

# STATE OF NEW YORK

8545

## IN SENATE

May 9, 2018

Introduced by Sen. MURPHY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to creating a pilot program for the field testing of mobile telephones or portable electronic devices by local police departments in Westchester county; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The vehicle and traffic law is amended by adding a new  
2 section 1225-e to read as follows:

3 § 1225-e. Pilot program for field testing of mobile telephones and  
4 portable electronic devices. 1. Purpose. For the county of Westchester,  
5 the commissioner shall authorize a two year pilot program to allow local  
6 police departments to field test mobile telephones and portable elec-  
7 tronic devices. The commissioner shall not require any police department  
8 to participate in such program.

9 2. Definitions. For the purposes of this section:

10 (a) "Field testing" shall mean the use of an electronic scanning  
11 device, approved and utilized in accordance with rules jointly promul-  
12 gated by the commissioner and the commissioner of criminal justice  
13 services, to determine whether or not the operator of a motor vehicle  
14 was using a mobile telephone or a portable electronic device in  
15 violation of section twelve hundred twenty-five-c or twelve hundred  
16 twenty-five-d of this article. Provided, that such use of an electronic  
17 scanning device shall be limited to determining whether the operator of  
18 a motor vehicle was using a mobile telephone or portable electronic  
19 device in violation of either such section at or near the time of the  
20 accident or collision which provides the grounds for such testing.  
21 Furthermore, no such electronic scan shall include the content or origin  
22 of any communication or game conducted, or image or electronic data  
23 viewed, on a mobile telephone or portable electronic device.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD15754-02-8

1 (b) "Mobile telephone" shall mean a mobile telephone as defined in  
2 paragraph (a) of subdivision one of section twelve hundred twenty-five-c  
3 of this article.

4 (c) "Portable electronic device" shall mean a portable electronic  
5 device as defined in paragraph (a) of subdivision two of section twelve  
6 hundred twenty-five-d of this article.

7 (d) "Using" shall mean:

8 (1) for the purposes of mobile telephones, as defined in paragraph (c)  
9 of subdivision one of section twelve hundred twenty-five-c of this arti-  
10 cle; and

11 (2) for the purposes of portable electronic devices, as defined in  
12 paragraph (b) of subdivision two of section twelve hundred twenty-five-d  
13 of this article.

14 3. Scope of field testing. (a) Every person operating a motor vehicle  
15 which has been involved in an accident or collision involving damage to  
16 real or personal property, personal injury or death, and who has in his  
17 or her possession at or near the time of such accident or collision, a  
18 mobile telephone or personal electronic device, shall at the request of  
19 a police officer, surrender his or her mobile telephone and/or portable  
20 electronic device to the police officer solely for the purpose of field  
21 testing such mobile telephone and/or portable electronic device. If such  
22 field testing determines that the operator of the motor vehicle was  
23 using his or her mobile telephone or portable electronic device in  
24 violation of section twelve hundred twenty-five-c or twelve hundred  
25 twenty-five-d of this article, the results of such testing shall consti-  
26 tute evidence of any such violation.

27 (b) The department shall store data collected during electronic scans  
28 and use such data to determine the accuracy of field testing.

29 4. Report. At the conclusion of such pilot program, the commissioner  
30 in consultation with the commissioner of criminal justice services shall  
31 assess the program and submit a report to the legislature and the gover-  
32 nor, which shall include, but not be limited to, the impact of the  
33 program on reducing traffic accidents, the amount of phones tested, and  
34 data analyzing the cost, efficiency, and accuracy of the field testing.

35 5. Participation. Participation in the pilot program for the county of  
36 Westchester shall be optional and subject to participation guidelines  
37 established by the commissioner.

38 § 2. This act shall take effect on the ninetieth day after it shall  
39 have become a law and shall expire and be deemed repealed two years  
40 after such date.