

By: González of El Paso

H.B. No. 1837

A BILL TO BE ENTITLED

AN ACT

relating to motorcycle profiling by peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1315 to read as follows:

Art. 2.1315. MOTORCYCLE PROFILING PROHIBITED. (a) In this article, "motorcycle profiling" means a law enforcement-initiated action based, in whole or in part, on an individual operating a motorcycle or wearing motorcycle-related or motorcycle club-related paraphernalia rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

(b) A peace officer may not engage in motorcycle profiling.

SECTION 2. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 117 to read as follows:

CHAPTER 117. LIABILITY ARISING FROM CONDUCT OF PEACE OFFICERS OR
LAW ENFORCEMENT ACTIVITIES

Sec. 117.001. MOTORCYCLE PROFILING. (a) An individual against whom a peace officer has engaged in motorcycle profiling in violation of Article 2.1315, Code of Criminal Procedure, may bring an action against the peace officer or the governmental unit employing the peace officer to recover damages arising from the motorcycle profiling and for an injunction against future violations of that article.

1 (b) An individual who establishes in an action under this
2 section that a peace officer engaged in motorcycle profiling
3 against the individual is entitled to recover reasonable attorney's
4 fees and litigation costs.

5 (c) A governmental unit is vicariously liable under the
6 doctrine of respondeat superior for damages arising from motorcycle
7 profiling engaged in by a peace officer employed by the
8 governmental unit.

9 (d) A governmental unit's sovereign or governmental
10 immunity to suit and from liability is waived to the extent of
11 liability created by this section.

12 (e) A peace officer may not assert official immunity as a
13 defense to liability under this section.

14 SECTION 3. Chapter 117, Civil Practice and Remedies Code,
15 as added by this Act, applies only to a cause of action that accrues
16 on or after the effective date of this Act.

17 SECTION 4. This Act takes effect September 1, 2021.