

SECOND REGULAR SESSION

HOUSE BILL NO. 2417

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROORDA.

5456L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 36.031, 43.040, 43.050, 58.445, 301.716, 306.010, 306.161, 306.163, 306.165, 306.167, 306.168, 306.185, 306.227, 306.228, 306.229, 306.230, 306.232, 542.261, 544.157, 577.090, and 650.005, RSMo, and to enact in lieu thereof sixteen new sections relating to transfer of the Missouri state water patrol to the division of water patrol within the Missouri state highway patrol, with a penalty provision and an effective date.

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

Section A. Sections 36.031, 43.040, 43.050, 58.445, 301.716, 306.010, 306.161, 2 306.163, 306.165, 306.167, 306.168, 306.185, 306.227, 306.228, 306.229, 306.230, 306.232, 3 542.261, 544.157, 577.090, and 650.005, RSMo, are repealed and sixteen new sections enacted 4 in lieu thereof, to be known as sections 36.031, 43.040, 43.050, 43.392, 58.445, 104.810, 5 301.716, 306.010, 306.165, 306.167, 306.168, 306.185, 542.261, 544.157, 577.090, and 650.005, 6 to read as follows:

36.031. Any provision of law to the contrary notwithstanding, except for the elective 2 offices, institutions of higher learning, the department of transportation, the department of 3 conservation, those positions in the Missouri state highway patrol the compensation of which is 4 established by subdivision (2) of subsection 2 of section 43.030, RSMo, and section 43.080, 5 RSMo, [those positions in the Missouri state water patrol the compensation of which is 6 established by section 306.229, RSMo,] those positions in the division of finance and the 7 division of credit unions compensated through a dedicated fund obtained from assessments and 8 license fees under sections 361.170 and 370.107, RSMo, and those positions for which the 9 constitution specifically provides the method of selection, classification, or compensation, and

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.

10 the positions specified in subsection 1 of section 36.030, but including attorneys, those
11 departments, agencies and positions of the executive branch of state government which have not
12 been subject to these provisions of the state personnel law shall be subject to the provisions of
13 sections 36.100, 36.110, 36.120 and 36.130, and the regulations adopted pursuant to sections
14 36.100, 36.110, 36.120 and 36.130 which relate to the preparation, adoption and maintenance
15 of a position classification plan, the establishment and allocation of positions within the
16 classification plan and the use of appropriate class titles in official records, vouchers, payrolls
17 and communications. Any provision of law which confers upon any official or agency subject
18 to the provisions of this section the authority to appoint, classify or establish compensation for
19 employees shall mean the exercise of such authority subject to the provisions of this section.
20 This section shall not extend coverage of any section of this chapter, except those specifically
21 named in this section, to any agency or employee. In accordance with sections 36.100, 36.110,
22 36.120 and 36.130, and after consultation with appointing authorities, the director of the division
23 of personnel shall conduct such job studies and job reviews and establish such additional new
24 and revised job classes as the director finds necessary for appropriate classification of the
25 positions involved. Such classifications and the allocation of positions to classes shall be
26 maintained on a current basis by the division of personnel. The director of the division of
27 personnel shall, at the same time, notify all affected agencies of the appropriate assignment of
28 each job classification to one of the salary ranges within the pay plan then applicable to merit
29 system agencies. The affected agencies and employees in the classifications set pursuant to this
30 section shall be subject to the pay plan and rates of compensation established and administered
31 in accordance with the provisions of this section, and the regulations adopted pursuant to this
32 section, on the same basis as for merit agency employees. In addition, any elected official,
33 institution of higher learning, the department of transportation, the department of conservation,
34 the general assembly, or any judge who is the chief administrative officer of the judicial branch
35 of state government may request the division of personnel to study salaries within the requestor's
36 office, department or branch of state government for classification purposes.

43.040. The superintendent shall appoint from the membership of the patrol one
2 lieutenant colonel and [five] **six** majors, who shall have the same qualifications as the
3 superintendent, and who may be relieved of the rank of lieutenant colonel or major, as the case
4 may be, and the duties of the position by the superintendent at his pleasure.

43.050. 1. The superintendent may appoint not more than [twenty-five] **thirty-four**
2 captains and one director of radio, each of whom shall have the same qualifications as the
3 superintendent, nor more than [sixty] **sixty-eight** lieutenants, and such additional force of
4 sergeants, corporals and patrolmen, so that the total number of members of the patrol shall not

5 exceed [nine hundred sixty-five] **one thousand sixty-four** officers and patrolmen and such
6 numbers of radio personnel as the superintendent deems necessary.

