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 section 1225-e to read as follows:

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

2. Definitions. For the purposes of this section:

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

Furthermore, no such electronic scan shall include the content or origin of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [ ] is old law to be omitted.
of any communication or game conducted, or image or electronic data
viewed, on a mobile telephone or portable electronic device.
(b) "Mobile telephone" shall mean a mobile telephone as defined in
paragraph (a) of subdivision one of section twelve hundred twenty-five-c
of this article.
(c) "Portable electronic device" shall mean a portable electronic
device as defined in paragraph (a) of subdivision two of section twelve
hundred twenty-five-d of this article.
(d) "Using" shall mean:
(1) for the purposes of mobile telephones, as defined in paragraph (c)
of subdivision one of section twelve hundred twenty-five-c of this arti-
cle; and
(2) for the purposes of portable electronic devices, as defined in
paragraph (b) of subdivision two of section twelve hundred twenty-five-d
of this article.
3. Scope of field testing. (a) Every person operating a motor vehicle
which has been involved in an accident or collision involving damage to
real or personal property, personal injury or death, and who has in his
or her possession at or near the time of such accident or collision, a
mobile telephone or personal electronic device, shall at the request of
a police officer, submit his or her mobile telephone and/or portable
electronic device to the police officer solely for the purpose of field
testing such mobile telephone and/or portable electronic device. If such
field testing determines that the operator of the motor vehicle was
using his or her mobile telephone or portable electronic device in
violation of section twelve hundred twenty-five-c or twelve hundred
twenty-five-d of this article, the results of such testing shall consti-
tute evidence of any such violation.
(b) The department shall store data collected during electronic scans
and use such data to determine the accuracy of field testing.
4. Report. At the conclusion of such pilot program, the commissioner
in consultation with the commissioner of criminal justice services shall
assess the program and submit a report to the legislature and the gover-
nor, which shall include, but not be limited to, the impact of the
program on reducing traffic accidents, the amount of phones tested, and
data analyzing the cost, efficiency, and accuracy of the field testing.
5. Participation. Participation in the pilot program for the county of
Westchester shall be optional and subject to participation guidelines
established by the commissioner.
§ 2. This act shall take effect on the ninetieth day after it shall
have become a law and shall expire and be deemed repealed two years
after such date.