

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 331
94TH GENERAL ASSEMBLY

Reported from the Committee on Crime Prevention and Public Safety April 4, 2007 with recommendation that House Committee Substitute for House Bill No. 331 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1044L.05C

AN ACT

To repeal sections 43.010, 43.030, 43.050, 43.090, 43.110, 43.120, 43.140, 43.160, 43.210, 43.220, and 43.530, RSMo, and to enact in lieu thereof fourteen new sections relating to the administrative duties of the Missouri state highway patrol.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 43.010, 43.030, 43.050, 43.090, 43.110, 43.120, 43.140, 43.160, 43.210, 43.220, and 43.530, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 43.010, 43.030, 43.050, 43.090, 43.110, 43.115, 43.120, 43.140, 43.160, 43.210, 43.220, 43.530, 43.546, and 43.547, to read as follows:

43.010. As used in this chapter, the following terms shall have the meanings indicated:

(1) ["Commission", the Missouri state highways and transportation commission;

(2)] "Members of the patrol", the superintendent, lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants, corporals, and patrolmen of the Missouri state highway patrol;

[(3)] (2) "MULES", Missouri uniform law enforcement system, a statewide-computerized communications system provided by the patrol designed to provide services, information, and capabilities to the law enforcement and criminal justice community in the state of Missouri;

[(4)] (3) "Patrol", the Missouri state highway patrol;

[(5)] (4) "Peace officers", sheriffs, police officers and other peace officers of this state;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 [(6)] (5) "Radio personnel", those employees of the patrol engaged in the construction,
13 operation, and maintenance of the patrol radio system.

43.030. 1. The superintendent of the Missouri state highway patrol shall be appointed
2 by the governor by and with the advice and consent of the senate. The superintendent shall hold
3 office at the pleasure of the governor. The superintendent shall be a citizen of the United States
4 and a resident taxpayer citizen of this state for a period of three years previous to being
5 appointed as superintendent and shall be at least thirty years of age. **The superintendent shall**
6 **be a current uniformed member of the Missouri state highway patrol.** The superintendent
7 shall maintain an office [and reside] in Jefferson City.

8 2. The superintendent of the Missouri state highway patrol shall:

9 (1) Have command of the patrol and perform all duties imposed on the superintendent
10 and exercise all of the powers and authority conferred upon the superintendent by the provisions
11 of this chapter and the requirements of chapter 650, RSMo;

12 (2) Within available appropriations, establish an equitable pay plan for the members of
13 the highway patrol and radio personnel taking into consideration ranks and length of service.

43.050. 1. The superintendent may appoint not more than twenty-five captains and one
2 director of radio, each of whom shall have the same qualifications as the superintendent, nor
3 more than sixty lieutenants, and such additional force of sergeants, corporals and patrolmen, so
4 that the total number of members of the patrol shall not exceed nine hundred sixty-five officers
5 and patrolmen and such numbers of radio personnel as the superintendent deems necessary.

6 2. In case of a national emergency the superintendent may name additional patrolmen
7 and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel
8 called into military services.

9 3. **The superintendent may enter into an agreement with the Missouri gaming**
10 **commission related to the enforcement of any law, regulation, and conduct background**
11 **investigations related to the laws of this state, and the regulation of licensed gaming**
12 **activities in chapter 313, RSMo. A notice of either party to terminate or modify the**
13 **provisions of such agreement shall be in writing and executed no less than one year from**
14 **the effective date of the termination or modification, unless mutually agreed upon by the**
15 **superintendent and the Missouri gaming commission.** Members of the patrol hired in
16 conjunction with any agreement with the Missouri gaming commission shall not be subject to
17 the personnel cap referenced in subsection 1 of this section. If such agreement is subsequently
18 terminated or modified to reduce the number of personnel used in such agreement, those
19 members affected by such termination or modification shall not be subject to the personnel cap
20 referenced in subsection 1 of this section for a period of [three] **five** years.

21 4. Members of the patrol hired in conjunction with the community-oriented policing
22 services federal grant or members assigned to fulfill the duties established in sections 43.350 to
23 43.380 shall not be subject to the personnel cap referenced in subsection 1 of this section.

24 5. Applicants shall not be discriminated against because of race, creed, color, national
25 origin or sex.

 43.090. [The board of public buildings shall provide suitable offices for general
2 headquarters at Jefferson City, Missouri, which shall at all times be open and in charge of the
3 superintendent, or some member of the patrol designated by him.] The superintendent[, with the
4 consent and approval of the commission,] shall employ such clerical force, radio operators, and
5 other subordinates, and shall provide such office equipment, stationery, postage supplies,
6 [telegraph] **communication** and telephone facilities as he **or she** shall deem necessary **for**
7 **general headquarters located at Jefferson City, Missouri**, and shall also provide offices,
8 equipment, stationery, postage, clerical force, and other subordinates for the headquarters of each
9 [district] **troop or division** of the patrol. The state highway patrol [radio network]
10 **communications division** shall be under the control of and at the service of the superintendent
11 for such regular and emergency [bulletins] **communications**, and service as the superintendent
12 may require [from time to time].

 43.110. The necessary expenses of the members of the patrol in the performance of their
2 duties shall be paid by the state when such members are away from their places of residence or
3 from the [district] **troop or division** to which they are assigned, subject to the approval of the
4 [commission] **superintendent**. No fee shall be allowed to any person or officer for the arrest
5 and transportation of persons arrested and transported by members of the patrol, and no witness
6 fees shall be granted or allowed members of the patrol in criminal cases. Witness fees for
7 members of the patrol in civil cases, and for testifying in federal court, shall be the same as
8 provided by law, and shall be claimed and collected by members of the patrol, and promptly
9 transmitted to the [division of collection in the department of revenue] **fund from which the**
10 **member or employee's position is funded**.

43.115. Subject to appropriation, any retired employee of the highway patrol
2 **required to perform as a witness in an official court proceeding no less than thirty miles**
3 **from their place of residence shall receive as compensation:**

4 **(1) Upon approval by the superintendent, a per diem of up to one hundred dollars**
5 **for each day of service;**

6 **(2) A mileage reimbursement which shall be equal to the rate prescribed by the**
7 **Internal Revenue Service for allowable expenses for motor vehicle use expressed as an**
8 **amount per mile; and**

9 **(3) A reimbursement of the necessary travel expenses incurred while in the**
10 **performance of their court duties as prescribed in section 43.110.**

43.120. 1. The superintendent shall prescribe rules for instruction and discipline and
2 make all administrative rules and regulations and fix the hours of duty for the members of the
3 patrol. The superintendent shall divide the state into [districts] **troops** and assign members of
4 the patrol to such [districts] **troops** in the manner as deemed proper to carry out the purposes of
5 this chapter. The superintendent may call members of the patrol from one [district] **troop** to
6 another.

7 2. The superintendent shall appoint the lieutenant colonel and five majors from within
8 the membership. Such individuals shall serve at the superintendent's pleasure and shall return
9 to their previously held rank after being relieved of their position duties by the present or
10 incoming superintendent. The superintendent shall classify and rank through promotions the
11 majors, the director of radio, captains, lieutenants, sergeants, corporals, patrolmen, and radio
12 personnel from the next lower grade after not less than one year of service satisfactorily
13 performed therein.

14 3. In case of the absence of the superintendent, or at the time the superintendent
15 designates, the lieutenant colonel shall assume the duties of the superintendent. In the absence
16 of both the superintendent and the lieutenant colonel, a major shall be designated by the
17 superintendent or by the lieutenant colonel. In case of the disability of the superintendent and
18 the lieutenant colonel, the governor may designate a major as acting superintendent and when
19 so designated, the acting superintendent shall have all the powers and duties of the
20 superintendent.

21 4. The superintendent shall collect, compile and keep available for the use of peace
22 officers of the state the information as is deemed necessary for the detection of crime and
23 identification of criminals. **The superintendent shall have the authority to direct members**
24 **and other employees of the patrol to carry out any public safety duty or service authorized**
25 **or appropriated by the general assembly.**

26 5. The superintendent is responsible for establishing policy, procedures, and regulations
27 in cooperation with the law enforcement and criminal justice community in protecting the
28 integrity of the MULES system. The superintendent shall be responsible for the administration
29 and enforcement of all MULES policies and regulations consistent with state and federal rules,
30 policy, and law by which the MULES system operates.

31 [6. Within ninety days after the close of each fiscal year, the superintendent shall make
32 to the governor and the commission a report of the activities of the patrol and the cost thereof
33 for the fiscal period.]

43.140. [1.] The members of the patrol, before entering upon the discharge of their duties, shall each take and subscribe an oath to support the constitution and laws of the United States and the state of Missouri and to faithfully demean themselves in office in the form prescribed by section 11, article VII, of the constitution of this state and they shall each faithfully perform the duties of their respective offices and safely keep and account for all moneys and property received by them.

[2. The superintendent, major, director of radio, each member assigned to duty in the department of finance and statistics and each member assigned to duty in the department of supplies and equipment shall give bond to be approved by the commission. The bond of the superintendent shall be twenty thousand dollars, and for each other member required to be bonded, ten thousand dollars. The cost of furnishing all such bonds shall be paid by the state.]

43.160. It shall be the duty of the patrol to police the highways constructed and maintained by the [commission] **state**; to regulate the movement of traffic thereon; to enforce thereon the laws of this state relating to the operation and use of vehicles on the highways; to enforce and prevent thereon the violation of the laws relating to the size, weight and speed of commercial motor vehicles and all laws designed to protect and safeguard the highways constructed and maintained by the [commission] **state**. It shall be the duty of the patrol whenever possible to determine persons causing or responsible for the breaking, damaging or destruction of any improved hard surfaced roadway, structure, sign markers, guard rail, or any other appurtenance constructed or maintained by the [commission] **state** and to arrest persons criminally responsible therefor and to bring them before the proper officials for prosecution. It shall be the duty of the patrol to cooperate with such state official as may be designated by law in the collection of all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (except the sales tax on motor vehicles and trailers, and all property taxes).

43.210. Any person arrested by a member of the patrol shall forthwith be taken by such member before the court or associate circuit judge **or his or her designee** having jurisdiction of the crime whereof such person so arrested is charged there to be dealt with according to law.

43.220. Neither the governor[, the commission,] nor the superintendent shall have any power, right or authority to command, order or direct any member of the patrol to perform any duty or service not authorized by [this chapter] **statute**.

43.530. **1.** For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than [five] **nine** dollars per request for criminal history record information not based on a fingerprint search [when the requesting

4 entity is required to obtain such information by any provision of state or federal law and pay a
5 fee of not more than fourteen dollars per request for criminal history record information based
6 on a fingerprint search when the requesting entity is required to obtain such information by any
7 provision of state or federal law; provided that, when the requesting entity is not required to
8 obtain such information by law, the requesting entity shall pay a fee of not more than ten dollars
9 per request for criminal history record information not based on a fingerprint search and] . **In**
10 **each year beginning on or after January 1, 2010, the superintendent may increase the fee**
11 **paid by requesting entities by an amount not to exceed one dollar per year, however, under**
12 **no circumstance shall the fee paid by requesting entities exceed fifteen dollars per request.**

13 **2. For each request requiring the payment of a fee received by the central**
14 **repository, the requesting entity shall pay a fee of not more than twenty dollars per request for**
15 **criminal history record information based on a fingerprint search[. Each such] , unless the**
16 **request is required under the provisions of section 210.487, RSMo, or section 571.101,**
17 **RSMo, in which case, the fee shall be fourteen dollars.**

18 **3. A request made under subsections 1 and 2 of this section** shall be limited to check
19 and search on one individual. Each request shall be accompanied by a check, warrant, voucher,
20 money order, or electronic payment payable to the state of Missouri-criminal record system or
21 payment shall be made in a manner approved by the highway patrol. The highway patrol may
22 establish procedures for receiving requests for criminal history record information for
23 classification and search for fingerprints, from courts and other entities, and for the payment of
24 such requests. There is hereby established by the treasurer of the state of Missouri a fund to be
25 entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section
26 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not
27 totally expended annually for the purposes set forth in sections 43.500 to 43.543, the unexpended
28 moneys in such fund shall remain in the fund and the balance shall be kept in the fund to
29 accumulate from year to year.

43.546. 1. Any state agency, board, or commission may require the fingerprinting
2 **of applicants in specified occupations or appointments within the state agency, board, or**
3 **commission for the purpose of positive identification and receiving criminal history record**
4 **information when determining an applicant's ability or fitness to serve in such occupation**
5 **or appointment.**

6 **2. In order to facilitate the criminal background check under subsection 1 of this**
7 **section on any person employed or appointed by a state agency, board, or commission, and**
8 **in accordance with section 43.543, the applicant or employee shall submit a set of**
9 **fingerprints collected under the standards determined by the Missouri highway patrol.**
10 **The fingerprints and accompanying fees, unless otherwise arranged, shall be forwarded**

11 to the highway patrol to be used to search the state criminal history repository and the
12 fingerprints shall be forwarded to the Federal Bureau of Investigation for a national
13 criminal background check. Notwithstanding the provisions of section 610.120, RSMo, all
14 records related to any criminal history information discovered shall be accessible and
15 available to the state agency making the request.

43.547. 1. The Missouri state highway patrol, at the direction of the governor, shall
2 conduct name or fingerprint background investigations of gubernatorial appointees. The
3 governor's directive shall state whether the background investigation shall be a name
4 background investigation or a fingerprint background investigation. In addition, the
5 patrol may, at the governor's direction, conduct other appropriate investigations to
6 determine if an applicant or appointee is in compliance with section 105.262, RSMo, and
7 other necessary inquiries to determine the person's suitability for positions of public trust.

8 2. In order to facilitate the fingerprint background investigation under subsection
9 1 of this section, and in accordance with the provisions of section 43.543, the appointee
10 shall submit a set of fingerprints collected under the standards determined by the Missouri
11 highway patrol. The fingerprints and accompanying fees, unless otherwise arranged, shall
12 be forwarded to the highway patrol to be used to search the state criminal history
13 repository and the fingerprints shall be forwarded to the Federal Bureau of Investigation
14 for a national criminal background check. Any background investigation conducted at the
15 direction of the governor under subsection 1 of this section may include criminal history
16 record information and other source information obtained by the highway patrol.

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