SENATE DOCKET, NO. 655 FILED ON: 1/17/2013

SENATE . . . . . No. 1115

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to improve the collection and analysis of data relative to traffic stops and to establish a primary safety belt law.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Harriette L. Chandler	*First Worcester*
Cheryl A. Coakley-Rivera	*10th Hampden*
Patricia D. Jehlen	*Second Middlesex*
Jason M. Lewis	*31st Middlesex*
Katherine M. Clark	*Fifth Middlesex*
Gale D. Candaras	*First Hampden and Hampshire*
Benjamin Swan	*11th Hampden*
Christine E. Canavan	*10th Plymouth*
Denise Provost	*27th Middlesex*
Ellen Story	*3rd Hampshire*
David Paul Linsky	*5th Middlesex*
James T. Welch	*Hampden*
Kay Khan	*11th Middlesex*
William N. Brownsberger	*Second Suffolk and Middlesex*
Timothy J. Toomey, Jr.	*26th Middlesex*
Kevin G. Honan	*17th Suffolk*
Alice Hanlon Peisch	*14th Norfolk*

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By Ms. Chandler, a petition (accompanied by bill, Senate, No. 1115) of Harriette L. Chandler, Cheryl A. Coakley-Rivera, Patricia D. Jehlen, Jason M. Lewis and other members of the General Court for legislation to improve the collection and analysis of data relative to traffic stops and to establish a primary safety belt law. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

An Act to improve the collection and analysis of data relative to traffic stops and to establish a primary safety belt law.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 90C is hereby amended by inserting after Section 6 the following new section:

Section 6A. (a) No state, municipal, college or university law enforcement officer or law enforcement agency shall engage in racial profiling.

As used in this section, "racial profiling" means the use by a state, municipal, college or university law enforcement officer or state, municipal, college or university police department of race, ethnicity, or national origin to any degree in deciding who should be subject to traffic stops, pedestrian stops, frisks and other types of bodily searches, interviews, and searches and seizures of motorists, passengers, and motor vehicles, except when such characteristics are used in combination with other identifying factors in seeking to apprehend a specific suspect whose racial, ethnic or national origin status is part of the description of the suspect, which description is particularized, timely and reliable.

(b) Whenever a motorist is stopped by any state, municipal, college or university law enforcement officer, the officer shall record the following data:

(1) the race, ethnicity, and gender of the motorist;

(2) the reason for the traffic stop;

(3) the location and time of the traffic stop;

(4) whether a search was initiated as a result of the stop, and whether the search was conducted with consent;

20 (5) whether contraband was found or any materials were seized during a search;

21 (6) whether the stop resulted in a warning, citation or arrest;

22 (7) the name and badge number of the officer initiating the stop.

23 The state police department and each municipal, college and university police department
24 shall review each officer's stop and search documentation on at least a quarterly basis to ensure
25 compliance with this subsection.

26 (c) Any electronic systems developed for state, municipal, college, or university police
27 departments to issue motor vehicle citations, or to gather, record, report, and study information
28 concerning motor vehicle accidents, violations, traffic stops, or citations, shall be designed in a
29 manner that facilitates the collection of the data described in subsection (b) of this section and
30 the automatic transmission of said data to the Registry of Motor Vehicles and the Executive
31 Office of Public Safety and Security. The Executive Office of Public Safety and Security shall
32 obtain the participation of the Traffic Data Review Committee in the development and
33 implementation of such electronic systems, and in the development of a uniform protocol for law
34 enforcement officers on how to use such electronic systems to record the data described in
35 subsection (b).

36 Upon the adoption of such an electronic system by any state, municipal, college, or
37 university police department, said department shall record the data set forth in subsection (b) for
38 all traffic stops and shall, no less frequently than once a month, transmit said data by electronic
39 means to the Registry of Motor Vehicles and the Executive Office of Public Safety and Security.

