

FIRST REGULAR SESSION

SENATE BILL NO. 250

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS RIDGEWAY AND VOGEL.

Read 1st time January 10, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

0974S.01I

AN ACT

To repeal sections 36.030, 36.031, 306.111, 306.112, 306.116, 306.117, 306.161, 565.082, and 650.005, RSMo, and to enact in lieu thereof eleven new sections relating to the water patrol, with penalty provisions and an emergency clause.

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

Section A. Sections 36.030, 36.031, 306.111, 306.112, 306.116, 306.117, 306.161, 565.082, and 650.005, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 36.030, 36.031, 306.111, 306.112, 306.116, 306.117, 306.118, 306.161, 306.166, 565.082, and 650.005, to read as follows:

36.030. 1. A system of personnel administration based on merit principles and designed to secure efficient administration is established for all offices, positions and employees, except attorneys, of the department of social services, the department of corrections, the department of health and senior services, the department of natural resources, the department of mental health, the division of personnel and other divisions and units of the office of administration, the division of employment security, mine safety and on-site consultation sections of the division of labor standards and administration operations of the department of labor and industrial relations, the division of tourism and job development and training, the Missouri housing development commission, and the office of public counsel of the department of economic development, [the Missouri state water patrol,] the Missouri veterans commission, capitol police and state emergency management agency of the department of public safety, such other agencies as may be designated by law, and such other agencies as may be required to maintain personnel standards on a merit basis by federal law or regulations for

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

16 grant-in-aid programs; except that, the following offices and positions of these
17 agencies are not subject to this chapter and may be filled without regard to its
18 provisions:

19 (1) Other provisions of the law notwithstanding, members of boards and
20 commissions, departmental directors, five principal assistants designated by the
21 departmental directors, division directors, and three principal assistants
22 designated by each division director; except that, these exemptions shall not
23 apply to the division of personnel;

24 (2) One principal assistant for each board or commission, the members of
25 which are appointed by the governor or by a director of the department;

26 (3) Chaplains and attorneys regularly employed or appointed in any
27 department or division subject to this chapter, except as provided in section
28 36.031;

29 (4) Persons employed in work assignments with a geographic location
30 principally outside the state of Missouri and other persons whose employment is
31 such that selection by competitive examination and standard classification and
32 compensation practices are not practical under all the circumstances as
33 determined by the board by rule;

34 (5) Patients or inmates in state charitable, penal and correctional
35 institutions who may also be employees in the institutions;

36 (6) Persons employed in an internship capacity in a state department or
37 institution as a part of their formal training, at a college, university, business,
38 trade or other technical school; except that, by appropriate resolution of the
39 governing authorities of any department or institution, the personnel division
40 may be called upon to assist in selecting persons to be appointed to internship
41 positions;

42 (7) The administrative head of each state medical, penal and correctional
43 institution, as warranted by the size and complexity of the organization and as
44 approved by the board;

45 (8) Deputies or other policy-making assistants to the exempt head of each
46 division of service, as warranted by the size or complexity of the organization and
47 in accordance with the rules promulgated by the personnel advisory board;

48 (9) Special assistants as designated by an appointing authority; except
49 that, the number of such special assistants shall not exceed one percent of a
50 department's total authorized full-time equivalent workforce;

51 (10) Merit status shall be retained by present incumbents of positions

52 identified in this section which have previously been subject to this chapter.

53 2. All positions in the executive branch transferred to coverage pursuant
54 to this chapter where incumbents of such positions have at least twelve months'
55 prior service on the effective date of such transfer shall have incumbency
56 preference and shall be permitted to retain their positions, provided they meet
57 qualification standards acceptable to the division of personnel of the office of
58 administration. An employee with less than twelve months of prior service on the
59 effective date of such transfer or an employee who is appointed to such position
60 after the effective date of such transfer and prior to the classification and
61 allocation of the position by the division of personnel shall be permitted to retain
62 his or her position, provided he or she meets acceptable qualification standards
63 and subject to successful completion of a working test period which shall not
64 exceed twelve months of total service in the position. After the allocation of any
65 position to an established classification, such position shall thereafter be filled
66 only in accordance with all provisions of this chapter.

67 3. The system of personnel administration governs the appointment,
68 promotion, transfer, layoff, removal and discipline of employees and officers and
69 other incidents of employment in divisions of service subject to this chapter, and
70 all appointments and promotions to positions subject to this chapter shall be
71 made on the basis of merit and fitness.

