

HOUSE BILL 130

E4

11r0503

By: **Delegates Braveboy, Burns, Cane, Carr, Carter, Gaines, Howard, Pena-Melnyk, B. Robinson, Ross, V. Turner, Valderrama, Washington, and ~~Wilson~~ Wilson, and Glenn**

Introduced and read first time: January 24, 2011

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2011

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws – Race-Based Traffic Stops**

3 FOR the purpose of requiring certain law enforcement officers to record certain
4 information pertaining to traffic stops; requiring certain law enforcement
5 agencies to report certain information to the Maryland ~~Justice~~ Statistical
6 Analysis Center (~~MJAC~~ MSAC); requiring the Police Training Commission to
7 develop a certain format and guidelines and a standardized format for the
8 reporting of certain data; requiring the Police Training Commission to develop a
9 certain model policy; requiring the ~~MJAC~~ MSAC to analyze certain data based
10 on a methodology developed in conjunction with the Police Training
11 Commission; requiring the ~~MJAC~~ MSAC to make certain reports to the General
12 Assembly, the Governor, and law enforcement agencies; requiring law
13 enforcement agencies to adopt certain policies regarding race-based traffic stops
14 for certain purposes; requiring the ~~MJAC~~ MSAC to report to the Police Training
15 Commission law enforcement agencies that fail to comply with certain reporting
16 requirements; requiring specified actions following a report on the failure of a
17 law enforcement agency to comply; providing certain exceptions applicable to
18 law enforcement agencies that are subject to certain agreements; defining
19 certain terms; ~~requiring the Governor to appropriate certain funding in each~~
20 ~~fiscal year to assist local law enforcement agencies to implement certain~~
21 ~~provisions of this Act; altering certain definitions; repealing certain provisions~~
22 ~~of this Act; providing for the termination of a certain provision of this Act;~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 providing for a delayed effective date for certain provisions of this Act; and
 2 generally relating to law enforcement procedures and traffic stops.

3 BY adding to
 4 Article – Transportation
 5 Section 25–113
 6 Annotated Code of Maryland
 7 (2009 Replacement Volume and 2010 Supplement)

8 BY repealing and reenacting, with amendments,
 9 Article – Transportation
 10 Section 25–113
 11 Annotated Code of Maryland
 12 (2009 Replacement Volume and 2010 Supplement)
 13 (As enacted by Section 1 of this Act)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Transportation**

17 **25–113.**

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 19 MEANINGS INDICATED.

20 (2) “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS
 21 LISTED IN § 3–101(E) OF THE PUBLIC SAFETY ARTICLE AND THAT, IN
 22 ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, IS SUBJECT TO THE
 23 PROVISIONS OF THIS SECTION.

24 (3) “LAW ENFORCEMENT OFFICER” MEANS ANY PERSON WHO, IN
 25 AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS AND WHO IS
 26 AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO THIS
 27 SECTION.

28 (4) ~~“MARYLAND JUSTICE ANALYSIS CENTER” MEANS THE~~
 29 ~~CENTER OPERATED BY THE DEPARTMENT OF CRIMINOLOGY AND CRIMINAL~~
 30 ~~JUSTICE AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK~~ STATISTICAL
 31 ANALYSIS CENTER” MEANS THE RESEARCH, DEVELOPMENT, AND EVALUATION
 32 COMPONENT OF THE GOVERNOR’S OFFICE OF CRIME CONTROL AND
 33 PREVENTION.

34 (5) “POLICE TRAINING COMMISSION” MEANS THE UNIT WITHIN
 35 THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
 36 ESTABLISHED UNDER § 3–202 OF THE PUBLIC SAFETY ARTICLE.

