

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

1 SB192

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Relating to traffic stops; to prohibit a law
12 enforcement officer from engaging in racial profiling; to
13 require adoption of written policies and the forms to be used
14 for statistics of traffic stops; to provide for complaints; to
15 require reports to be filed in the Office of the Attorney
16 General; and in connection therewith would have as its purpose
17 or effect the requirement of a new or increased expenditure of
18 local funds within the meaning of Amendment 621 of the
19 Constitution of Alabama of 1901, now appearing as Section
20 111.05 of the Official ReCompilation of the Constitution of
21 Alabama of 1901, as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. (a) For the purposes of this section,
24 "traffic stops based on racial profiling" shall mean the
25 detention, interdiction, or other disparate treatment of a

1 motorist solely on the basis of the racial or ethnic status of
2 the motorist.

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

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

16 Section 2. (a) No later than January 1, 2014, each
17 municipal police department and the Department of Public
18 Safety shall adopt a written policy that prohibits the
19 stopping, detention, or search of any motorist when the action
20 is solely motivated by considerations of race, color,
21 ethnicity, age, gender, or sexual orientation, and the action
22 would constitute a violation of the civil rights of the
23 person.

24 (b) Commencing on January 1, 2014, each municipal
25 police department and the Department of Public Safety, using

1 the form developed and promulgated pursuant to Section 3,
2 shall record and retain all of the following information:

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

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

11 In addition to the foregoing, when a police officer
12 provides the aforementioned observed characteristics of the
13 person stopped, the same characteristics of the police officer
14 shall be provided in the same manner and adjacent to the
15 information regarding the person stopped.

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

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

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

23 (c) Each municipal police department and the
24 Department of Public Safety shall provide to the Office of the
25 Attorney General a copy of each complaint received of a

1 violation of this section, and written notification of the
2 review and disposition of the complaint.

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

6 (e) If a municipal police department or the
7 Department of Public Safety fails to comply with this section,
8 the Attorney General may recommend and may order an
9 appropriate penalty in the form of the withholding of funds
10 from the municipal police department or withholding of funds
11 from the Department of Public Safety until such time that the
12 municipal police department or the Department of Public Safety
13 completes appropriate training regarding racial profiling.

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

20 (g) The Attorney General, within the limits of
21 existing appropriations, shall provide for a review of the
22 prevalence and disposition of traffic stops and complaints
23 reported pursuant to this section. No later than the fifth
24 legislative day in the 2014 Regular Session of the Legislature
25 of Alabama, the Attorney General shall report to the Governor

1 and the Legislature of Alabama the results of the review,
2 including any recommendations.

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

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

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

21 Section 4. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621, now
25 appearing as Section 111.05 of the Official ReCompilation of
26 the Constitution of Alabama of 1901, as amended, because the

1 Legislative Fiscal Office has determined the bill has an
2 aggregate fiscal impact of less than \$50,000 annually.

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

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 07-FEB-12

Read for the second time and placed on the calen-
dar 2 amendments..... 23-FEB-12

Read for the third time and passed as amended 22-MAR-12

Yeas 18
Nays 4
Abstaining 2

Patrick Harris
Secretary