

FIRST REGULAR SESSION

[C O R R E C T E D]

SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NOS. 600, 337 & 413

## 96TH GENERAL ASSEMBLY

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Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 10, 2011, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1167S.05C

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### AN ACT

To repeal sections 43.260, 43.265, 87.005, 87.006, 304.820, 565.081, 565.083, and 570.080, RSMo, section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 62, ninety-fifth general assembly, first regular session and section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house bill no. 683, ninety-fifth general assembly, first regular session, and to enact in lieu thereof nine new sections relating to public safety, with penalty provisions.

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

Section A. Sections 43.260, 43.265, 87.005, 87.006, 304.820, 565.081, 565.083, and 570.080, RSMo, section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 62, ninety-fifth general assembly, first regular session and section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house bill no. 683, ninety-fifth general assembly, first regular session, are repealed and nine new sections enacted in lieu thereof, to be known as sections 43.260, 43.265, 87.005, 87.006, 304.820, 565.081, 565.082, 565.083, and 570.080, to read as follows:

43.260. Notwithstanding other provisions of law to the contrary, the

**EXPLANATION—**Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 Missouri state highway patrol is hereby authorized to sell surplus highway patrol  
3 motor vehicles, **watercraft, watercraft motors, and trailers**. Sales to  
4 municipal, county, political subdivisions or state governmental agencies shall be  
5 given preference over sales to the general public. Vehicles, **watercraft,**  
6 **watercraft motors, and trailers** may be offered for sale only after approval is  
7 given in writing by the commissioner of administration and an evaluation is made  
8 of each [vehicle] **asset** and a price determined by the commissioner of  
9 administration. The highway patrol shall accept not less than the amount  
10 authorized by the commissioner of administration for the sale of vehicles,  
11 **watercraft, watercraft motors, and trailers.**

43.265. There is hereby created in the state treasury the "Highway  
2 Patrol's Motor Vehicle [and], Aircraft, **and Watercraft** Revolving Fund", which  
3 shall be administered by the superintendent of the highway patrol. All funds  
4 received by the highway patrol from:

5 (1) Any source for purchase of highway patrol motor vehicles, **watercraft,**  
6 **watercraft motors, and trailers;**  
7 (2) Any source for reimbursement of costs associated with the official use  
8 of highway patrol vehicles;  
9 (3) Any source for restitution for damage to or loss of a highway patrol  
10 vehicle or aircraft;

11 (4) Any other source for the purchase of highway patrol aircraft or aircraft  
12 parts; and

13 (5) Government agencies for the reimbursement of costs associated with  
14 aircraft flights flown on their behalf by the highway patrol;  
15 shall be credited to the fund. The state treasurer is the custodian of the fund and  
16 shall approve disbursements from the fund subject to appropriation and as  
17 provided by law and the constitution of this state at the request of the  
18 superintendent of the highway patrol. The balances from this fund shall be used  
19 for the purchase of highway patrol motor vehicles, **highway patrol watercraft,**  
20 **watercraft motors, and trailers**, highway patrol aircraft or aircraft parts and  
21 operational costs. Any unexpended balance in the fund at the end of the fiscal  
22 year shall be exempt from the provisions of section 33.080 relating to the transfer  
23 of unexpended balances to the general revenue fund.

87.005. 1. Notwithstanding the provisions of any law to the contrary,  
2 after five years' service, any condition of impairment of health caused by any  
3 **infectious disease**, disease of the lungs or respiratory tract, hypertension, or

4 disease of the heart resulting in total or partial disability or death to a uniformed  
5 member of a paid fire department, who successfully passed a physical  
6 examination within five years prior to the time a claim is made for such disability  
7 or death, which examination failed to reveal any evidence of such condition, shall  
8 be presumed to have been suffered in line of duty, unless the contrary be shown  
9 by competent evidence. **In order to receive the presumption that an**  
10 **infectious disease was contracted in the line of duty, the member shall**  
11 **submit to an annual physical examination, at which a blood test is**  
12 **administered.**

13 2. This section shall apply only to the provisions of chapter 87, RSMo  
14 1959.

