

# A BILL

To eliminate motorcycle profiling by law enforcement

1           *Be it enacted by the Senate and House of Representatives of the United*  
2           *States of America in Congress assembled,*

## 3           **SECTION 1. SHORT TITLE**

4           This Act may be cited as the “End Motorcycle Profiling Act of 2016”.

## 5           **SEC. 2. DEFINITIONS**

6           In this Act:

7                 (1) Motorcycle Profiling.- The term “motorcycle profiling” means the arbitrary  
8           practice of a law enforcement agent or agency using the fact that a person rides  
9           a motorcycle or wears motorcycle related paraphernalia as a factor in deciding to  
10          stop and question, take enforcement action, arrest, or search a person or vehicle  
11          with or without legal basis under the United States Constitution.

12                (2) Law Enforcement Agent.- The term “law enforcement agent” means  
13          any Federal, State, local, or Indian tribal official responsible for enforcing criminal  
14          or traffic laws, including police officers and other agents of a law enforcement  
15          agency.

16                (3) Law Enforcement Agency.- The term “law enforcement agency” means  
17          any Federal, State, local, or Indian tribal public agency engaged in the  
18          prevention, detection, or investigation of violations of criminal or traffic laws.

19                (4) State.- The term “State” means each or the 50 States and the District  
20          of Columbia.

1 (5) Local.- The term “local” means any city, county, township, town,  
2 borough, village, parish or other general purpose political subdivision of a State  
3 including any law enforcement or judicial enforcement district that is established  
4 under State law and any Indian tribe that performs law enforcement functions, as  
5 determined by the Secretary of the Interior.

6 (6) Indian Tribe.- The term “Indian tribe” has the meaning given the term in  
7 section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C.  
8 479a).

## 9 **TITLE I - PROHIBITION OF MOTORCYCLE**

### 10 **PROFILING**

#### 11 **SEC. 101. PROHIBITION.**

12 No law enforcement agent or law enforcement agency shall engage in  
13 motorcycle profiling.

#### 14 **SEC. 102.**

15 (a) REMEDY.- The United States, or any individual injured by motorcycle  
16 profiling, may enforce this title in a civil action for declaratory or injunctive relief,  
17 filed either in a State court of general jurisdiction or in a district court of the  
18 United States.

19 (b) PARTIES.- In any action brought under this title, relief may be obtained  
20 against-

21 (1) Any governmental body that employed any law enforcement  
22 agent who engaged in motorcycle profiling;

1 (2) any agent of such body who engaged in motorcycle profiling;  
2 and

3 (3) any person with supervisory authority over such agent.

4 (c) NATURE OF PROOF.- Proof that the routine or spontaneous law  
5 enforcement activities of law enforcement agents in a jurisdiction have had  
6 a disparate impact on motorcyclists shall constitute prima facia evidence of a  
7 violation of this title.

8 (d) ATTORNEY'S FEES,-In any action or proceeding to enforce this title  
9 against any governmental body, the court may allow a prevailing plaintiff, other  
10 than the United States, reasonable attorney's fees as part of the costs, and may  
11 include expert's fees as part of the attorney's fee.

## 12 **TITLE II - DEPARTMENT OF JUSTICE**

### 13 **REGULATIONS AND REPORTS**

#### 14 **SEC. 201. ATTORNEY GENERAL TO ISSUE REGULATIONS**

15 (a) REGULATIONS.- The Attorney General shall issue such regulations as  
16 the Attorney General determines are necessary to implement this Act.

17 (b) REPORTS.-

18 (1) IN GENERAL.- Not later than 2 years after the date of the  
19 enactment of this Act, and annually thereafter, the Attorney General shall  
20 submit to Congress a report on motorcycle profiling by law enforcement  
21 agencies.

1 (2) SCOPE.- Each report submitted under paragraph (1) shall  
2 include-

3 (A) the status of the adoption and implementation of policies  
4 and procedures by law enforcement agencies as a result of the  
5 regulations 3 required under section 201.

5 (B) a description of any other policies and procedures that  
6 the Attorney General believes would facilitate the elimination of  
7 motorcycle profiling.

## 8 **TITLE III- MISCELLANEOUS PROVISIONS**

### 9 SEC. 301. SEVERABILITY

10 If any such provision of this Act, or the application of such a provision to  
11 any person or circumstance, is held to be unconstitutional, the remainder of this  
12 Act and the application of the remaining provisions of this Act to any person or  
13 circumstance shall not be affected thereby.

### 14 SEC. 202. SAVINGS CLAUSE.

15 Nothing in this Act shall be construed-

16 (1) to affect any Federal, State, or tribal law that applies to an  
17 Indian tribe because of the political status of the tribe; or

18 (2) to waive the sovereign immunity of an Indian tribe without the  
19 consent of the tribe.