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

10 3. The superintendent may enter into an agreement with the Missouri gaming
11 commission to enforce any law, rule, or regulation, conduct background investigations under the
12 laws of this state, and enforce the regulations of licensed gaming activities governed by chapter
13 313, RSMo. **The amount of patrol staff necessary to protect the public on any excursion**
14 **gambling boat will include any staff the superintendent assigns pursuant to the agreement**
15 **with the Missouri gaming commission and any patrol staff the superintendent assigns to**
16 **protect the public on the waterways, set out in Article III, Section 39(e) of the Missouri**
17 **Constitution, where the excursion gambling boat licensees are permitted to operate**
18 **including all waterways located within one thousand feet of the excursion gambling boat**
19 **if the excursion gambling boat is allowed to continuously dock by a finding of the Missouri**
20 **gaming commission under the authority of subdivision (16) of section 313.805. The full cost**
21 **of the designated staff, set out in this section, shall be reimbursed by the excursion boat**
22 **licensees as required in subsection 9 of section 313.004 and section 313.820.** A notice of
23 either party to terminate or modify the provisions of such agreement shall be in writing and
24 executed not less than one year from the effective date of the termination or modification, unless
25 mutually agreed upon by the superintendent and the Missouri gaming commission. Members
26 of the patrol hired in conjunction with any agreement with the Missouri gaming commission
27 shall not be subject to the personnel cap referenced in subsection 1 of this section. If such
28 agreement is subsequently terminated or modified to reduce the number of personnel used in
29 such agreement, those members affected by such termination or modification shall not be subject
30 to the personnel cap referenced in subsection 1 of this section for a period of five years.

31 4. Member positions of the patrol originally acquired in conjunction with the
32 community-oriented policing services federal grant or members assigned to fulfill the duties
33 established in sections 43.350 to 43.380 shall not be subject to the personnel cap referenced in
34 subsection 1 of this section.

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

43.392. 1. Notwithstanding the provisions of subsection 1 of section 43.025, there
2 **is hereby created within the Missouri state highway patrol a "Division of Water Patrol".**

3 **2. The superintendent of the Missouri state highway patrol shall appoint a director**
4 **of the division of water patrol who shall be responsible for the operation of the division.**

5 **3. The superintendent of the Missouri state highway patrol may assign highway**
6 **patrol members under the superintendent's command to serve in the division of water**
7 **patrol on a permanent or temporary basis.**

8 **4. All officers assigned to the division of water patrol shall be vested with the**
9 **powers prescribed in sections 306.165, 306.167, and 306.168.**

10 **5. All salaries, expenses and other costs relating to the assignment of Missouri state**
11 **highway patrol members to the division of water patrol shall be paid within the limits of**
12 **appropriations from general revenue, the Missouri state water patrol fund established in**
13 **section 306.185, or from such other funding as may be authorized by the general assembly.**

58.445. 1. If any person within a coroner's or medical examiner's jurisdiction dies within
2 eight hours of, and as a result of, an accident involving a motor vehicle, the coroner or medical
3 examiner shall report the death and circumstances of the accident to the Missouri state highway
4 patrol in writing. If any person within a coroner's or medical examiner's jurisdiction dies within
5 eight hours of, and as a result of, an accident involving a motorized watercraft and was thought
6 to have been the operator of such watercraft, the coroner or medical examiner shall report the
7 death and circumstances of the accident to the Missouri state **highway patrol**, water patrol
8 **division**, in writing. The report required by this subsection shall be made within five days of the
9 conclusion of the tests required in subsection 2 of this section.

10 2. The coroner or medical examiner shall make, or cause to be made, such tests as are
11 necessary to determine the presence and percentage concentration of alcohol, and drugs if
12 feasible, in the blood of the deceased. The results of these tests shall be included in the coroner's
13 or medical examiner's report to the state highway patrol [or the Missouri state water patrol,] as
14 required by subsection 1 of this section.

104.810. 1. Employees of the Missouri state water patrol who are earning
2 **creditable service in the closed plan of the Missouri state employees' retirement system and**
3 **who are transferred to the Missouri state highway patrol will not become members of the**
4 **closed plan of the highways and transportation employees' and highway patrol retirement**
5 **system unless they elect to transfer membership and creditable service to the closed plan**
6 **of the highways and transportation employees' and highway patrol retirement system. The**
7 **election must be in writing and must be made within ninety days of January 1, 2011. Any**
8 **election to transfer membership and creditable service to the highways and transportation**
9 **employees' and highway patrol retirement system shall result in the forfeiture of any rights**
10 **or benefits in the Missouri state employees' retirement system. Any failure to elect to**
11 **transfer membership and creditable service under this subsection will result in the**
12 **employees remaining in the closed plan of the Missouri state employees' retirement system.**