15 **3. As used in this section, the term "infectious disease" means the**  
16 **human immunodeficiency virus, acquired immunodeficiency syndrome,**  
17 **tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D,**  
18 **diphtheria, meningococcal meningitis, methicillin-resistant**  
19 **staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe**  
20 **acute respiratory syndrome.**

87.006. 1. Notwithstanding the provisions of any law to the contrary, and  
2 only for the purpose of computing retirement benefits provided by an established  
3 retirement plan, after five years' service, any condition of impairment of health  
4 caused by any **infectious disease**, disease of the lungs or respiratory tract,  
5 hypotension, hypertension, or disease of the heart resulting in total or partial  
6 disability or death to a uniformed member of a paid fire department, who  
7 successfully passed a physical examination within five years prior to the time a  
8 claim is made for such disability or death, which examination failed to reveal any  
9 evidence of such condition, shall be presumed to have been suffered in the line  
10 of duty, unless the contrary be shown by competent evidence.

11 2. Any condition of cancer affecting the skin or the central nervous,  
12 lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular,  
13 genitourinary, liver or prostate systems, as well as any condition of cancer which  
14 may result from exposure to heat or radiation or to a known or suspected  
15 carcinogen as determined by the International Agency for Research on Cancer,  
16 which results in the total or partial disability or death to a uniformed member of  
17 a paid fire department who successfully passed a physical examination within five  
18 years prior to the time a claim is made for disability or death, which examination  
19 failed to reveal any evidence of such condition, shall be presumed to have been

20 suffered in the line of duty unless the contrary be shown by competent evidence  
21 and it can be proven to a reasonable degree of medical certainty that the  
22 condition did not result nor was contributed to by the voluntary use of tobacco.

23       3. This section shall apply to paid members of all fire departments of all  
24 counties, cities, towns, fire districts, and other governmental units.

25       4. **As used in this section, the term "infectious disease" means the**  
26 **human immunodeficiency virus, acquired immunodeficiency syndrome,**  
27 **tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D,**  
28 **diphtheria, meningococcal meningitis, methicillin-resistant**  
29 **staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe**  
30 **acute respiratory syndrome.**

304.820. 1. Except as otherwise provided in this section, no person  
2 [twenty-one years of age or younger] operating a moving motor vehicle upon the  
3 highways of this state shall, by means of a hand-held electronic wireless  
4 communications device, send, read, or write a text message or electronic message,  
5 **unless the device is equipped with technology allowing for voice-**  
6 **recognition hands-free texting and is being used in such manner.**

7       2. The provisions of subsection 1 of this section shall not apply to a person  
8 operating:

9           (1) An authorized emergency vehicle; or  
10           (2) A moving motor vehicle while using a hand-held electronic wireless  
11 communications device to:

12           (a) Report illegal activity;  
13           (b) Summon medical or other emergency help;  
14           (c) Prevent injury to a person or property; or  
15           (d) Relay information between a transit or for-hire operator and that  
16 operator's dispatcher, in which the device is permanently affixed to the vehicle.

17       3. Nothing in this section shall be construed or interpreted as prohibiting  
18 a person from making or taking part in a telephone call, by means of a hand-held  
19 electronic wireless communications device, while operating a motor vehicle upon  
20 the highways of this state.

21       4. As used in this section, "electronic message" means a self-contained  
22 piece of digital communication that is designed or intended to be transmitted  
23 between hand-held electronic wireless communication devices. "Electronic  
24 message" includes, but is not limited to, electronic mail, a text message, an  
25 instant message, or a command or request to access an internet site.

26        5. As used in this section, "hand-held electronic wireless communications  
27 device" includes any hand-held cellular phone, palm pilot, blackberry, or other  
28 mobile electronic device used to communicate verbally or by text or electronic  
29 messaging, but shall not apply to any device that is permanently embedded into  
30 the architecture and design of the motor vehicle.

31        6. As used in this section, "making or taking part in a telephone call"  
32 means listening to or engaging in verbal communication through a hand-held  
33 electronic wireless communication device.

34        7. As used in this section, "send, read, or write a text message or  
35 electronic message" means using a hand-held electronic wireless  
36 telecommunications device to manually communicate with any person by using  
37 an electronic message. Sending, reading, or writing a text message or electronic  
38 message does not include reading, selecting, or entering a phone number or name  
39 into a hand-held electronic wireless communications device for the purpose of  
40 making a telephone call.

41        8. A violation of this section shall be deemed an infraction and shall be  
42 deemed a moving violation for purposes of point assessment under section  
43 302.302, RSMo.

44        9. The state preempts the field of regulating the use of hand-held  
45 electronic wireless communications devices in motor vehicles, and the provisions  
46 of this section shall supercede any local laws, ordinances, orders, rules, or  
47 regulations enacted by a county, municipality, or other political subdivision to  
48 regulate the use of hand-held electronic wireless communication devices by the  
49 operator of a motor vehicle.