1 **(6) (I) “TRAFFIC STOP” MEANS ANY INSTANCE WHEN A LAW**
2 **ENFORCEMENT OFFICER STOPS THE DRIVER OF A MOTOR VEHICLE AND**
3 **DETAINS THE DRIVER FOR ANY PERIOD OF TIME FOR A VIOLATION OF THE**
4 **MARYLAND VEHICLE LAW.**

5 **(II) “TRAFFIC STOP” DOES NOT INCLUDE:**

- 6 1. **A CHECKPOINT OR ROADBLOCK STOP;**
- 7 2. **A STOP OF MULTIPLE VEHICLES DUE TO A**
8 **TRAFFIC ACCIDENT OR EMERGENCY SITUATION REQUIRING THE STOPPING OF**
9 **VEHICLES FOR PUBLIC SAFETY PURPOSES; ~~OR~~**
- 10 3. **A STOP BASED ON THE USE OF RADAR, LASER, OR**
11 **VASCAR TECHNOLOGY; OR**
- 12 4. **A STOP BASED ON THE USE OF LICENSE PLATE**
13 **READER TECHNOLOGY.**

14 **(B) THE POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE**
15 **MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER, SHALL DEVELOP:**

16 **(1) A MODEL FORMAT FOR THE EFFICIENT RECORDING OF DATA**
17 **REQUIRED UNDER SUBSECTION (D) OF THIS SECTION ON AN ELECTRONIC**
18 **DEVICE, OR BY ANY OTHER MEANS, FOR USE BY A LAW ENFORCEMENT AGENCY;**

19 **(2) GUIDELINES THAT EACH LAW ENFORCEMENT AGENCY MAY**
20 **USE AS A MANAGEMENT TOOL TO EVALUATE DATA COLLECTED BY ITS OFFICERS**
21 **FOR USE IN COUNSELING AND IMPROVED TRAINING;**

22 **(3) A STANDARDIZED FORMAT THAT EACH LAW ENFORCEMENT**
23 **AGENCY SHALL USE IN REPORTING DATA TO THE MARYLAND ~~JUSTICE~~**
24 **STATISTICAL ANALYSIS CENTER UNDER SUBSECTION (E) OF THIS SECTION;**
25 **AND**

26 **(4) A MODEL POLICY AGAINST RACE-BASED TRAFFIC STOPS THAT**
27 **A LAW ENFORCEMENT AGENCY CAN USE IN DEVELOPING ITS POLICY IN**
28 **ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION.**

29 **(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS**
30 **SECTION APPLIES TO EACH LAW ENFORCEMENT AGENCY THAT HAS ONE OR**
31 **MORE LAW ENFORCEMENT OFFICERS.**

1 **(2) EXCEPT AS PROVIDED IN SUBSECTION (E)(2) OF THIS**
2 **SECTION, THIS SECTION DOES NOT APPLY TO A LAW ENFORCEMENT AGENCY**
3 **THAT IS SUBJECT TO AN AGREEMENT WITH THE UNITED STATES DEPARTMENT**
4 **OF JUSTICE THAT REQUIRES IT TO COLLECT DATA ON THE RACE OR ETHNICITY**
5 **OF THE DRIVERS OF MOTOR VEHICLES STOPPED.**

6 **(D) EACH TIME A LAW ENFORCEMENT OFFICER MAKES A TRAFFIC STOP,**
7 **THAT OFFICER SHALL REPORT THE FOLLOWING INFORMATION TO THE LAW**
8 **ENFORCEMENT AGENCY THAT EMPLOYS THE OFFICER USING THE FORMAT**
9 **DEVELOPED UNDER SUBSECTION (B)(1) OF THIS SECTION:**

10 **(1) THE DATE, LOCATION, AND THE TIME OF THE STOP;**

11 **(2) THE APPROXIMATE DURATION OF THE STOP;**

12 **(3) THE TRAFFIC VIOLATION OR VIOLATIONS ALLEGED TO HAVE**
13 **BEEN COMMITTED THAT LED TO THE STOP;**

14 **(4) WHETHER A SEARCH WAS CONDUCTED AS A RESULT OF THE**
15 **STOP;**

16 **(5) IF A SEARCH WAS CONDUCTED, THE REASON FOR THE**
17 **SEARCH, WHETHER THE SEARCH WAS CONSENSUAL OR NONCONSENSUAL,**
18 **WHETHER A PERSON WAS SEARCHED, AND WHETHER A PERSON'S PROPERTY**
19 **WAS SEARCHED;**