13 **If an election is made, the effective date for commencement of membership and transfer**
14 **of such creditable service shall be July 1, 2011.**

15 **2. Employees of the Missouri state water patrol who are earning credited service**
16 **in the year 2000 plan of the Missouri state employees' retirement system and who are**
17 **transferred to the Missouri state highway patrol will remain in the year 2000 plan**
18 **administered by the Missouri state employees' retirement system unless they elect to**
19 **transfer membership and credited service to the year 2000 plan administered by the**
20 **highways and transportation employees' and highway patrol retirement system. The**
21 **election must be in writing and must be made within ninety days of January 1, 2011. Any**
22 **election to transfer membership and credited service to the year 2000 plan administered**
23 **by the highways and transportation employees' and highway patrol retirement system shall**
24 **result in the forfeiture of any rights or benefits in the Missouri state employees' retirement**
25 **system. Any failure to elect to transfer membership and credited service under this**
26 **subsection will result in the employees remaining in the year 2000 plan administered by the**
27 **Missouri state employees' retirement system. If an election is made, the effective date for**
28 **commencement of membership and transfer of such creditable service shall be July 1, 2011.**

29 **3. For any employee who elects under subsection 1 or 2 of this section to transfer**
30 **to the highways and transportation employees' and highway patrol retirement system, the**
31 **Missouri state employees' retirement system shall pay to the highways and transportation**
32 **employees' and highway patrol retirement system, by June 30, 2011, an amount actuarially**
33 **determined to equal the liability at the time of the transfer to the extent that liability is**
34 **funded as of the most recent actuarial valuation, not to exceed one hundred percent.**

35 **4. In no event shall any employee receive service credit for the same period of**
36 **service under more than one retirement system as a result of the provisions of this section.**

37 **5. For any transferred employee who elects under subsection 1 or 2 of this section**
38 **to transfer to the highways and transportation employees' and highway patrol retirement**
39 **system, the only medical coverage available for the employee shall be the medical coverage**
40 **provided in section 104.270. The effective date for commencement of medical coverage**
41 **shall be July 1, 2011. However, this does not preclude medical coverage for the transferred**
42 **employee as a dependent under any other health care plan.**

301.716. 1. Any violation of the provisions of sections 301.700 to 301.714 shall be an
2 infraction. An arrest or service of summons for violations of the provisions of sections 301.700
3 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304 or 307,
4 RSMo, as such provisions relate to all-terrain vehicles may be made by the duly authorized law
5 enforcement officer of any political subdivision of the state[,] or the highway patrol [and the
6 state water patrol].

7 2. Violations of sections 301.700 to 301.714 and section 577.065, RSMo, or the
8 provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain
9 vehicles or any rule or order hereunder may be referred to the proper prosecuting attorney or
10 circuit attorney who may, with or without such reference, institute appropriate proceedings.

11 3. Nothing in sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions
12 of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain vehicles limits
13 the power of the state to punish any person for any conduct which constitutes a crime by statute
14 or at common law.

306.010. As used in this chapter the following terms mean:

2 (1) "Motorboat", any vessel propelled by machinery, whether or not such machinery is
3 a principal source of propulsion;

4 (2) "Operate", to navigate or otherwise use a motorboat or a vessel;

5 (3) "Operator", the person who operates or has charge of the navigation or use of a
6 vessel;

7 (4) "Owner", a person other than a lienholder, having the property in or title to a
8 motorboat. The term includes a person entitled to the use or possession of a motorboat subject
9 to an interest of another person, reserved or created by agreement and securing payment or
10 performance of an obligation, but the term excludes a lessee under a lease not intended as
11 security;

12 (5) "Parasailing", the towing of any person equipped with a parachute or kite equipment
13 by any watercraft operating on the waters of this state;

14 (6) "Personal watercraft", a class of vessel, which is less than sixteen feet in length,
15 propelled by machinery which is designed to be operated by a person sitting, standing or kneeling
16 on the vessel, rather than being operated by a person sitting or standing inside the vessel;

17 (7) "Skiing", any activity that involves a person or persons being towed by a vessel,
18 including but not limited to waterskiing, wake boarding, wake surfing, knee boarding, and
19 tubing;

20 (8) "Vessel", every motorboat and every description of motorized watercraft, and any
21 watercraft more than twelve feet in length which is powered by sail alone or by a combination
22 of sail and machinery, used or capable of being used as a means of transportation on water, but
23 not any watercraft having as the only means of propulsion a paddle or oars;

24 (9) "Watercraft", any boat or craft, including a vessel, used or capable of being used as
25 a means of transport on waters;

26 (10) **"Water patrol division of the state highway patrol" or "Water patrol**
27 **division", the division responsible for enforcing the provisions of this chapter on the waters**
28 **of this state. The revisor of statutes is instructed to replace the terms "Missouri state water**

29 **patrol" or "State water patrol" wherever those terms exist in this chapter with the term**
30 **"Water patrol division".**

31 (11) "Waters of this state", any waters within the territorial limits of this state and lakes
32 constructed or maintained by the United States Army Corps of Engineers except bodies of water
33 owned by a person, corporation, association, partnership, municipality or other political
34 subdivision, public water supply impoundments, and except drainage ditches constructed by a
35 drainage district, but the term does include any body of water which has been leased to or owned
36 by the state department of conservation.

306.165. Each [water] patrol officer [appointed] **assigned to the water patrol division**
2 by the [Missouri state water patrol and each of such other employees as may be designated by
3 the patrol, before entering upon his or her duties, shall take and subscribe an oath of office to
4 perform all duties faithfully and impartially, and shall be given a certificate of appointment, a
5 copy of which shall be filed with the secretary of state, granting] **superintendent of the highway**
6 **patrol as provided in section 43.390 shall possess** all the powers of a peace officer to enforce
7 all laws of this state, upon all of the following:

- 8 (1) The waterways of this state bordering the lands set forth in subdivisions (2), (3), (4),
9 and (5) of this section;
- 10 (2) All federal land, where not prohibited by federal law or regulation, and state land
11 adjoining the waterways of this state;
- 12 (3) All land within three hundred feet of the areas in subdivision (2) of this section;
- 13 (4) All land adjoining and within six hundred feet of any waters impounded in areas not
14 covered in subdivision (2) **of this section** with a shoreline in excess of four miles;
- 15 (5) All land adjoining and within six hundred feet of the rivers and streams of this state;
- 16 (6) Any other jurisdictional area, pursuant to the provisions of section 306.167;
- 17 (7) All premises leased or owned or under control of the Missouri state water patrol.

18
19 Each [water] patrol officer **assigned to the water patrol division** may board any watercraft at
20 any time, with probable cause, for the purpose of making any inspection necessary to determine
21 compliance with the provisions of this chapter. Each [water] patrol officer may arrest on view
22 and without a warrant any person he or she sees violating or who such patrol officer has
23 reasonable grounds to believe has violated any law of this state, upon any water or land area
24 subject to his or her jurisdiction as provided in this section or may arrest anyone violating any
25 law in his or her presence throughout the state. Each [water] patrol officer, while investigating
26 an accident or crime that was originally committed within such patrol officer's jurisdiction, as
27 set forth in this section, may arrest any person who he or she has probable cause to believe has
28 committed such crime, even if the suspect is currently out of the **division of** water patrol's

29 jurisdiction. [Water] Patrol officers, if practicable, shall notify the sheriff or the police
30 department prior to making an arrest within their respective county or city. Each [water] patrol
31 officer shall comply with the training and certification provisions of chapter 590, RSMo.

306.167. The uniformed members of the [state] water patrol **division**, with the exception
2 of radio personnel, shall have full power and authority as now or hereafter vested by law in peace
3 officers when working with and at the special request of the sheriff of any county, the chief park
4 ranger of any first class county not having a charter form of government and containing a portion
5 of a city with a population exceeding four hundred thousand inhabitants, the chief of police of
6 any city, or the superintendent of the state highway patrol [as directed by the commissioner of
7 the water patrol]; provided, however, that such power and authority shall be exercised only upon
8 the prior notification of the chief law enforcement officer of each jurisdiction.

306.168. In the investigation of an accident or crime that was originally committed
2 within [such patrol officer's] **the water patrol division's** jurisdiction, as set forth in section
3 306.165, the members of the water patrol **division** may request that the prosecuting or circuit
4 attorney apply for, and members of the water patrol **division** may serve, search warrants
5 anywhere within the state of Missouri, provided the sheriff of the county in which the warrant
6 is to be served, or his designee, shall be notified upon application by the applicant of the search
7 warrant.

306.185. 1. There is hereby created in the state treasury the "Missouri State Water Patrol
2 Fund", which shall consist of money collected under section 306.030. The state treasurer shall
3 be custodian of the fund and shall approve disbursements from the fund in accordance with
4 sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely
5 for the expenses of the Missouri state **highway patrol**, water patrol **division**, including but not
6 limited to [personal] **personnel** expense, training expense, and equipment expense **for the**
7 **purpose of enforcing the laws of this chapter.**

8 2. Notwithstanding the provisions of section 33.080, RSMo, any moneys remaining in
9 the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

10 3. The state treasurer shall invest moneys in the fund in the same manner as other funds
11 are invested. Any interest and moneys earned on such investments shall be credited to the fund.

