SB136

88487-4

By Senator Smitherman

RFD: Judiciary

First Read: 05-FEB-08

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SYNOPSIS: Existing law does not require the keeping of statistics to determine if traffic stops are being made solely on the basis of the racial or ethnic status of persons.

This bill would define racial profiling and would prohibit a law enforcement officer from engaging in racial profiling.

This bill would require municipal police departments and the Department of Public Safety to adopt written policies to prohibit racial profiling; would require the adoption of the forms to be used for statistics of traffic stops; would provide for complaints; and would require reports to be filed in the Office of the Attorney General.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from

becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

A BILL

TO BE ENTITLED

AN ACT

Relating to traffic stops; to prohibit a law enforcement officer from engaging in racial profiling; to require adoption of written policies and the forms to be used for statistics of traffic stops; to provide for complaints; to require reports to be filed in the Office of the Attorney General; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the

Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) For the purposes of this section, "traffic stops based on racial profiling" shall mean the detention, interdiction, or other disparate treatment of a motorist solely on the basis of the racial or ethnic status of the motorist.

(b) No member of the Department of Public Safety, a municipal police department, or any other law enforcement agency shall engage in traffic stops based on racial profiling. The detention of an individual based on any noncriminal factor or combination of noncriminal factors shall be inconsistent with this policy.

(c) The race or ethnicity of a motorist shall not be the sole factor in determining the existence of probable cause to place in custody or to make an arrest of the motorist or in constituting a reasonable and articulable suspicion that an offense has been or is being committed to justify the detention of the motorist or the investigatory stop of a motor vehicle.

Section 2. (a) No later than January 1, 2009, each municipal police department and the Department of Public Safety shall adopt a written policy that prohibits the stopping, detention, or search of any motorist when the action is solely motivated by considerations of race, color,

ethnicity, age, gender, or sexual orientation, and the action would constitute a violation of the civil rights of the person.

(b) Commencing on January 1, 2009, each municipal police department and the Department of Public Safety, using the form developed and promulgated pursuant to Section 3, shall record and retain all of the following information:

(1) The number of persons stopped for traffic violations.

(2) Characteristics of race, color, ethnicity, gender, and age of the persons, provided the identification of the characteristics shall be based on the observation and perception of the police officer responsible for reporting the stop and the information shall not be required to be provided by the person stopped.

(3) The nature of the alleged traffic violation that resulted in the stop.

(4) Whether a warning or citation was issued, an arrest made, or a search conducted as a result of the stop.

(5) Any additional information that the municipal police department or the Department of Public Safety deems appropriate.

(c) Each municipal police department and the Department of Public Safety shall provide to the Office of the Attorney General a copy of each complaint received of a violation of this section, and written notification of the review and disposition of the complaint.

(d) A police officer who in good faith records traffic stop information pursuant to the requirements of this section shall not be held civilly liable for the act of recording the information unless the conduct of the officer was unreasonable or reckless.

(e) If a municipal police department or the Department of Public Safety fails to comply with this section, the Attorney General may recommend and may order an appropriate penalty in the form of the withholding of funds from the municipal police department or withholding of funds from the Department of Public Safety.

(f) On or before October 1, 2009, and annually thereafter, each municipal police department and the Department of Public Safety shall provide to the Attorney General, in the form the Attorney General shall prescribe, a summary report of the information recorded pursuant to subsection (b).

(g) The Attorney General, within the limits of existing appropriations, shall provide for a review of the prevalence and disposition of traffic stops and complaints reported pursuant to this section. No later than the fifth legislative day in the 2009 Regular Session of the Legislature of Alabama, the Attorney General shall report to the Governor and the Legislature of Alabama the results of the review, including any recommendations.

Section 3. No later than January 1, 2009, the Attorney General, in conjunction with the Director of Public

Safety, the Administrative Office of Courts, and the Peace Officers Standards and Training Commission shall develop and promulgate:

(1) A form, in both printed and electronic format, to be used by police officers when making a traffic stop to record personal identifying information about the operator of the motor vehicle that is stopped, the location of the stop, the reason for the stop, and other information that is required to be recorded pursuant to subsection (b) of Section 2.

(2) A form in both printed and electronic format, to be used to report complaints pursuant to Section 2 by persons who believe they have been subjected to a motor vehicle stop by a police officer solely on the basis of their race, color, ethnicity, age, gender, or sexual orientation.

Section 4. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the Legislative Fiscal Office has determined the bill has an aggregate fiscal impact of less than $50,000 annually.

Section 5. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.