

STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016

Introduced by Senators Jones and Schuitmaker

ENROLLED SENATE BILL No. 207

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of manufacturers, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” (MCL 257.1 to 257.923) by adding sections 62a, 625r, and 625s.

The People of the State of Michigan enact:

Sec. 62a. “Standardized field sobriety test” means 1 of the standardized tests validated by the National Highway Traffic Safety Administration. A field sobriety test is considered a standardized field sobriety test under this section if it is administered in substantial compliance with the standards prescribed by the National Highway Traffic Safety Administration.

Sec. 625r. (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:

(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.

Sec. 625s. A person who is qualified by knowledge, skill, experience, training, or education, in the administration of standardized field sobriety tests, including the horizontal gaze nystagmus (HGN) test, shall be allowed to testify subject to showing of a proper foundation of qualifications. This section does not preclude the admissibility of a nonstandardized field sobriety test if it complies with the Michigan rules of evidence.

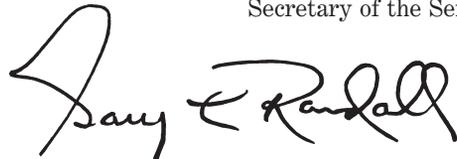
Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 434 of the 98th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor