

FIRST REGULAR SESSION

# HOUSE BILL NO. 331

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES LIPKE (Sponsor) AND DUSENBERG (Co-sponsor).

Read 1st time January 11, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1044L.02I

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### AN ACT

To repeal sections 43.010, 43.030, 43.090, 43.110, 43.120, 43.140, 43.160, 43.210, and 43.220, RSMo, and to enact in lieu thereof nine new sections relating to the Missouri state highway patrol, with an emergency clause for certain sections.

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

Section A. Sections 43.010, 43.030, 43.090, 43.110, 43.120, 43.140, 43.160, 43.210, and  
2 43.220, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as  
3 sections 43.010, 43.030, 43.110, 43.120, 43.140, 43.160, 43.210, 43.220, and 43.547, to read as  
4 follows:

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

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

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

6 [(3)] (2) "MULES", Missouri uniform law enforcement system, a statewide-  
7 computerized communications system provided by the patrol designed to provide services,  
8 information, and capabilities to the law enforcement and criminal justice community in the state  
9 of Missouri;

10 [(4)] (3) "Patrol", the Missouri state highway patrol;

11 [(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 maintain an office [and reside] in Jefferson City.

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

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

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

          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 **salary and expenses of the member or employee is paid.**

          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 may direct members and other employees**  
24 **of the patrol to carry out any public safety duty or service authorized or appropriated by**  
25 **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  
2 duties, shall each take and subscribe an oath to support the constitution and laws of the United  
3 States and the state of Missouri and to faithfully demean themselves in office in the form  
4 prescribed by section 11, article VII, of the constitution of this state and they shall each faithfully  
5 perform the duties of their respective offices and safely keep and account for all moneys and  
6 property received by them.

7         [2. The superintendent, major, director of radio, each member assigned to duty in the  
8 department of finance and statistics and each member assigned to duty in the department of  
9 supplies and equipment shall give bond to be approved by the commission. The bond of the  
10 superintendent shall be twenty thousand dollars, and for each other member required to be  
11 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  
2 maintained by the [commission] **state of Missouri**; to regulate the movement of traffic thereon;  
3 to enforce thereon the laws of this state relating to the operation and use of vehicles on the

4 highways; to enforce and prevent thereon the violation of the laws relating to the size, weight and  
5 speed of commercial motor vehicles and all laws designed to protect and safeguard the highways  
6 constructed and maintained by the [commission] **state of Missouri**. It shall be the duty of the  
7 patrol whenever possible to determine persons causing or responsible for the breaking, damaging  
8 or destruction of any improved hard surfaced roadway, structure, sign markers, guard rail, or any  
9 other appurtenance constructed or maintained by the [commission] **state of Missouri** and to  
10 arrest persons criminally responsible therefor and to bring them before the proper officials for  
11 prosecution. It shall be the duty of the patrol to cooperate with such state official as may be  
12 designated by law in the collection of all state revenue derived from highway users as an incident  
13 to their use or right to use the highways of the state, including all license fees and taxes upon  
14 motor vehicles, trailers, and motor vehicle fuels, and upon, with respect to, or on the privilege  
15 of the manufacture, receipt, storage, distribution, sale or use thereof (except the sales tax on  
16 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  
2 member before the court or associate circuit judge, **or such court's or judge's designee**, having  
3 jurisdiction of the crime whereof such person so arrested is charged there to be dealt with  
4 according to law.

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

**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 conduct other appropriate checks to determine if an applicant or appointee is**  
6 **in compliance with section 105.262, RSMo, and other necessary inquiries to determine**  
7 **suitability for positions of public trust. The governor may also direct the patrol to conduct**  
8 **internal investigations concerning complaints of misconduct of appointees of the executive**  
9 **branch appointed by the governor.**

10 **2. To facilitate the fingerprint background investigations authorized under**  
11 **subsection 1 of this section and in accordance with section 43.543, the appointee shall**  
12 **submit a set of fingerprints collected under the standards determined by the patrol. The**  
13 **fingerprints and accompanying fees, unless alternately arranged, shall be forwarded to the**  
14 **highway patrol to be used to search the state criminal history repository and the**  
15 **fingerprints shall be forwarded to the Federal Bureau of Investigation for a national**  
16 **criminal background check. Any background investigation conducted at the direction of**

17 **the governor under subsection 1 of this section may include criminal history record**  
18 **information and other source information obtained by the highway patrol. Information**  
19 **received by the patrol under this section shall be confidential and shall not be disclosed**  
20 **except to the governor or members of the governor's staff as necessary to determine the**  
21 **appointee's qualifications and/or ability to hold such office.**

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

Section B. Because immediate action is necessary for adequate distribution of law  
2 enforcement personnel throughout the state the repeal and reenactment of sections 43.030,  
3 43.120, and 43.220 of section A of this act are deemed necessary for the immediate preservation  
4 of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act  
5 within the meaning of the constitution, and the repeal and reenactment of sections 43.030,  
6 43.120, and 43.220 of section A of this act shall be in full force and effect upon its passage and  
7 approval.

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