

1 SB192
2 165159-1
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 10-MAR-15

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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 Alabama Law Enforcement Agency
17 to 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
27 new or increased expenditure of local funds from

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

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

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

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

1 Constitution of Alabama of 1901, now appearing as Section
2 111.05 of the Official ReCompilation of the Constitution of
3 Alabama of 1901, as amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

23 Section 2. (a) No later than January 1, following
24 the effective date of this act, each municipal police
25 department and the Alabama Law Enforcement Agency shall adopt
26 a written policy that prohibits the stopping, detention, or
27 search of any motorist when the action is solely motivated by

1 considerations of race, color, ethnicity, age, gender, or
2 sexual orientation, and the action would constitute a
3 violation of the civil rights of the person.

4 (b) Commencing on January 1, following the effective
5 date of this act, each municipal police department and the
6 Alabama Law Enforcement Agency, using the form developed and
7 promulgated pursuant to Section 3, shall record and retain all
8 of the following information:

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

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

17 In addition to the foregoing, when a police officer
18 provides the aforementioned observed characteristics of the
19 person stopped, the same characteristics of the police officer
20 shall be provided in the same manner and adjacent to the
21 information regarding the person stopped.

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

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

1 (5) Any additional information that the municipal
2 police department or the Alabama Law Enforcement Agency deems
3 appropriate.

4 (c) Each municipal police department and the Alabama
5 Law Enforcement Agency shall provide to the Office of the
6 Attorney General a copy of each complaint received of a
7 violation of this act, and written notification of the review
8 and disposition of the complaint.

9 (d) Demographic information collected in good faith
10 by a police officer pursuant to the requirements of this
11 section shall not serve as the basis of any civil action.

12 (e) If a municipal police department or the Alabama
13 Law Enforcement Agency fails to comply with this section, the
14 Attorney General may recommend and may order an appropriate
15 penalty in the form of the withholding of funds from the
16 municipal police department or withholding of funds from the
17 Alabama Law Enforcement Agency until such time that the
18 municipal police department or the Alabama Law Enforcement
19 Agency completes appropriate training regarding racial
20 profiling.

21 (f) On or before October 1 of the second year
22 following the effective date of this act, and annually
23 thereafter, each municipal police department and the Alabama
24 Law Enforcement Agency shall provide to the Attorney General,
25 in the form the Attorney General shall prescribe, a summary
26 report of the information recorded pursuant to subsection (b).

1 (g) The Attorney General, within the limits of
2 existing appropriations, shall provide for a review of the
3 prevalence and disposition of traffic stops and complaints
4 reported pursuant to this act. No later than the fifth
5 legislative day of the Regular Session of the Legislature of
6 Alabama, commencing in the second year following the effective
7 date of this act, the Attorney General shall report to the
8 Governor and the Legislature of Alabama the results of the
9 review, including any recommendations.

10 Section 3. No later than January 1, following the
11 effective date of this act, the Attorney General, in
12 conjunction with the Secretary of the Alabama Law Enforcement
13 Agency, the Administrative Office of Courts, and the Peace
14 Officers' Standards and Training Commission shall develop and
15 promulgate both of the following:

16 (1) A form, in both printed and electronic format,
17 to be used by police officers when making a traffic stop to
18 record personal identifying information about the operator of
19 the motor vehicle that is stopped and the personal identifying
20 information about the police officer, the location of the
21 stop, the reason for the stop, and other information that is
22 required to be recorded pursuant to subsection (b) of Section
23 2.

24 (2) A form in both printed and electronic format, to
25 be used to report complaints pursuant to Section 2 by persons
26 who believe they have been subjected to a motor vehicle stop

1 by a police officer solely on the basis of their race, color,
2 ethnicity, age, gender, or sexual orientation.

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

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