50        10. The provisions of this section shall not apply to:

51            (1) The operator of a vehicle that is lawfully parked or stopped;  
52            (2) Any of the following while in the performance of their official duties:  
53            a law enforcement officer; a member of a fire department; or the operator of a  
54            public or private ambulance;

55            (3) The use of factory-installed or aftermarket global positioning systems  
56 (GPS) or wireless communications devices used to transmit or receive data as part  
57 of a digital dispatch system;

58            (4) The use of voice-operated technology;

59            (5) The use of two-way radio transmitters or receivers by a licensee of the  
60 Federal Communications Commission in the Amateur Radio Service.

565.081. 1. A person commits the crime of assault of a law enforcement

2 officer, corrections officer, emergency personnel, highway worker in a construction  
3 zone or work zone, **utility worker**, or probation and parole officer in the first  
4 degree if such person attempts to kill or knowingly causes or attempts to cause  
5 serious physical injury to a law enforcement officer, corrections officer, emergency  
6 personnel, highway worker in a construction zone or work zone, **utility worker**,  
7 or probation and parole officer.

8 2. As used in this section, "emergency personnel" means any paid or  
9 volunteer firefighter, emergency room or trauma center personnel, or emergency  
10 medical technician as defined in subdivisions (15), (16), (17), and (18) of section  
11 190.100.

12 3. As used in this section the term "corrections officer" includes any jailer  
13 or corrections officer of the state or any political subdivision of the state.

14 4. When used in this section, the terms "highway worker", "construction  
15 zone", or "work zone" shall have the same meaning as such terms are defined in  
16 section 304.580.

17 5. **As used in this section, the term "utility worker" means any employee while in performance of their job duties, including any person employed under contract, of a utility that provides gas, heat, electricity, water, steam, telecommunications services, or sewer services, whether privately, municipally, or cooperatively owned.**

22 6. Assault of a law enforcement officer, corrections officer, emergency  
23 personnel, highway worker in a construction zone or work zone, **utility worker**,  
24 or probation and parole officer in the first degree is a class A felony.

2 [565.082. 1. A person commits the crime of assault of a law  
3 enforcement officer, corrections officer, emergency personnel, or  
4 probation and parole officer in the second degree if such person:

4 (1) Knowingly causes or attempts to cause physical injury  
5 to a law enforcement officer, corrections officer, emergency  
6 personnel, or probation and parole officer by means of a deadly  
7 weapon or dangerous instrument;

8 (2) Knowingly causes or attempts to cause physical injury  
9 to a law enforcement officer, corrections officer, emergency  
10 personnel, highway worker in a construction zone or work zone, or  
11 probation and parole officer by means other than a deadly weapon  
12 or dangerous instrument;

13 (3) Recklessly causes serious physical injury to a law

14 enforcement officer, corrections officer, emergency personnel, or  
15 probation and parole officer; or

16 (4) While in an intoxicated condition or under the influence  
17 of controlled substances or drugs, operates a motor vehicle or vessel  
18 in this state and when so operating, acts with criminal negligence  
19 to cause physical injury to a law enforcement officer, corrections  
20 officer, emergency personnel, or probation and parole officer;

21 (5) Acts with criminal negligence to cause physical injury  
22 to a law enforcement officer, corrections officer, emergency  
23 personnel, or probation and parole officer by means of a deadly  
24 weapon or dangerous instrument;

25 (6) Purposely or recklessly places a law enforcement officer,  
26 corrections officer, emergency personnel, or probation and parole  
27 officer in apprehension of immediate serious physical injury; or

28 (7) Acts with criminal negligence to create a substantial  
29 risk of death or serious physical injury to a law enforcement officer,  
30 corrections officer, emergency personnel, or probation and parole  
31 officer.

32 2. As used in this section, "emergency personnel" means  
33 any paid or volunteer firefighter, emergency room or trauma center  
34 personnel, or emergency medical technician as defined in  
35 subdivisions (15), (16), (17), and (18) of section 190.100.

36 3. As used in this section the term "corrections officer"  
37 includes any jailer or corrections officer of the state or any political  
38 subdivision of the state.

39 4. Assault of a law enforcement officer, corrections officer,  
40 emergency personnel, or probation and parole officer in the second  
41 degree is a class B felony unless committed pursuant to subdivision  
42 (2), (5), (6), or (7) of subsection 1 of this section in which case it is  
43 a class C felony.]