72 4. To encourage all state employees to improve the quality of state
73 services, increase the efficiency of state work operations, and reduce the costs of
74 state programs, the director of the division of personnel shall establish employee
75 recognition programs, including a statewide employee suggestion system. The
76 director shall determine reasonable rules and shall provide reasonable standards
77 for determining the monetary awards, not to exceed five thousand dollars, under
78 the employee suggestion system. Awards shall be made from funds appropriated
79 for this purpose.

80 5. At the request of the senate or the house of representatives, the
81 commissioner of administration shall submit a report on the employee suggestion
82 award program described in subsection 4 of this section.

36.031. Any provision of law to the contrary notwithstanding, except for
2 the elective offices, institutions of higher learning, the department of
3 transportation, the department of conservation, those positions in the Missouri
4 state highway patrol the compensation of which is established by subdivision (2)
5 of subsection 2 of section 43.030, RSMo, and section 43.080, RSMo, **those**

6 **positions in the Missouri state water patrol the compensation of which**
7 **is established by section 306.166, RSMo,** those positions in the division of
8 finance and the division of credit unions compensated through a dedicated fund
9 obtained from assessments and license fees under sections 361.170 and 370.107,
10 RSMo, and those positions for which the constitution specifically provides the
11 method of selection, classification, or compensation, and the positions specified
12 in subsection 1 of section 36.030, but including attorneys, those departments,
13 agencies and positions of the executive branch of state government which have
14 not been subject to these provisions of the state personnel law shall be subject to
15 the provisions of sections 36.100, 36.110, 36.120 and 36.130, and the regulations
16 adopted pursuant to sections 36.100, 36.110, 36.120 and 36.130 which relate to
17 the preparation, adoption and maintenance of a position classification plan, the
18 establishment and allocation of positions within the classification plan and the
19 use of appropriate class titles in official records, vouchers, payrolls and
20 communications. Any provision of law which confers upon any official or agency
21 subject to the provisions of this section the authority to appoint, classify or
22 establish compensation for employees shall mean the exercise of such authority
23 subject to the provisions of this section. This section shall not extend coverage
24 of any section of this chapter, except those specifically named in this section, to
25 any agency or employee. In accordance with sections 36.100, 36.110, 36.120 and
26 36.130, and after consultation with appointing authorities, the director of the
27 division of personnel shall conduct such job studies and job reviews and establish
28 such additional new and revised job classes as the director finds necessary for
29 appropriate classification of the positions involved. Such classifications and the
30 allocation of positions to classes shall be maintained on a current basis by the
31 division of personnel. The director of the division of personnel shall, at the same
32 time, notify all affected agencies of the appropriate assignment of each job
33 classification to one of the salary ranges within the pay plan then applicable to
34 merit system agencies. The affected agencies and employees in the classifications
35 set pursuant to this section shall be subject to the pay plan and rates of
36 compensation established and administered in accordance with the provisions of
37 this section, and the regulations adopted pursuant to this section, on the same
38 basis as for merit agency employees. In addition, any elected official, institution
39 of higher learning, the department of transportation, the department of
40 conservation, the general assembly, or any judge who is the chief administrative
41 officer of the judicial branch of state government may request the division of

42 personnel to study salaries within the requestor's office, department or branch of
43 state government for classification purposes.

306.111. 1. A person commits the crime of negligent operation of a vessel
2 if when operating a vessel on the [Mississippi River, Missouri River or the lakes]
3 **waters** of this state he **or she** acts with criminal negligence, as defined in
4 subsection 5 of section 562.016, RSMo, to cause physical injury to any other
5 person or damage to the property of any other person. A person convicted of
6 negligent operation of a vessel is guilty of a class B misdemeanor upon conviction
7 for the first violation, guilty of a class A misdemeanor upon conviction for the
8 second violation, and guilty of a class D felony for conviction for the third and
9 subsequent violations.

10 2. A person commits the crime of operating a vessel while intoxicated if
11 he **or she** operates a vessel on the [Mississippi River, Missouri River or the
12 lakes] **waters** of this state while in an intoxicated condition. A person convicted
13 of operating a vessel while intoxicated is guilty of a class B misdemeanor upon
14 conviction for the first violation, guilty of a class A misdemeanor upon conviction
15 for the second violation, and guilty of a class D felony for conviction for the third
16 and subsequent violations.

17 3. A person commits the crime of involuntary manslaughter with a vessel
18 if, while in an intoxicated condition, he **or she** operates any vessel on the
19 [Mississippi River, Missouri River or the lakes] **waters** of this state and, when
20 so operating, acts with criminal negligence to cause the death of any
21 person. Involuntary manslaughter with a vessel is a class C felony.

