**A** **BILL**

TO AMEND SECTION 56‑5‑6560, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COLLECTION OF MOTOR VEHICLE STOP DATA REGARDING AGE, GENDER, AND RACE OR ETHNICITY OF THE DRIVER OF THE MOTOR VEHICLE AND REQUIREMENTS FOR A DATABASE OF THE INFORMATION COLLECTED BY THE DEPARTMENT OF PUBLIC SAFETY, SO AS TO REQUIRE THE DATA COLLECTION FOR ALL MOTOR VEHICLE STOPS AND NOT LIMIT THE COLLECTION TO ONLY THOSE MOTOR VEHICLE STOPS WHEN A CITATION IS NOT ISSUED OR AN ARREST IS NOT MADE, TO REQUIRE THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION (SLED) TO CONDUCT YEARLY AUDITS OF SUCH DATA COLLECTION, AND TO DIRECT SLED TO REPORT TO THE GENERAL ASSEMBLY EACH YEAR ON LAW ENFORCEMENT AGENCIES’ COMPLIANCE WITH THIS DATA COLLECTION FOR USE IN DETERMINING NONCOMPLIANCE AND THE WITHHOLDING OF CERTAIN STATE OR FEDERAL FUNDS AS A RESULT; AND TO AMEND SECTION 17‑13‑170, RELATING TO LAW ENFORCEMENT’S AUTHORIZATION TO DETERMINE IMMIGRATION STATUS AND RELATED DATA COLLECTION ON MOTOR VEHICLE STOPS, SO AS TO REFERENCE THE REQUIREMENTS OF SECTION 56‑5‑6560 AND MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 56‑5‑6560 of the 1976 Code, as added by Act 147 of 2005, is amended to read:

“Section 56‑5‑6560. (A) Any time a motor vehicle is stopped by a state or local law enforcement officer ~~without a citation being issued or an arrest being made~~, the officer who initiated the stop must complete a data collection form designed by the Department of Public Safety that must include information regarding the age, gender, and race or ethnicity of the driver of the vehicle. This information may be gathered and transmitted electronically under the supervision of the department which shall develop and maintain a database storing the information collected. The department must promulgate rules and regulations with regard to the collection and submission of the information gathered.

(B) The Department of Public Safety shall develop and maintain a database for the information submitted to the department ~~under~~ pursuant to subsection (A) and prepare a report to be posted on the department’s website regarding motor vehicle stops using the collected information.

(C) The General Assembly shall ~~have the authority to~~ withhold any state funds or federal pass‑through funds from any state or local law enforcement agency that fails to comply with the requirements of this section.

(D) ~~This section must be reviewed by the Senate Transportation Committee and the House of Representatives Education and Public Works Committee during the 2010 Session of the General Assembly. The committees must make recommendations of appropriate changes, if any, to this section before the end of the 2010 Session~~ The South Carolina Law Enforcement Division (SLED) shall conduct a yearly audit of the data collection required by the provisions of this section and Section 17‑13‑170. SLED shall provide a report to the General Assembly by January first of each year on local and state law enforcement agencies’ compliance with the requirements of this section which must be used to determine the proper withholding of funds in accordance with the provisions of subsection (C) for noncompliance.”

SECTION 2. Section 17‑13‑170(I) of the 1976 Code is amended to read:

“(I) Any time a motor vehicle is stopped by a state or local law enforcement officer ~~without a citation being issued or an arrest being made,~~ and the officer contacts the Illegal Immigration Enforcement Unit within the Department of Public Safety pursuant to this section, the officer who initiated the stop must complete a data collection form designed by the Department of Public Safety, which must include information regarding the age, gender, and race or ethnicity of the driver of the vehicle. This information may be gathered and transmitted electronically under the supervision of the Department of Public Safety, which shall develop and maintain a database storing the information collected. The Department of Public Safety must promulgate regulations with regard to the collection and submission of the information gathered. In addition, the Department of Public Safety shall prepare a report to be posted on the Department of Public Safety’s website regarding motor vehicle stops using the collected information. The General Assembly shall ~~have the authority to~~ withhold any state funds or federal pass‑through funds from any state or local law enforcement agency that fails to comply with the requirements of this subsection. In addition, the South Carolina Law Enforcement Division shall conduct a yearly audit of the data collection required by this section and specific provisions related to the collection of this data provided in Section 56‑5‑6560 also apply.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. This act takes effect upon approval by the Governor.

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