565.082. 1. A person commits the crime of assault of a law enforcement  
2 officer, corrections officer, emergency personnel, highway worker in a construction  
3 zone or work zone, **utility worker**, or probation and parole officer in the second  
4 degree if such person:

5 (1) Knowingly causes or attempts to cause physical injury to a law  
6 enforcement officer, corrections officer, emergency personnel, **highway worker**

7       **in a construction zone or work zone, utility worker**, or probation and  
8        parole officer by means of a deadly weapon or dangerous instrument;

9           (2) Knowingly causes or attempts to cause physical injury to a law  
10        enforcement officer, corrections officer, emergency personnel, highway worker in  
11        a construction zone or work zone, **utility worker**, or probation and parole officer  
12        by means other than a deadly weapon or dangerous instrument;

13           (3) Recklessly causes serious physical injury to a law enforcement officer,  
14        corrections officer, emergency personnel, highway worker in a construction zone  
15        or work zone, **utility worker**, or probation and parole officer; or

16           (4) While in an intoxicated condition or under the influence of controlled  
17        substances or drugs, operates a motor vehicle or vessel in this state and when so  
18        operating, acts with criminal negligence to cause physical injury to a law  
19        enforcement officer, corrections officer, emergency personnel, highway worker in  
20        a construction zone or work zone, **utility worker**, or probation and parole officer;

21           (5) Acts with criminal negligence to cause physical injury to a law  
22        enforcement officer, corrections officer, emergency personnel, highway worker in  
23        a construction zone or work zone, **utility worker**, or probation and parole officer  
24        by means of a deadly weapon or dangerous instrument;

25           (6) Purposely or recklessly places a law enforcement officer, corrections  
26        officer, emergency personnel, highway worker in a construction zone or work zone,  
27        **utility worker**, or probation and parole officer in apprehension of immediate  
28        serious physical injury; or

29           (7) Acts with criminal negligence to create a substantial risk of death or  
30        serious physical injury to a law enforcement officer, corrections officer, emergency  
31        personnel, highway worker in a construction zone or work zone, **utility worker**,  
32        or probation and parole officer.

33           2. As used in this section, "emergency personnel" means any paid or  
34        volunteer firefighter, emergency room or trauma center personnel, or emergency  
35        medical technician as defined in subdivisions (15), (16), (17), and (18) of section  
36        190.100.

37           3. As used in this section the term "corrections officer" includes any jailer  
38        or corrections officer of the state or any political subdivision of the state.

39           4. When used in this section, the terms "highway worker", "construction  
40        zone", or "work zone" shall have the same meaning as such terms are defined in  
41        section 304.580.

42           5. **As used in this section, the term "utility worker" means any**

43 **employee while in performance of their job duties, including any**  
44 **person employed under contract, of a utility that provides gas, heat,**  
45 **electricity, water, steam, telecommunications services, or sewer**  
46 **services, whether privately, municipally, or cooperatively owned.**

47       6. Assault of a law enforcement officer, corrections officer, emergency  
48 personnel, highway worker in a construction zone or work zone, **utility worker**,  
49 or probation and parole officer in the second degree is a class B felony unless  
50 committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this  
51 section in which case it is a class C felony. For any violation of subdivision (1),  
52 (3), or (4) of subsection 1 of this section, the defendant must serve mandatory jail  
53 time as part of his or her sentence.

565.083. 1. A person commits the crime of assault of a law enforcement  
2 officer, corrections officer, emergency personnel, highway worker in a construction  
3 zone or work zone, **utility worker**, or probation and parole officer in the third  
4 degree if:

5       (1) Such person recklessly causes physical injury to a law enforcement  
6 officer, corrections officer, emergency personnel, highway worker in a construction  
7 zone or work zone, **utility worker**, or probation and parole officer;

8       (2) Such person purposely places a law enforcement officer, corrections  
9 officer, emergency personnel, highway worker in a construction zone or work zone,  
10 **utility worker**, or probation and parole officer in apprehension of immediate  
11 physical injury;

12       (3) Such person knowingly causes or attempts to cause physical contact  
13 with a law enforcement officer, corrections officer, emergency personnel, highway  
14 worker in a construction zone or work zone, **utility worker**, or probation and  
15 parole officer without the consent of the law enforcement officer, corrections  
16 officer, emergency personnel, highway worker in a construction zone or work zone,  
17 **utility worker**, or probation and parole officer.

18       2. As used in this section, "emergency personnel" means any paid or  
19 volunteer firefighter, emergency room or trauma center personnel, or emergency  
20 medical technician as defined in subdivisions (15), (16), (17), and (18) of section  
21 190.100.

