

ASSEMBLY BILL

No. 2972

**Introduced by Assembly Member Caballero
(Coauthor: Assembly Member Mullin)**

February 16, 2018

An act to add Section 2820 to the Vehicle Code, relating to enforcement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2972, as introduced, Caballero. Vehicles: enforcement: motorcycle profiling.

Existing law authorizes a peace officer to arrest a person based on probable cause that the person has committed a public offense in the officer's presence or that the person has committed a felony, though not in the officer's presence.

Existing law requires a person operating a vehicle upon a highway to comply with the lawful orders of a peace officer. Existing law also requires a vehicle to yield and stop if pursued by a marked law enforcement vehicle displaying a lighted red lamp and sounding a siren, as reasonably necessary.

Existing law requires peace officers to receive training to recognize and eliminate criminal profiling based on race or identity.

This bill would define the term "motorcycle profiling" as the illegal consideration of the fact that a person is riding a motorcycle or wearing motorcycle or motorcycle club-related clothing as a factor in enforcement decisions, and would prohibit peace officers from engaging in motorcycle profiling. This bill would also provide a private right of action for persons who are subjected to motorcycle profiling in violation of the provisions of this bill.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2820 is added to the Vehicle Code, to
- 2 read:
- 3 2820. (a) A peace officer performing duties pursuant to any
- 4 provision of this code shall not engage in motorcycle profiling.
- 5 (b) A person who has been subjected to motorcycle profiling
- 6 in violation of this section has a private right of action to enjoin
- 7 that action and to seek damages, including punitive damages and
- 8 reasonable attorney’s fees and court costs, against the peace officer
- 9 and the employing agency of the peace officer.
- 10 (c) As used in this section, “motorcycle profiling” means using
- 11 the fact that a person rides a motorcycle or wears motorcycle or
- 12 motorcycle club-related clothing as a factor, without any
- 13 individualized suspicion of the particular person, in deciding to
- 14 stop and question, take enforcement action, arrest, or search a
- 15 person or vehicle, with or without legal basis under the California
- 16 Constitution or the United States Constitution.