

STATE OF NEW YORK

2247

2019-2020 Regular Sessions

IN ASSEMBLY

January 22, 2019

Introduced by M. of A. ORTIZ -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to creating pilot programs for the field testing of mobile telephones or portable electronic devices by local police departments in Westchester county and Kings 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 and the county of Kings, the commissioner shall authorize a two year
6 pilot program for each county to allow local police departments to field
7 test mobile telephones and portable electronic devices. Each county
8 pilot program shall be separate and independent of the other. The
9 commissioner shall not require any police department to participate in
10 such program.

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

12 (a) "Field testing" shall mean the use of an electronic scanning
13 device, approved and utilized in accordance with rules jointly promul-
14 gated by the commissioner and the commissioner of criminal justice
15 services, to determine whether or not the operator of a motor vehicle
16 was using a mobile telephone or a portable electronic device in
17 violation of section twelve hundred twenty-five-c or twelve hundred
18 twenty-five-d of this article. Provided, that such use of an electronic
19 scanning device shall be limited to determining whether the operator of
20 a motor vehicle was using a mobile telephone or portable electronic
21 device in violation of either such section at or near the time of the
22 accident or collision which provides the grounds for such testing.

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

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1 Furthermore, no such electronic scan shall include the content or origin
2 of any communication or game conducted, or image or electronic data
3 viewed, on a mobile telephone or portable electronic device.

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

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

10 (d) "Using" shall mean:

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

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

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

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

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

38 5. Participation. Participation in the pilot programs for the counties
39 of Westchester and Kings shall be optional and subject to participation
40 guidelines established by the commissioner.

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