22       3. As used in this section the term "corrections officer" includes any jailer  
23 or corrections officer of the state or any political subdivision of the state.

24       4. When used in this section, the terms "highway worker", "construction  
25 zone", or "work zone" shall have the same meaning as such terms are defined in

26 section 304.580.

27       **5. As used in this section, the term "utility worker" means any**  
28 **employee while in performance of their job duties, including any**  
29 **person employed under contract, of a utility that provides gas, heat,**  
30 **electricity, water, steam, telecommunications services, or sewer**  
31 **services, whether privately, municipally, or cooperatively owned.**

32       **6. Assault of a law enforcement officer, corrections officer, emergency**  
33 **personnel, highway worker in a construction zone or work zone, utility worker,**  
34 **or probation and parole officer in the third degree is a class A misdemeanor.**

570.080. 1. A person commits the crime of receiving stolen property if for  
2 the purpose of depriving the owner of a lawful interest therein, he or she receives,  
3 retains or disposes of property of another knowing that it has been stolen, or  
4 believing that it has been stolen.

5       **2. Evidence of the following is admissible in any criminal prosecution**  
6 **pursuant to this section to prove the requisite knowledge or belief of the alleged**  
7 **receiver:**

8       **(1) That he or she was found in possession or control of other property**  
9 **stolen on separate occasions from two or more persons;**

10       **(2) That he or she received other stolen property in another transaction**  
11 **within the year preceding the transaction charged;**

12       **(3) That he or she acquired the stolen property for a consideration which**  
13 **he or she knew was far below its reasonable value;**

14       **(4) That he or she obtained control over stolen property knowing the**  
15 **property to have been stolen or under such circumstances as would reasonably**  
16 **induce a person to believe the property was stolen.**

17       **3. [Receiving stolen property is a class A misdemeanor unless the**  
18 **property involved has a value of five hundred dollars or more, or the person**  
19 **receiving the property is a dealer in goods of the type in question, or the property**  
20 **involved is an explosive weapon as that term is defined in section 571.010, in**  
21 **which cases receiving stolen property is a class C felony] Except as otherwise**  
22 **provided in subsections 4 and 5 of this section, receiving stolen**  
23 **property is a class A misdemeanor.**

24       **4. Receiving stolen property is a class C felony if:**

25       **(1) The value of the property or services appropriated is five**  
26 **hundred dollars or more but less than twenty-five thousand dollars;**

27       **(2) The property has been physically taken from the person of**

28 the victim; or

29 (3) The property appropriated includes:

30 (a) Any motor vehicle, watercraft, or aircraft;

31 (b) Any will or unrecorded deed affecting real property;

32 (c) Any credit card or letter of credit;

33 (d) Any firearm;

34 (e) Any explosive weapon as that term is defined in section  
35 571.010;

36 (f) A United States national flag designed, intended, and used for  
37 display on buildings or stationary flagstaffs in the open;

38 (g) Any original copy of an act, bill, or resolution, introduced or  
39 acted upon by the legislature of the state of Missouri;

40 (h) Any pleading, notice, judgment, or any other record or entry  
41 of any court of this state, any other state, or of the United States;

42 (i) Any book of registration or list of voters required by chapter  
43 115;

44 (j) Any animal considered livestock as that term is defined in  
45 section 144.010;

46 (k) Any live fish raised for commercial sale with a value of  
47 seventy-five dollars or more;

48 (l) Any captive wildlife held under permit issued by the  
49 conservation commission;

50 (m) Any controlled substance as that term is defined in section  
51 195.010;

52 (n) Anhydrous ammonia;

53 (o) Ammonium nitrate; or

54 (p) Any document of historical significance which has a fair  
55 market value of five hundred dollars or more.

56 5. The receipt of any item of property or services pursuant to  
57 subsection 4 of this section which exceeds five hundred dollars may be  
58 considered a separate felony and may be charged in separate counts.

59 6. Any person who previously has been found guilty of, or pled  
60 guilty to, receiving stolen property, when the property is of the kind  
61 described under paragraph (j) or (l) of subdivision (3) of subsection 4  
62 of this section and the value of the animal or animals received exceeds  
63 three thousand dollars, is guilty of a class B felony. Such person shall

64 **serve a minimum prison term of not less than eighty percent of his or**  
65 **her sentence before being eligible for probation, parole, conditional**  
66 **release, or other early release by the department of corrections.**

67 **7. Receiving stolen property is a class B felony if the value of the**  
68 **property or services equals or exceeds twenty-five thousand dollars.**

✓

Unofficial

Bill

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