

# STATE OF NEW YORK

7267

2019-2020 Regular Sessions

## IN ASSEMBLY

April 18, 2019

Introduced by M. of A. PAULIN -- read once and referred 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 for such coun-  
6 ty to allow local police departments to field test mobile telephones and  
7 portable electronic devices. The commissioner shall not require any  
8 police department 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

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

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1 of any communication or game conducted, or image or electronic data  
2 viewed, on a mobile telephone or portable electronic device.

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

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

9 (d) "Using" shall mean:

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

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

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

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

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

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

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