

**Representative Wayne A. Harper** proposes the following substitute bill:

**RACIAL PROFILING**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Duane E. Bourdeaux**

**This act requires law enforcement agencies in the state to establish, on or before January 1, 2003, written policies prohibiting unconstitutional traffic enforcement. This act takes effect on July 1, 2002.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**10-3-913**, as last amended by Chapter 44, Laws of Utah 1990

**10-3-918**, as last amended by Chapter 178, Laws of Utah 2001

**17-22-2**, as last amended by Chapter 133, Laws of Utah 2000

**53-1-108**, as last amended by Chapter 47, Laws of Utah 2001

**53-8-104**, as last amended by Chapters 236 and 396, Laws of Utah 1998

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **10-3-913** is amended to read:

**10-3-913. Authority of chief of police.**

(1) The chief of police has the same authority as the sheriff within the boundaries of the municipality of appointment. The chief has authority to:

(a) suppress riots, disturbances, and breaches of the peace;

(b) apprehend all persons violating state laws or city ordinances;

(c) diligently discharge his duties and enforce all ordinances of the city to preserve the peace, good order, and protection of the rights and property of all persons; and

(d) attend the municipal justice court located within the city when required, provide security for the court, and obey its orders and directions.



26 (2) This section is not a limitation of a police chief's statewide authority as otherwise  
27 provided by law.

28 (3) The chief of police shall, on or before January 1, 2003, adopt a written policy that  
29 prohibits the stopping, detention, or search of any person when the action is solely motivated by  
30 considerations of race, color, ethnicity, age, or gender.

31 Section 2. Section **10-3-918** is amended to read:

32 **10-3-918. Chief of police or marshal in third class cities and towns.**

33 The chief of police or marshal in a city of the third class or town:

34 (1) shall:

35 (a) exercise and perform the duties that are prescribed by the legislative body; [~~and~~]

36 (b) be under the direction, control, and supervision of the person or body that appointed  
37 the chief or marshal; and

38 (c) on or before January 1, 2003, adopt a written policy that prohibits the stopping,  
39 detention, or search of any person when the action is solely motivated by considerations of race,  
40 color, ethnicity, age, or gender; and

41 (2) may, with the consent of the person or body that appointed the chief or marshal,  
42 appoint assistants to the chief of police or marshal.

43 Section 3. Section **17-22-2** is amended to read:

44 **17-22-2. Sheriff -- General duties.**

45 (1) The sheriff shall:

46 (a) preserve the peace;

47 (b) make all lawful arrests;

48 (c) attend in person or by deputy the Supreme Court and the Court of Appeals when  
49 required or when the court is held within his county, all courts of record, and court commissioner  
50 and referee sessions held within his county, obey their lawful orders and directions, and comply  
51 with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;

52 (d) upon request of the juvenile court, aid the court in maintaining order during hearings  
53 and transport a minor to and from youth corrections facilities, other institutions, or other  
54 designated places;

55 (e) attend county justice courts if the judge finds that the matter before the court requires  
56 the sheriff's attendance for security, transportation, and escort of jail prisoners in his custody, or

57 for the custody of jurors;

58 (f) command the aid of as many inhabitants of his county as he considers necessary in the  
59 execution of these duties;

60 (g) take charge of and keep the county jail and the jail prisoners;

61 (h) receive and safely keep all persons committed to his custody, file and preserve the  
62 commitments of those persons, and record the name, age, place of birth, and description of each  
63 person committed;

64 (i) release on the record all attachments of real property when the attachment he receives  
65 has been released or discharged;

66 (j) endorse on all process and notices the year, month, day, hour, and minute of reception,  
67 and, upon payment of fees, issue a certificate to the person delivering process or notice showing  
68 the names of the parties, title of paper, and the time of receipt;

69 (k) serve all process and notices as prescribed by law;

70 (l) if he makes service of process or notice, certify on the process or notices the manner,  
71 time, and place of service, or, if he fails to make service, certify the reason upon the process or  
72 notice, and return them without delay;

73 (m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public  
74 land within his county;

75 (n) perform as required by any contracts between the county and private contractors for  
76 management, maintenance, operation, and construction of county jails entered into under the  
77 authority of Section 17-53-311;

78 (o) manage search and rescue services in his county; ~~and~~

79 (p) on or before January 1, 2003, adopt a written policy that prohibits the stopping,  
80 detention, or search of any person when the action is solely motivated by considerations of race,  
81 color, ethnicity, age, or gender; and

82 [~~p~~] (q) perform any other duties that are required by law.

83 (2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other  
84 subsection under Subsection (1) is a class A misdemeanor.