12 [4. Within available appropriations in this section, the commissioner of the water patrol
13 shall establish with the advice of the director of personnel an equitable pay plan for the members
14 of the water patrol and radio personnel taking into consideration ranks and length of service.

15 5. If in the immediate previous fiscal year, the state's net general revenue did not increase
16 by two percent or more, the state treasurer shall deposit moneys, except for gifts, donations, or
17 bequests, received under this section beginning January first of the current fiscal year into the

18 state general revenue fund. Otherwise, the state treasurer shall deposit such moneys in
19 accordance with the provisions of this section.]

542.261. As used in sections 542.261 to 542.296 and section 542.301, the term "peace
2 officer" means a police officer, member of the highway patrol [or water patrol] to the extent
3 otherwise permitted by law to conduct searches, sheriff or deputy sheriff.

544.157. 1. Any law enforcement officer certified pursuant to chapter 590, RSMo, of
2 any political subdivision of this state, any authorized agent of the department of conservation,
3 any commissioned member of the Missouri capitol police[,] **and** any commissioned member of
4 the Missouri state park rangers [and any authorized agent of the Missouri state water patrol] in
5 fresh pursuit of a person who is reasonably believed by such officer to have committed a felony
6 in this state or who has committed, or attempted to commit, in the presence of such officer or
7 agent, any criminal offense or violation of a municipal or county ordinance, or for whom such
8 officer holds a warrant of arrest for a criminal offense, shall have the authority to arrest and hold
9 in custody such person anywhere in this state. Fresh pursuit may only be initiated from within
10 the pursuing peace officer's, conservation agent's, capitol police officer's, state park ranger's or
11 water patrol officer's jurisdiction and shall be terminated once the pursuing peace officer is
12 outside of such officer's jurisdiction and has lost contact with the person being pursued. If the
13 offense is a traffic violation, the uniform traffic ticket shall be used as if the violator had been
14 apprehended in the municipality or county in which the offense occurred.

15 2. If such an arrest is made in obedience to a warrant, the disposition of the prisoner shall
16 be made as in other cases of arrest under a warrant; if the violator is served with a uniform traffic
17 ticket, the violator shall be directed to appear before a court having jurisdiction to try the offense;
18 if the arrest is without a warrant, the prisoner shall be taken forthwith before a judge of a court
19 with original criminal jurisdiction in the county wherein such arrest was made or before a
20 municipal judge thereof having original jurisdiction to try such offense, who may release the
21 person as provided in section 544.455, conditioned upon such person's appearance before the
22 court having jurisdiction to try the offense. The person so arrested need not be taken before a
23 judge as herein set out if given a summons by the arresting officer.

24 3. The term "fresh pursuit", as used in this section, shall include hot or fresh pursuit as
25 defined by the common law and also the pursuit of a person who has committed a felony or is
26 reasonably suspected of having committed a felony in this state, or who has committed or
27 attempted to commit in this state a criminal offense or violation of municipal or county ordinance
28 in the presence of the arresting officer referred to in subsection 1 of this section or for whom
29 such officer holds a warrant of arrest for a criminal offense. It shall include also the pursuit of
30 a person suspected of having committed a supposed felony in this state, though no felony has

31 actually been committed, if there is reasonable ground for so believing. "Fresh pursuit" as used
32 herein shall imply instant pursuit.

33 4. A public agency electing to institute vehicular pursuits shall adopt a policy for the safe
34 conduct of vehicular pursuits by peace officers. Such policy shall meet the following minimum
35 standards:

36 (1) There shall be supervisory control of the pursuit;

37 (2) There shall be procedures for designating the primary pursuit vehicle and for
38 determining the total number of vehicles to be permitted to participate at one time in the pursuit;

39 (3) There shall be procedures for coordinating operation with other jurisdictions; and

40 (4) There shall be guidelines for determining when the interests of public safety and
41 effective law enforcement justify a vehicular pursuit and when a vehicular pursuit should not be
42 initiated or should be terminated.

577.090. Any law enforcement officer shall and any agent of the conservation
2 commission or deputy or **member of the highway patrol**, water patrol [officer] **division**, may
3 enforce the provisions of sections 577.070 and 577.080 and arrest violators thereof; except that
4 conservation agents [and water patrolmen] may enforce such provisions only upon the water, the
5 banks thereof or upon public land.