20 **(6) WHETHER ANY CONTRABAND OR OTHER PROPERTY WAS**
21 **SEIZED IN THE COURSE OF THE SEARCH;**

22 **(7) WHETHER A WARNING, SAFETY EQUIPMENT REPAIR ORDER,**
23 **OR CITATION WAS ISSUED AS A RESULT OF THE STOP;**

24 **(8) IF A WARNING, SAFETY EQUIPMENT REPAIR ORDER, OR**
25 **CITATION WAS ISSUED, THE BASIS FOR ISSUING THE WARNING, SAFETY**
26 **EQUIPMENT REPAIR ORDER, OR CITATION;**

27 **(9) WHETHER AN ARREST WAS MADE AS A RESULT OF EITHER**
28 **THE STOP OR THE SEARCH;**

29 **(10) IF AN ARREST WAS MADE, THE CRIME CHARGED;**

30 **(11) THE STATE IN WHICH THE STOPPED VEHICLE IS REGISTERED;**

31 **(12) THE GENDER OF THE DRIVER;**

1 (13) THE DATE OF BIRTH OF THE DRIVER;

2 (14) THE STATE AND, IF AVAILABLE ON THE DRIVER'S LICENSE,
3 THE COUNTY OF RESIDENCE OF THE DRIVER; AND

4 (15) THE RACE OR ETHNICITY OF THE DRIVER AS:

5 (I) ASIAN;

6 (II) BLACK;

7 (III) HISPANIC;

8 (IV) WHITE; OR

9 (V) OTHER.

10 (E) (1) A LAW ENFORCEMENT AGENCY SHALL:

11 (I) COMPILE THE DATA DESCRIBED IN SUBSECTION (D) OF
12 THIS SECTION FOR THE CALENDAR YEAR AS A REPORT IN THE FORMAT
13 REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION; AND

14 (II) SUBMIT THE REPORT TO THE MARYLAND ~~JUSTICE~~
15 STATISTICAL ANALYSIS CENTER NO LATER THAN MARCH 1 OF THE FOLLOWING
16 CALENDAR YEAR.

17 (2) A LAW ENFORCEMENT AGENCY THAT IS EXEMPT UNDER
18 SUBSECTION (C)(2) OF THIS SECTION SHALL SUBMIT TO THE MARYLAND
19 ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER COPIES OF REPORTS IT SUBMITS TO
20 THE UNITED STATES DEPARTMENT OF JUSTICE IN LIEU OF THE REPORT
21 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

22 (F) (1) THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER
23 SHALL ANALYZE THE ANNUAL REPORTS OF LAW ENFORCEMENT AGENCIES
24 SUBMITTED UNDER SUBSECTION (E) OF THIS SECTION BASED ON A
25 METHODOLOGY DEVELOPED IN CONSULTATION WITH THE POLICE TRAINING
26 COMMISSION.

27 (2) THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER
28 SHALL SUBMIT A REPORT OF THE FINDINGS TO THE GOVERNOR, THE GENERAL
29 ASSEMBLY AS PROVIDED IN § 2-1246 OF THE STATE GOVERNMENT ARTICLE,
30 AND EACH LAW ENFORCEMENT AGENCY BEFORE SEPTEMBER 1 OF EACH YEAR.

1 (G) (1) A LAW ENFORCEMENT AGENCY SHALL ADOPT A POLICY
 2 AGAINST RACE-BASED TRAFFIC STOPS THAT IS TO BE USED AS A MANAGEMENT
 3 TOOL TO PROMOTE NONDISCRIMINATORY LAW ENFORCEMENT AND IN THE
 4 TRAINING AND COUNSELING OF ITS OFFICERS.

5 (2) (I) THE POLICY SHALL PROHIBIT THE PRACTICE OF USING
 6 AN INDIVIDUAL'S RACE OR ETHNICITY AS THE SOLE JUSTIFICATION TO INITIATE
 7 A TRAFFIC STOP.

8 (II) THE POLICY SHALL MAKE CLEAR THAT IT MAY NOT BE
 9 CONSTRUED TO ALTER THE AUTHORITY OF A LAW ENFORCEMENT OFFICER TO
 10 MAKE AN ARREST, CONDUCT A SEARCH OR SEIZURE, OR OTHERWISE FULFILL
 11 THE OFFICER'S LAW ENFORCEMENT OBLIGATIONS.

