

1 SB24  
2 165159-1  
3 By Senator Smitherman  
4 RFD: Tourism and Marketing  
5 First Read: 15-AUG-16

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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 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.