650.005. 1. There is hereby created a "Department of Public Safety" in charge of a
2 director appointed by the governor with the advice and consent of the senate. The department's
3 role will be to provide overall coordination in the state's public safety and law enforcement
4 program, to provide channels of coordination with local and federal agencies in regard to public
5 safety, law enforcement and with all correctional and judicial agencies in regard to matters
6 pertaining to its responsibilities as they may interrelate with the other agencies or offices of state,
7 local or federal governments.

8 2. All the powers, duties and functions of the state highway patrol, chapter 43, RSMo,
9 and others, are transferred by type II transfer to the department of public safety. The governor
10 by and with the advice and consent of the senate shall appoint the superintendent of the patrol.
11 With the exception of sections 43.100 to 43.120, RSMo, relating to financial procedures, the
12 director of public safety shall succeed the state highways and transportation commission in
13 approving actions of the superintendent and related matters as provided in chapter 43, RSMo.
14 Uniformed members of the patrol shall be selected in the manner provided by law and shall
15 receive the compensation provided by law. Nothing in the Reorganization Act of 1974, however,
16 shall be interpreted to affect the funding of appropriations or the operation of chapter 104,
17 RSMo, relating to retirement system coverage or section 226.160, RSMo, relating to workers'
18 compensation for members of the patrol.

19 3. All the powers, duties and functions of the supervisor of liquor control, chapter 311,
20 RSMo, and others, are transferred by type II transfer to the department of public safety. The
21 supervisor shall be nominated by the department director and appointed by the governor with the
22 advice and consent of the senate. The supervisor shall appoint such agents, assistants, deputies
23 and inspectors as limited by appropriations. All employees shall have the qualifications provided
24 by law and may be removed by the supervisor or director of the department as provided in
25 section 311.670, RSMo.

26 4. The director of public safety, superintendent of the highway patrol and transportation
27 division of the department of economic development are to examine the motor carrier inspection
28 laws and practices in Missouri to determine how best to enforce the laws with a minimum of
29 duplication, harassment of carriers and to improve the effectiveness of supervision of weight and
30 safety requirements and to report to the governor and general assembly by January 1, 1975, on
31 their findings and on any actions taken.

32 5. The Missouri division of highway safety is transferred by type I transfer to the
33 department of public safety. The division shall be in charge of a director who shall be appointed
34 by the director of the department.

35 6. All the powers, duties and functions of the safety and fire prevention bureau of the
36 department of public health and welfare are transferred by type I transfer to the director of public
37 safety.

38 7. All the powers, duties and functions of the state fire marshal, chapter 320, RSMo, and
39 others, are transferred to the department of public safety by a type I transfer.

40 8. All the powers, duties and functions of the law enforcement assistance council
41 administering federal grants, planning and the like relating to Public Laws 90-351, 90-445 and
42 related acts of Congress are transferred by type I transfer to the director of public safety. The
43 director of public safety shall appoint such advisory bodies as are required by federal laws or
44 regulations. The council is abolished.

45 9. The director of public safety shall promulgate motor vehicle regulations and be ex
46 officio a member of the safety compact commission in place of the director of revenue and all
47 powers, duties and functions relating to chapter 307, RSMo, are transferred by type I transfer to
48 the director of public safety.

49 10. The office of adjutant general and the state militia are assigned to the department of
50 public safety; provided, however, nothing herein shall be construed to interfere with the powers
51 and duties of the governor as provided in article IV, section 6 of the Constitution of the state of
52 Missouri or chapter 41, RSMo.

53 11. All the powers, duties and functions of the Missouri boat commission, chapter 306,
54 RSMo, and others, are transferred by type I transfer to the "Missouri State Water Patrol", which

55 is hereby created, in the department of public safety. The Missouri boat commission and the
56 office of secretary to the commission are abolished. The Missouri state water patrol shall be
57 headed by a boat commissioner who shall be appointed by the governor, with the advice and
58 consent of the senate. All deputy boat commissioners and all other employees of the commission
59 who were employed on February 1, 1974, shall be transferred to the water patrol without further
60 qualification. **Effective January 1, 2011, all the powers, duties and functions of the Missouri**
61 **state water patrol are transferred to the division of water patrol within the Missouri state**
62 **highway patrol as set out in section 43.390.**

63 12. The division of veterans affairs, chapter 42, RSMo, is assigned to the office of
64 adjutant general. The adjutant general, with the advice of the veterans' board, shall appoint the
65 director of the division of veterans affairs who shall serve at the pleasure of the adjutant general.

66 13. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
67 is created under the authority delegated in this section shall become effective only if it complies
68 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
69 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
70 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
71 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
72 grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be
73 invalid and void.

