood or urine was administered under section 625a.
- (c) As evidence of the presence or nonpresence of a controlled substance in the defendant's oral fluid if offered by the prosecution to rebut testimony elicited on cross-examination of a prosecution witness that a preliminary oral fluid analysis of the defendant's oral fluid showed no presence of a controlled substance that was found to be present when a chemical test of the defendant's blood or urine was administered under section 625a.
- (4) A person who submits to a preliminary oral fluid analysis remains subject to the requirements of sections 625a, 625c, 625d, 625e, and 625f for purposes of chemical tests described in those sections.
- (5) A person who refuses to submit to a preliminary oral fluid analysis upon a lawful request by a peace officer is responsible for a civil infraction.
- (6) A peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the roadside drug testing pilot program under section 625t shall use the results of a preliminary oral fluid analysis conducted under this section to determine whether to order a person out of service under section 319d.
- (7) A peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the roadside drug testing pilot program under section 625t shall order out of service as required under section 319d a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary oral fluid analysis as provided in this section. This subsection does not limit use of other competent evidence by the peace officer to determine whether to order a person out of service under section 319d.
- (8) A person who operates a commercial motor vehicle and who is requested to submit to a preliminary oral fluid analysis under this section by a peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the pilot program under section 625t shall be advised that refusing the request is a civil infraction and will result in the issuance of a 24-hour out-of-service order.
- (9) A person who operates a commercial motor vehicle and who refuses to submit to a preliminary oral fluid analysis upon the request of a peace officer who is certified as a drug recognition expert as that term is defined in section 625t in a county participating in the pilot program under section 625t is responsible for a civil infraction.