40 (d) The Registry of Motor Vehicles shall maintain all data described in subsection (b) in
41 an electronically accessible database and shall issue to the Secretary of Public Safety and
42 Security and to the Attorney General a semi-annual summary report of said data. The report
43 shall include, for each police department, statistical data setting out, in a month-by-month
44 format, the number of traffic stops made, the number of citations issued, the number of searches
45 conducted, the race of the drivers stopped, and the race of the drivers searched. The Registry of
46 Motor Vehicles shall also issue to the state police department and each municipal, college and
47 university police department subject to this section a semi-annual summary report of the data
48 collected within each department's jurisdiction. Each report shall include, for each month,
49 statistical data setting out the number of traffic stops made, the number of searches conducted,
50 the race of the drivers stopped, and the race of the drivers searched. The semi-annual reports
51 required by this subsection shall be submitted no later than April 1 and September 1 and each
52 report shall include data collected during the preceding half of the fiscal year, regardless of
53 whether complete data is available for that period. No information revealing the identity of any
54 individual shall be contained in the reports. The reports submitted pursuant to this subsection
55 shall be public records.

56 The heads of the state police department and each municipal, college and university
57 police department subject to this section, or his/her designee, shall review the underlying data
58 and summary reports collected and compiled pursuant to this section on a regular basis in an
59 effort to determine whether any racial disparities in the department's traffic stops exist, and to
60 appropriately respond to any such disparities.

61 (e) Any individual charged with a criminal offense based on evidence or statements
62 obtained as the result of a motor vehicle stop shall have the right to obtain data collected
63 pursuant to this section concerning any officer who participated in the stop or the search that
64 resulted in the seizure of evidence, from the Registry of Motor Vehicles, the Executive Office of
65 Public Safety and Security, and from the police department or the department of the officer(s)
66 involved in the traffic stop or search; provided that information revealing the name, street
67 address, date of birth, and driver's license number of individuals involved in motor vehicle stops
68 who are not law enforcement officers or their agents shall not be disclosed; and provided further
69 that information revealing the home address, date of birth, personal telephone number or any
70 personal identifying information other than the name, badge number, and department of a law
71 enforcement officer shall not be disclosed. Requests for such data may specify a single or
72 multiple incidents, dates, locations or any other combination of data collected pursuant to
73 subsection (B).

74 (f) The attorney general may bring a civil action in the superior court for injunctive or
75 other appropriate equitable relief to enforce the provisions of this section. A person claiming to
76 be aggrieved by a violation of this section may not institute an individual action for damages or
77 other relief under this section, but nothing in this paragraph shall be construed to limit any other
78 rights or remedies, including, but not limited to, a civil action for a violation of constitutional
79 rights under section 11I of chapter 12 of the General Laws or 42 U.S.C. section 1983 or motions
80 for suppression or dismissal or other relief in a criminal case.

81 The attorney general shall issue an annual summary report of the complaints received
82 concerning the enforcement of the provisions of this section and the actions taken with respect to
83 such complaints. The report shall be submitted to the House of Representatives and Senate not
84 more than 90 days after the end of each fiscal year, including the first fiscal year-end following
85 the effective date of this act, regardless of whether data based on a full fiscal year is available.
86 No information revealing the identity of any individual shall be contained in the report. The
87 reports submitted pursuant to this subsection shall be public records.

88 SECTION 2. Section 13A of chapter 90 of the General Laws, as appearing in the 2010
89 Official Edition, is hereby amended by striking the second paragraph and inserting in place
90 thereof the following paragraph:-

91 Any person who operates a motor vehicle without a safety belt, and any person 16 years
92 of age or over who rides as a passenger in a motor vehicle without wearing a safety belt in

93 violation of this section, shall be subject to a fine of 50 dollars. Any operator of a motor vehicle
94 shall be subject to an additional fine of 50 dollars for each person under the age of 16 and no
95 younger than 12 who is a passenger in said motor vehicle and not wearing a safety belt. The
96 provisions of this section shall be enforced by law enforcement agencies when an operator of a
97 motor vehicle or passenger who rides in the motor vehicle is not wearing a safety belt in
98 violation of motor vehicle laws. Safety belt violations will not result in surcharges on motor
99 vehicle insurance premiums and a police officer may not search or inspect a motor vehicle, its
100 contents, the driver, or a passenger solely because of a violation of this section.

101 SECTION 3. Subsection (b) of Section 6A of Chapter 90C shall take effect 12 months
102 from the effective date of this act, at which time Chapter 228 of the Acts of 2000 shall be
103 repealed.

104 Subsection (d) of said Section 6A shall take effect at such time as the Executive Office of
105 Public Safety and Security makes available to law enforcement agencies an electronic system
106 described in subsection (c).

107 SECTION 4. Section 2 of this act shall take effect 12 months after Subsection (b) of
108 Section 6A of Chapter 90C takes effect.