12 (3) THE POLICY SHALL PROVIDE FOR THE LAW ENFORCEMENT
 13 AGENCY TO PERIODICALLY REVIEW DATA COLLECTED BY ITS OFFICERS UNDER
 14 SUBSECTION (D) OF THIS SECTION AND TO REVIEW THE ANNUAL REPORT OF
 15 THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER FOR PURPOSES OF
 16 PARAGRAPH (1) OF THIS SUBSECTION.

17 (H) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE
 18 REPORTING PROVISIONS OF THIS SECTION, THE MARYLAND ~~JUSTICE~~
 19 STATISTICAL ANALYSIS CENTER SHALL REPORT THE NONCOMPLIANCE TO THE
 20 POLICE TRAINING COMMISSION.

21 (2) THE POLICE TRAINING COMMISSION SHALL CONTACT THE
 22 LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH
 23 THE REQUIRED REPORTING PROVISIONS.

24 (3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH
 25 THE REQUIRED REPORTING PROVISIONS WITHIN 30 DAYS AFTER BEING
 26 CONTACTED BY THE POLICE TRAINING COMMISSION, THE MARYLAND ~~JUSTICE~~
 27 STATISTICAL ANALYSIS CENTER AND THE POLICE TRAINING COMMISSION
 28 JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE
 29 LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY.

30 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 31 read as follows:

32 Article – Transportation

33 25–113.

34 (a) (1) In this section the following words have the meanings indicated.

1 (2) “Law enforcement agency” means an agency that is listed in §
2 3–101(e) of the Public Safety Article [and that, in accordance with subsection (c) of
3 this section, is subject to the provisions of this section].

4 (3) “Law enforcement officer” means any person who, in an official
5 capacity, is authorized by law to make arrests and who is an employee of a law
6 enforcement agency [that is subject to this section].

7 (4) ["Maryland Statistical Analysis Center” means the research,
8 development, and evaluation component of the Governor’s Office of Crime Control and
9 Prevention.

10 (5) “Police Training Commission” means the unit within the
11 Department of Public Safety and Correctional Services established under § 3–202 of
12 the Public Safety Article.

13 (6) (i) “Traffic stop” means any instance when a law enforcement
14 officer stops the driver of a motor vehicle and detains the driver for any period of time
15 for a violation of the Maryland Vehicle Law.

16 (ii) “Traffic stop” does not include:

- 17 1. A checkpoint or roadblock stop;
- 18 2. A stop of multiple vehicles due to a traffic accident or
19 emergency situation requiring the stopping of vehicles for public safety purposes;
- 20 3. A stop based on the use of radar, laser, or vascar
21 technology; or
- 22 4. A stop based on the use of license plate reader
23 technology.

24 (b) [The Police Training Commission, in consultation with the Maryland
25 Statistical Analysis Center, shall develop:

26 (1) A model format for the efficient recording of data required under
27 subsection (d) of this section on an electronic device, or by any other means, for use by
28 a law enforcement agency;

29 (2) Guidelines that each law enforcement agency may use as a
30 management tool to evaluate data collected by its officers for use in counseling and
31 improved training;

32 (3) A standardized format that each law enforcement agency shall use
33 in reporting data to the Maryland Statistical Analysis Center under subsection (e) of
34 this section; and

1 (4) A model policy against race-based traffic stops that a law
2 enforcement agency can use in developing its policy in accordance with subsection (g)
3 of this section.

4 (c) (1) Subject to paragraph (2) of this subsection, this section applies to
5 each law enforcement agency that has one or more law enforcement officers.

6 (2) Except as provided in subsection (e)(2) of this section, this section
7 does not apply to a law enforcement agency that is subject to an agreement with the
8 United States Department of Justice that requires it to collect data on the race or
9 ethnicity of the drivers of motor vehicles stopped.

