

S.F. No. 2854 – Oral Fluid Roadside Testing Pilot Program

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Sections 1 and 9 define “search warrant” for the purposes of the DWI laws addressing revocation of a person’s driver’s license based on a chemical test obtained via a search warrant to include search warrants obtained from adjacent states whose search warrant statutes conform to Minnesota’s.

Sections 2 to 8 make conforming changes to references to search warrants in the DWI laws consistent with sections 1 and 9.

Section 10, paragraph (a) authorizes the commissioner of public safety to design, plan, and implement a pilot project intended to determine the efficacy of oral fluid roadside testing to determine the presence of a controlled or intoxicating substance in individuals stopped or arrested for driving impaired offenses.

Paragraph (b) requires the project to run from September 1, 2022, to August 31, 2023.

Paragraph (c) requires the commissioner to consult with law enforcement officials, prosecutors, and criminal defense attorneys when designing, implementing, and evaluating the project.

Paragraph (d) requires all fluid samples obtained by the project to be obtained by a certified drug recognition evaluator and only be collected with the express voluntary consent of the person stopped or arrested for suspicion of driving while impaired. Results may only be used to determine the efficacy of the testing instrument, may not be used to decide whether an arrest should be made, and are not admissible in court proceedings.

Paragraph (e) requires a February 1, 2024, report to the legislature on the results of the pilot project. The report must include information on how accurate the instruments were when tested against lab results, how often the participants were found to have controlled substances in their systems, whether there was comingling of controlled substances with alcohol, and the types of controlled substances found. Finally, the report must assess the practicality and reliability of using the instruments in the field and make recommendations on continuing the project permanently.

The Department of Public Safety will use federal funds to finance the pilot project.

The bill is effective the day following final enactment.