

**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 adoption of the accompanying bill:

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

*Mark J. Cusack*

*5th 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.

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The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen

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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:*

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

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

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

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

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

16 (2) the reason for the traffic stop;

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

18 (4) whether a search was initiated as a result of the stop, and whether the search was  
19 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.