85 Section 4. Section **53-1-108** is amended to read:

86 **53-1-108. Commissioner's powers and duties.**

87 (1) In addition to the responsibilities contained in this title, the commissioner shall:

88 (a) administer and enforce this title and Title 41, Chapter 12a, Financial Responsibility of  
89 Motor Vehicle Owners and Operators Act;

90 (b) appoint deputies, inspectors, examiners, clerical workers, and other employees as  
91 required to properly discharge the duties of the department;

92 (c) make rules:

93 (i) governing emergency use of signal lights on private vehicles; and

94 (ii) allowing privately owned vehicles to be designated for part-time emergency use, as  
95 provided in Section 41-6-1.5;

96 (d) set standards for safety belt systems, as required by Section 41-6-182;

97 (e) serve as the chairman of the Disaster Emergency Advisory Council, as required by  
98 Section 63-5-4; ~~and~~

99 (f) designate vehicles as "authorized emergency vehicles," as required by Section 41-6-1[-];  
100 and

101 (g) on or before January 1, 2003, adopt a written policy that prohibits the stopping,  
102 detention, or search of any person when the action is solely motivated by considerations of race,  
103 color, ethnicity, age, or gender.

104 (2) The commissioner may:

105 (a) subject to the approval of the governor, establish division headquarters at various  
106 places in the state;

107 (b) issue to a special agent a certificate of authority to act as a peace officer and revoke that  
108 authority for cause, as authorized in Section 56-1-21.5;

109 (c) create specialized units within the commissioner's office for conducting internal affairs  
110 and aircraft operations as necessary to protect the public safety;

111 (d) cooperate with any recognized agency in the education of the public in safety and crime  
112 prevention and participate in public or private partnerships, subject to Subsection (3);

113 (e) cooperate in applying for and distributing highway safety program funds; and

114 (f) receive and distribute federal funding to further the objectives of highway safety in  
115 compliance with the Federal Assistance Management Program Act.

116 (3) (a) Money may not be expended under Subsection (2)(d) for public safety education  
117 unless it is specifically appropriated by the Legislature for that purpose.

118 (b) Any recognized agency receiving state money for public safety shall file with the

119 auditor of the state an itemized statement of all its receipts and expenditures.

120 Section 5. Section **53-8-104** is amended to read:

121 **53-8-104. Superintendent's duties.**

122 The superintendent shall:

123 (1) divide the state highways into sections for the purpose of patrolling and policing;

124 (2) employ peace officers known as highway patrol troopers to patrol or police the  
125 highways within this state and to enforce the state statutes as required;

126 (3) establish ranks, grades, and positions in the Highway Patrol and designate the authority  
127 and responsibility in each rank, grade, and position;

128 (4) establish for the Highway Patrol standards and qualifications and fix prerequisites of  
129 training, education, and experience for each rank, grade, and position;

130 (5) appoint personnel to each rank, grade, and position necessary for the efficient operation  
131 and administration of the Highway Patrol;

132 (6) devise and administer examinations designed to test applicants for positions with the  
133 Highway Patrol;

134 (7) make rules governing the Highway Patrol as appear to the superintendent advisable;

135 (8) discharge, demote, or temporarily suspend any employee in the Highway Patrol for  
136 cause;

137 (9) prescribe the uniforms to be worn and the equipment to be used by employees of the  
138 Highway Patrol;

139 (10) charge against each employee of the Highway Patrol the value of any property of the  
140 state lost or destroyed through the carelessness of the employee;

141 (11) establish, with the approval of the Division of Finance, the terms and conditions under  
142 which expense allowance should be paid to any employee of the Highway Patrol while away from  
143 his station;

144 (12) station the Highway Patrol in localities as he finds advisable for the enforcement of  
145 the laws of this state;

146 (13) conduct in conjunction with the State Board of Education in and through all state  
147 schools an educational campaign in highway safety and work in conjunction with civic  
148 organizations, churches, local units of government, and other organizations that may function in  
149 accomplishing the purposes of reducing highway accidents;

150 (14) provide the initial mandatory uniform items for each new trooper hired after July 1,  
151 1998; [~~and~~]

152 (15) determine by rule a basic uniform allowance system which includes the manner in  
153 which troopers may receive maintenance services and vouchers for basic uniforms and administer  
154 any funds appropriated by the Legislature to the division for that purpose[-]; and

155 (16) on or before January 1, 2003, adopt a written policy that prohibits the stopping,  
156 detention, or search of any person when the action is solely motivated by considerations of race,  
157 color, ethnicity, age, or gender.

158 Section 6. **Effective date.**

159 This act takes effect on July 1, 2002.