10 (d) Each time a law enforcement officer makes a traffic stop, that officer
11 shall report the following information to the law enforcement agency that employs the
12 officer using the format developed under subsection (b)(1) of this section:

13 (1) The date, location, and the time of the stop;

14 (2) The approximate duration of the stop;

15 (3) The traffic violation or violations alleged to have been committed
16 that led to the stop;

17 (4) Whether a search was conducted as a result of the stop;

18 (5) If a search was conducted, the reason for the search, whether the
19 search was consensual or nonconsensual, whether a person was searched, and whether
20 a person's property was searched;

21 (6) Whether any contraband or other property was seized in the course
22 of the search;

23 (7) Whether a warning, safety equipment repair order, or citation was
24 issued as a result of the stop;

25 (8) If a warning, safety equipment repair order, or citation was issued,
26 the basis for issuing the warning, safety equipment repair order, or citation;

27 (9) Whether an arrest was made as a result of either the stop or the
28 search;

29 (10) If an arrest was made, the crime charged;

30 (11) The state in which the stopped vehicle is registered;

31 (12) The gender of the driver;

1 (13) The date of birth of the driver;

2 (14) The state and, if available on the driver's license, the county of
3 residence of the driver; and

4 (15) The race or ethnicity of the driver as:

5 (i) Asian;

6 (ii) Black;

7 (iii) Hispanic;

8 (iv) White; or

9 (v) Other.

10 (e) (1) A law enforcement agency shall:

11 (i) Compile the data described in subsection (d) of this section
12 for the calendar year as a report in the format required under subsection (b)(3) of this
13 section; and

14 (ii) Submit the report to the Maryland Statistical Analysis
15 Center no later than March 1 of the following calendar year.

16 (2) A law enforcement agency that is exempt under subsection (c)(2) of
17 this section shall submit to the Maryland Statistical Analysis Center copies of reports
18 it submits to the United States Department of Justice in lieu of the report required
19 under paragraph (1) of this subsection.

20 (f) (1) The Maryland Statistical Analysis Center shall analyze the annual
21 reports of law enforcement agencies submitted under subsection (e) of this section
22 based on a methodology developed in consultation with the Police Training
23 Commission.

24 (2) The Maryland Statistical Analysis Center shall submit a report of
25 the findings to the Governor, the General Assembly as provided in § 2-1246 of the
26 State Government Article, and each law enforcement agency before September 1 of
27 each year.

28 (g) (1) A law enforcement agency shall adopt a policy against race-based
29 traffic stops that is to be used as a management tool to promote nondiscriminatory law
30 enforcement and in the training and counseling of its officers.

1 (2) (i) The policy shall prohibit the practice of using an individual's
2 race or ethnicity as the sole justification to initiate a traffic stop.

3 (ii) The policy shall make clear that it may not be construed to
4 alter the authority of a law enforcement officer to make an arrest, conduct a search or
5 seizure, or otherwise fulfill the officer's law enforcement obligations.

6 [(3) The policy shall provide for the law enforcement agency to
7 periodically review data collected by its officers under subsection (d) of this section and
8 to review the annual report of the Maryland Statistical Analysis Center for purposes
9 of paragraph (1) of this subsection.

10 (h) (1) If a law enforcement agency fails to comply with the reporting
11 provisions of this section, the Maryland Statistical Analysis Center shall report the
12 noncompliance to the Police Training Commission.

13 (2) The Police Training Commission shall contact the law enforcement
14 agency and request that the agency comply with the required reporting provisions.

15 (3) If the law enforcement agency fails to comply with the required
16 reporting provisions within 30 days after being contacted by the Police Training
17 Commission, the Maryland Statistical Analysis Center and the Police Training
18 Commission jointly shall report the noncompliance to the Governor and the
19 Legislative Policy Committee of the General Assembly.]

20 ~~SECTION 2. AND BE IT FURTHER ENACTED, That in order to assist local~~
21 ~~government law enforcement agencies to implement the data collection and reporting~~
22 ~~provisions of this Act, the Governor shall:~~

23 (1) ~~provide for a deficiency appropriation in the State budget for fiscal~~
24 ~~year 2012; and~~

25 (2) ~~appropriate money in the State budget for each fiscal year~~
26 ~~thereafter.~~

27 ~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
28 ~~July 1, 2011.~~

29 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
30 take effect July 1, 2014.

31 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
32 Section 3 of this Act, this Act shall take effect July 1, 2011. Section 1 of this Act shall
33 remain effective for a period of 3 years and, at the end of June 30, 2014, with no
34 further action required by the General Assembly, Section 1 of this Act shall be
35 abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.