Chapter 173

(House Bill 130)

AN ACT concerning

Vehicle Laws – Race–Based Traffic Stops

FOR the purpose of requiring certain law enforcement officers to record certain information pertaining to traffic stops; requiring certain law enforcement agencies to report certain information to the Maryland ~~Justice~~ Statistical Analysis Center (~~MJAC~~ MSAC); requiring the Police Training Commission to develop a certain format and guidelines and a standardized format for the reporting of certain data; requiring the Police Training Commission to develop a certain model policy; requiring the ~~MJAC~~ MSAC to analyze certain data based on a methodology developed in conjunction with the Police Training Commission; requiring the ~~MJAC~~ MSAC to make certain reports to the General Assembly, the Governor, and law enforcement agencies; requiring law enforcement agencies to adopt certain policies regarding race–based traffic stops for certain purposes; requiring the ~~MJAC~~ MSAC to report to the Police Training Commission law enforcement agencies that fail to comply with certain reporting requirements; requiring specified actions following a report on the failure of a law enforcement agency to comply; providing certain exceptions applicable to law enforcement agencies that are subject to certain agreements; defining certain terms; ~~requiring the Governor to appropriate certain funding in each fiscal year to assist local law enforcement agencies to implement certain provisions of this Act;~~ altering certain definitions; repealing certain provisions of this Act; providing for the termination of a certain provision of this Act; providing for a delayed effective date for certain provisions of this Act; and generally relating to law enforcement procedures and traffic stops.

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

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

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

Article – Transportation

25–113.

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

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

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

(4)   "MARYLAND ~~JUSTICE ANALYSIS CENTER" MEANS THE CENTER OPERATED BY THE DEPARTMENT OF CRIMINOLOGY AND CRIMINAL JUSTICE AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK~~ STATISTICAL ANALYSIS CENTER" MEANS THE RESEARCH, DEVELOPMENT, AND EVALUATION COMPONENT OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.

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

(6)   (I)   "TRAFFIC STOP" MEANS ANY INSTANCE WHEN A LAW ENFORCEMENT OFFICER STOPS THE DRIVER OF A MOTOR VEHICLE AND DETAINS THE DRIVER FOR ANY PERIOD OF TIME FOR A VIOLATION OF THE MARYLAND VEHICLE LAW.

(II)   "TRAFFIC STOP" DOES NOT INCLUDE:

1.   A CHECKPOINT OR ROADBLOCK STOP;

2.   A STOP OF MULTIPLE VEHICLES DUE TO A TRAFFIC ACCIDENT OR EMERGENCY SITUATION REQUIRING THE STOPPING OF VEHICLES FOR PUBLIC SAFETY PURPOSES; ~~OR~~

3.   A STOP BASED ON THE USE OF RADAR, LASER, OR VASCAR TECHNOLOGY; OR

4.   A STOP BASED ON THE USE OF LICENSE PLATE READER TECHNOLOGY.

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

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

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

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

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

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

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

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

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

(2)   THE APPROXIMATE DURATION OF THE STOP;

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

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

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

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

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

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

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

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

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

(12)   THE GENDER OF THE DRIVER;

(13)   THE DATE OF BIRTH OF THE DRIVER;

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

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

(I)   ASIAN;

(II)   BLACK;

(III)   HISPANIC;

(IV)   WHITE; OR

(V)   OTHER.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article – Transportation

25–113.

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

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

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

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

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

(6)**]**   (i)   "Traffic stop" means any instance when a law enforcement officer stops the driver of a motor vehicle and detains the driver for any period of time for a violation of the Maryland Vehicle Law.

(ii)   "Traffic stop" does not include:

1.   A checkpoint or roadblock stop;

2.   A stop of multiple vehicles due to a traffic accident or emergency situation requiring the stopping of vehicles for public safety purposes;

3.   A stop based on the use of radar, laser, or vascar technology; or

4.   A stop based on the use of license plate reader technology.

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

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

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

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

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

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

(2)   Except as provided in subsection (e)(2) of this section, this section does not apply to a law enforcement agency that is subject to an agreement with the

United States Department of Justice that requires it to collect data on the race or ethnicity of the drivers of motor vehicles stopped.

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

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

(2)   The approximate duration of the stop;

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

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

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

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

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

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

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

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

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

(12)   The gender of the driver;

(13)   The date of birth of the driver;

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

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

(i)   Asian;

<u>(ii)   Black;</u>

<u>(iii)   Hispanic;</u>

<u>(iv)   White; or</u>

<u>(v)   Other.</u>

<u>(e)   (1)   A law enforcement agency shall:</u>

<u>(i)   Compile the data described in subsection (d) of this section for the calendar year as a report in the format required under subsection (b)(3) of this section; and</u>

<u>(ii)   Submit the report to the Maryland Statistical Analysis Center no later than March 1 of the following calendar year.</u>

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

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

<u>(2)   The Maryland Statistical Analysis Center shall submit a report of the findings to the Governor, the General Assembly as provided in § 2–1246 of the State Government Article, and each law enforcement agency before September 1 of each year.</u>

<u>(g)**]**   (1)   A law enforcement agency shall adopt a policy against race–based traffic stops that is to be used as a management tool to promote nondiscriminatory law enforcement and in the training and counseling of its officers.</u>

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

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

<u>**[**(3)   The policy shall provide for the law enforcement agency to periodically review data collected by its officers under subsection (d) of this section and</u>

to review the annual report of the Maryland Statistical Analysis Center for purposes of paragraph (1) of this subsection.

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 10, 2011.