2 [306.161. The Missouri state water patrol is authorized to employ, within
3 the limits of appropriations and notwithstanding any other provision of law to the
4 contrary, such personnel as may be necessary to properly perform the duties of
5 the water patrol, and the water patrol shall prescribe the duties and
6 responsibilities of such personnel.]

2 [306.163. 1. The governor, by and with the advice and consent of the
3 senate, shall appoint a commissioner of the Missouri state water patrol to serve
4 at the pleasure of the governor. The commissioner shall take and subscribe an
5 oath of office to perform the commissioner's duties faithfully and impartially.
6 The commissioner appointed by the governor shall have at least ten years of
7 experience in law enforcement similar to the duties exercised by uniformed
8 officers of the state water patrol or at least five years of experience as a
9 uniformed officer of the state water patrol.

10 2. The commissioner shall prescribe rules for instruction and discipline
11 and make administrative rules and regulations and fix the hours of duty for the
12 members of the patrol. The commissioner shall have charge of the office of the
13 patrol, shall be custodian of the records of the patrol, and shall direct the
14 day-to-day activities of the officers, patrolmen and office personnel.

15 3. The commissioner shall be given a certificate of appointment, a copy
of which shall be filed with the secretary of state, granting him or her all the

16 powers of a peace officer to enforce all the laws of this state within the
17 jurisdiction of the water patrol as listed in section 306.165, provided that he has
18 completed a law enforcement training course which meets the standards
19 established in chapter 590, RSMo.

20 4. In the absence, or upon the disability, of the commissioner, or at the
21 time the commissioner designates, the lieutenant colonel shall assume the duties
22 of the commissioner. In case of the disability of the commissioner and the
23 lieutenant colonel, the governor may designate a major as acting commissioner
24 and when so designated, the acting commissioner shall have all the powers and
25 duties of the commissioner.]
26

2 [306.227. Patrolmen and radio personnel of the water patrol shall not be
3 less than twenty-one years of age. No person shall be appointed as commissioner
4 or as a member of the patrol or as a member of the radio personnel who:

4 (1) Has been convicted of a felony or any crime involving moral
5 turpitude, or against whom any indictment or information may then be pending
6 charging the person with having committed a crime;

7 (2) Is not of good character;

8 (3) Is not a citizen of the United States;

9 (4) At the time of appointment is not a citizen of the state of Missouri;

10 (5) Has not completed a high school program of education under chapter
11 167, RSMo, or has not obtained a General Educational Development (GED)
12 certificate, and who has not obtained advanced education and experience as
13 approved by the commissioner; or

14 (6) Does not possess ordinary physical strength, and who is not able to
15 pass the physical and mental examination that the commissioner prescribes.]
16

2 [306.228. 1. The commissioner may appoint from within the
3 membership not more than one assistant commissioner, two majors, nine
4 captains, nine lieutenants, and one director of radio, each of whom shall have the
5 same qualifications as the commissioner, and such additional force of sergeants,
6 corporals and patrolmen and such numbers of radio personnel as the
7 commissioner deems necessary.

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

11 3. Applicants shall not be discriminated against because of race, creed,
12 color, national origin, religion or sex.]

2 [306.229. 1. The commissioner is authorized and empowered to
3 prescribe policies providing increases in the salaries of patrolmen and radio
4 personnel of the water patrol, subject to appropriations. Each year, prior to
January first, the commissioner shall submit a salary schedule report to the

5 governor, speaker of the house of representatives, and the president pro tem of
6 the senate. The salary schedule report prepared by the commissioner shall
7 include, in addition to other matters deemed pertinent to the commissioner, a
8 comparison of the salaries of police officers of three police departments that
9 employ similar numbers of patrol officers in the state. Such report shall also
10 include a full description and comparison of each department position used to
11 determine parity for all patrol positions of sergeant and above. The governor may
12 make additional recommendations to the report and forward them to the speaker
13 of the house of representatives and president pro tem of the senate. The speaker
14 of the house of representatives and the president pro tem of the senate may assign
15 the salary schedule report to the appropriate standing committees to review the
16 salary comparisons to ensure that parity, as adjusted for equivalent duties and
17 functions, in the salary of patrolmen and radio personnel of the water patrol and
18 officers of the three police departments that employ similar numbers of patrol
19 officers in the state is maintained. The commissioner of the water patrol shall
20 testify before the appropriate committee on the salary schedule report if called up
21 by such committee.

