

1 SB112  
2 181526-1  
3 By Senators Smitherman, Singleton, Ross, Sanders,  
4 Coleman-Madison and Dunn  
5 RFD: Judiciary  
6 First Read: 07-FEB-17

8 SYNOPSIS: Existing law does not require the keeping of  
9 statistics to determine if traffic stops are being  
10 made solely on the basis of the racial or ethnic  
11 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 county and municipal  
16 police departments and the Alabama State Law  
17 Enforcement Agency to adopt written policies to  
18 prohibit racial profiling; would require the  
19 adoption of the forms to be used for statistics of  
20 traffic stops; would provide for complaints; and  
21 would require reports to be filed in the Office of  
22 the Attorney General.

23 Amendment 621 of the Constitution of Alabama  
24 of 1901, now appearing as Section 111.05 of the  
25 Official Recompilation of the Constitution of  
26 Alabama of 1901, as amended, prohibits a general  
27 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. If this  
12 bill is not enacted by a 2/3 vote, it will not  
13 become effective with regard to a local entity  
14 unless approved by the local entity or until, and  
15 only as long as, the Legislature appropriates funds  
16 or provides for a local source of revenue.

17  
18 A BILL

19 TO BE ENTITLED

20 AN ACT

21  
22 Relating to traffic stops; to prohibit a law  
23 enforcement officer from engaging in racial profiling; to  
24 require adoption of written policies and the forms to be used  
25 for statistics on traffic stops; to provide for complaints; to  
26 require reports to be filed in the Office of the Attorney  
27 General; and in connection therewith to have as its purpose or

1 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 Alabama State Law Enforcement  
13 Agency, a county or municipal police department, or any other  
14 law enforcement agency shall engage in traffic stops based on  
15 racial 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, 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, following  
26 the effective date of this act, each county and municipal  
27 police department and the Alabama State Law Enforcement Agency

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

6 (b) Commencing on January 1, following the effective  
7 date of this act, each county and municipal police department  
8 and the Alabama State Law Enforcement Agency, using the form  
9 developed and promulgated pursuant to Section 3, shall record  
10 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 law enforcement officer responsible for  
17 reporting the stop and the information shall not be required  
18 to be provided by the person stopped.

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

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

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

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

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

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

12          (e) If a county or municipal police department or  
13          the Alabama State Law Enforcement Agency fails to comply with  
14          this section, the Attorney General may recommend and may order  
15          an appropriate penalty in the form of the withholding of funds  
16          from the county or municipal police department or withholding  
17          of funds from the Alabama State Law Enforcement Agency until  
18          such time that the county or municipal police department or  
19          the Alabama State Law Enforcement Agency completes appropriate  
20          training regarding racial 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 county and municipal police department and  
24          the Alabama State Law Enforcement Agency shall provide to the  
25          Attorney General, in the form the Attorney General shall  
26          prescribe, a summary report of the information recorded  
27          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 State Law  
13 Enforcement Agency, the Administrative Office of Courts, and  
14 the Peace Officers' Standards and Training Commission shall  
15 develop and promulgate both of the following:

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

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

3 Section 4. Amendment 621 of the Constitution of  
4 Alabama of 1901, now appearing as Section 111.05 of the  
5 Official Recompilation of the Constitution of Alabama of 1901,  
6 as amended, prohibits a general law whose purpose or effect  
7 would be to require a new or increased expenditure of local  
8 funds from becoming effective with regard to a local  
9 governmental entity without enactment by a 2/3 vote unless: it  
10 comes within one of a number of specified exceptions; it is  
11 approved by the affected entity; or the Legislature  
12 appropriates funds, or provides a local source of revenue, to  
13 the entity for the purpose.

14 The purpose or effect of this bill would be to  
15 require a new or increased expenditure of local funds within  
16 the meaning of the amendment. If this bill is not enacted by a  
17 2/3 vote, it will not become effective with regard to a local  
18 entity unless approved by the local entity or until, and only  
19 as long as, the Legislature appropriates funds or provides for  
20 a local source of revenue.

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