

1 SB192
2 135189-1
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 07-FEB-12

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

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

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

22 Amendment 621 of the Constitution of Alabama
23 of 1901, now appearing as Section 111.05 of the
24 Official Recompilation of the Constitution of
25 Alabama of 1901, as amended, prohibits a general
26 law whose purpose or effect would be to require a

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

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

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17 A BILL
18 TO BE ENTITLED
19 AN ACT
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21 Relating to traffic stops; to prohibit a law
22 enforcement officer from engaging in racial profiling; to
23 require adoption of written policies and the forms to be used
24 for statistics of traffic stops; to provide for complaints; to
25 require reports to be filed in the Office of the Attorney
26 General; and in connection therewith would have as its purpose

1 or effect the requirement of a new or increased expenditure of
2 local funds within the meaning of Amendment 621 of the
3 Constitution of Alabama of 1901, now appearing as Section
4 111.05 of the Official Recompilation of the Constitution of
5 Alabama of 1901, as amended.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

25 Section 2. (a) No later than January 1, 2014, each
26 municipal police department and the Department of Public

1 Safety shall adopt a written policy that prohibits the
2 stopping, detention, or search of any motorist when the action
3 is solely motivated by considerations of race, color,
4 ethnicity, age, gender, or sexual orientation, and the action
5 would constitute a violation of the civil rights of the
6 person.

7 (b) Commencing on January 1, 2014, each municipal
8 police department and the Department of Public Safety, using
9 the form developed and promulgated pursuant to Section 3,
10 shall record and retain all of the following information:

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

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

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

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

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

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

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

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

17 (f) On or before October 1, 2014, and annually
18 thereafter, each municipal police department and the
19 Department of Public Safety shall provide to the Attorney
20 General, in the form the Attorney General shall prescribe, a
21 summary report of the information recorded pursuant to
22 subsection (b).

23 (g) The Attorney General, within the limits of
24 existing appropriations, shall provide for a review of the
25 prevalence and disposition of traffic stops and complaints
26 reported pursuant to this section. No later than the fifth

1 legislative day in the 2014 Regular Session of the Legislature
2 of Alabama, the Attorney General shall report to the Governor
3 and the Legislature of Alabama the results of the review,
4 including any recommendations.

5 Section 3. No later than January 1, 2014, the
6 Attorney General, in conjunction with the Director of Public
7 Safety, the Administrative Office of Courts, and the Peace
8 Officers Standards and Training Commission shall develop and
9 promulgate:

10 (1) A form, in both printed and electronic format,
11 to be used by police officers when making a traffic stop to
12 record personal identifying information about the operator of
13 the motor vehicle that is stopped, the location of the stop,
14 the reason for the stop, and other information that is
15 required to be recorded pursuant to subsection (b) of Section
16 2.

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

22 Section 4. Although this bill would have as its
23 purpose or effect the requirement of a new or increased
24 expenditure of local funds, the bill is excluded from further
25 requirements and application under Amendment 621, now
26 appearing as Section 111.05 of the Official Recompilation of

1 the Constitution of Alabama of 1901, as amended, because the
2 Legislative Fiscal Office has determined the bill has an
3 aggregate fiscal impact of less than \$50,000 annually.

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