22 2. The service of a member of the patrol, who has served in the armed
23 forces of the United States and who has subsequently been reinstated as a
24 member of the patrol within ninety days after receiving a discharge other than
25 dishonorable from the armed forces of the United States, shall be considered
26 service with the patrol as a member of the patrol rendered since last becoming a
27 member prior to entrance into the armed forces of the United States; except that
28 no member shall be entitled to any credit, privilege or benefit provided by this
29 chapter if such reenlistment, waiver of discharge, acceptance of commission or
30 any other action with the armed forces beyond the period of service for which
31 such member was originally commissioned, enlisted, inducted or called.]
32

[306.230. 1. The commissioner shall prescribe rules for instruction and
2 discipline and make all administrative rules and regulations and fix the hours of
3 duty for the members of the patrol. Any rule or portion of a rule, as that term is
4 defined in section 536.010, RSMo, that is created under the authority delegated
5 in this section shall become effective only if it complies with and is subject to all
6 of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
7 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the
8 powers vested with the general assembly under chapter 536, RSMo, to review,
9 to delay the effective date, or to disapprove and annul a rule are subsequently
10 held unconstitutional, then the grant of rulemaking authority and any rule
11 proposed or adopted after August 28, 2007, shall be invalid and void. The
12 commissioner shall divide the state into districts and assign members of the
13 patrol to such districts in a manner deemed proper to carry out the purposes of
14 this chapter. The commissioner may call members of the patrol from one district
15 to another.

16 2. The commissioner may, by general order, establish for the
17 circumstances under which members of the patrol are promoted. The
18 commissioner shall classify and, by promotion, increase the rank of lieutenant
19 colonels, majors, captains, lieutenants, sergeants, corporals, patrolmen, and radio
20 personnel from the next lower rank after not less than one year of service
21 satisfactorily performed therein. If the commissioner finds the candidate pool to
22 fill a position through promotion is not sufficient from which to select, the
23 commissioner may promote an individual from the next lower rank.]
24

2 [306.232. 1. After a probation period of one year, members of the patrol
3 shall be subject to removal, reduction in rank, or suspension of more than three
4 days only for cause after a petition with a formal charge has been filed in writing
5 before or by the commissioner and upon a finding and vote by a majority of a
6 board of six patrol members after a hearing. The members of the board shall be
7 randomly selected from districts or divisions other than that of the accused. The
8 board shall be composed of six unbiased members including one nonvoting
9 captain, one lieutenant, and four members of the same rank as the accused
10 member. The randomly selected captain shall serve as presiding officer at the
11 hearing. Within thirty days after the petition is filed, unless the accused consents
12 to an extension of the time, the board shall conduct a hearing and report to the
13 commissioner the finding and vote of the majority of the board, whether the
14 charges are true, and what discipline, if any, should be imposed. All lawful rules,
15 regulations, and orders of the commissioner shall be obeyed by the members of
16 the patrol, who shall be subject to dismissal or one or more of the following as
adjudged by the commissioner:

17 (1) Suspension without pay for not more than thirty days;
18 (2) Reduction in rank; or
19 (3) Disciplinary transfer at the member's expense. Nothing in this section
20 shall be construed to prevent nondisciplinary transfers of members if the
21 commissioner determines that such transfers are for the good of the patrol. No
22 hearings shall be required in the case of reprimands or suspensions of three days
23 or less which may be imposed at the discretion of the commissioner.

24 2. If a complaint is filed against a member, the member shall be provided
25 a copy of the complaint promptly after the complaint is filed by or received by the
26 patrol. Unless the member consents in writing to an earlier time, the member
27 shall not be questioned by the patrol about the complaint or ordered to respond
28 in writing to the complaint until forty-eight hours after the member has received
29 a copy of the complaint. The member shall have a reasonable opportunity to
30 have counsel present during any questioning related to the complaint. Prior to the
31 commissioner or the patrol making an initial recommendation of discipline, the
32 member shall be entitled to a copy of any investigation reports and any other
33 written or recorded information or other evidence reviewed by the patrol which

34 relates to the complaint; and the member will be afforded an opportunity to
35 present a written response thereto.

36 3. Notwithstanding the provisions of this subsection or subsection 2 of
37 this section to the contrary, the commissioner may postpone notifying a member
38 that a complaint has been filed against him or her and may withhold the
39 complaint and part or all of the investigation report and other evidence if the
40 commissioner determines that such disclosures shall seriously interfere with the
41 investigation regarding such complaint or any other investigation being
42 conducted by the patrol or may likely jeopardize the health or safety of any
43 person. Nothing in this subsection shall be construed to limit the rights of parties
44 to discovery in civil or criminal litigation.]

45

Section B. The provisions of section A of this act shall take effect on January 1, 2011.

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