

1.1 Senator moves to amend S.F. No. 73 as follows:

1.2 Page 166, delete section 23 and insert:

1.3 "Sec. 23. **DWI CONTROLLED SUBSTANCE ROADSIDE TESTING INSTRUMENT**
1.4 **PILOT PROJECT; REPORT REQUIRED.**

1.5 (a) The commissioner of public safety shall design, plan, and implement a pilot project
1.6 to study oral fluid roadside testing instruments to determine the presence of a controlled
1.7 substance or intoxicating substance in individuals stopped or arrested for driving while
1.8 impaired offenses. The pilot project shall determine the practicality, accuracy, and efficacy
1.9 of these testing instruments and determine and make recommendations on the best instrument
1.10 or instruments to pursue in the future.

1.11 (b) The pilot project must begin on September 1, 2023, and continue until August 31,
1.12 2024.

1.13 (c) The commissioner shall consult with law enforcement officials, prosecutors, criminal
1.14 defense attorneys, and other interested and knowledgeable parties when designing,
1.15 implementing, and evaluating the pilot project.

1.16 (d) All oral fluid samples obtained for the purpose of this pilot project shall be obtained
1.17 by a certified drug recognition evaluator and may only be collected with the express voluntary
1.18 consent of the person stopped or arrested for suspicion of driving while impaired. Results
1.19 of tests conducted under the pilot project are to be used for the purpose of analyzing the
1.20 practicality, accuracy, and efficacy of the instrument. Results may not be used to decide
1.21 whether an arrest should be made and are not admissible in any legal proceeding.

1.22 (e) By February 1, 2025, the commissioner shall report to the chairs and ranking minority
1.23 members of the legislative committees with jurisdiction over public safety on the results of
1.24 the pilot project. At a minimum, the report must include information on how accurate the
1.25 instruments were when tested against laboratory results, how often participants were found
1.26 to have controlled substances or intoxicating substances in their systems, how often there
1.27 was commingling of controlled substances or intoxicating substances with alcohol, the types
1.28 of controlled substances or intoxicating substances found in participants' systems and which
1.29 types were most common, and the number of participants in the project. In addition, the
1.30 report must assess the practicality and reliability of using the instruments in the field and
1.31 make recommendations on continuing the project permanently.

1.32 **EFFECTIVE DATE.** This section is effective the day following final enactment."