22 4. A person commits the crime of assault with a vessel in the second
23 degree if, while in an intoxicated condition, he **or she** operates any vessel on the
24 [Mississippi River, Missouri River or the lakes] **waters** of this state and, when
25 so operating, acts with criminal negligence to cause physical injury to any other
26 person. Assault with a vessel in the second degree is a class D felony.

27 5. For purposes of this section, a person is in an intoxicated condition
28 when he is under the influence of alcohol, a controlled substance or drug, or any
29 combination thereof.

306.112. 1. A person commits the crime of operating a vessel with
2 excessive blood alcohol content if such person operates a vessel on the
3 [Mississippi River, Missouri River or the lakes] **waters** of this state with
4 [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol
5 in such person's blood.

6 2. As used in this section, percent by weight of alcohol in the blood shall
7 be based upon grams of alcohol per one hundred milliliters of blood and may be
8 shown by chemical analysis of the person's blood, breath, urine, or saliva.

9 3. Any person convicted of operating a vessel with excessive blood alcohol
10 content is guilty of a class B misdemeanor upon conviction for the first violation[,
11 guilty of a class A misdemeanor upon conviction for the second violation, and
12 guilty of a class D felony for conviction for the third and subsequent violations].

13 4. **Notwithstanding the provisions of section 306.118 to the**
14 **contrary, any person found guilty of or pleading guilty to a second**
15 **operating a vessel with excessive blood alcohol content offense within**
16 **ten years of a first offense shall be guilty of a class A misdemeanor and**
17 **shall be given a minimum probation period of two years with a loss of**
18 **boat operating privilege for one year from date of judgment.**

19 5. **Notwithstanding the provisions of section 306.118 to the**
20 **contrary, any person found guilty of or pleading guilty to a third**
21 **operating a vessel with excessive blood alcohol content offense within**
22 **twenty years of a first offense shall be guilty of a class D felony and**
23 **shall be given a minimum probation period of three years with a loss**
24 **of boat operating privilege for five years from date of judgment.**

306.116. 1. Any person who operates a vessel upon the [Mississippi River,
2 Missouri River or the lakes] **waters** of this state shall be deemed to have given
3 consent to, subject to the provisions of sections 306.111 to 306.119, a chemical
4 test or tests of such person's breath, blood, urine, or saliva for the purpose of
5 determining the alcohol or drug content of such person's blood if arrested for any
6 offense arising out of acts which the arresting law enforcement officer had
7 reasonable grounds to believe were committed while the person was operating a
8 vessel upon the [Mississippi River, Missouri River or lakes] **waters** of this state
9 in violation of section 306.111 or 306.112. The test shall be administered at the
10 direction of the arresting law enforcement officer whenever the person has been
11 arrested for the offense.

12 2. The implied consent to submit to the chemical tests listed in subsection
13 1 of this section shall be limited to not more than two such tests arising from the
14 same arrest, incident, or charge.

15 3. The person tested may have a physician, or a qualified technician,
16 chemist, registered nurse, or other qualified person of such person's choosing and
17 at such person's expense administer a test in addition to any administered at the

18 direction of a law enforcement officer. The failure or inability to obtain an
19 additional test by a person shall not preclude the admission of evidence relating
20 to the test taken at the direction of a law enforcement officer.

21 4. Upon the request of the person who is tested, full information
22 concerning the test shall be made available to such person.

306.117. 1. Upon the trial of any person for violation of any of the
2 provisions of section 306.111 or 306.112 the amount of alcohol or drugs in the
3 person's blood at the time of the act alleged as shown by any chemical analysis
4 of the person's blood, breath, urine, or saliva is admissible in evidence and the
5 provisions of subdivision (5) of section 491.060, RSMo, shall not prevent the
6 admissibility or introduction of such evidence if otherwise admissible. Evidence
7 of alcohol in a person's blood shall be given the following effect:

8 (1) If there was five-hundredths of one percent or less by weight of alcohol
9 in such person's blood, it shall be presumed that the person was not intoxicated
10 at the time the specimen was obtained;

11 (2) If there was in excess of five-hundredths of one percent but less than
12 ~~[ten-hundredths]~~ **eight-hundredths** of one percent by weight of alcohol in such
13 person's blood, the fact shall not give rise to any presumption that the person was
14 or was not intoxicated, but the fact may be considered with other competent
15 evidence in determining whether the person was intoxicated;

16 (3) If there was ~~[ten-hundredths]~~ **eight-hundredths** of one percent or
17 more by weight of alcohol in the person's blood, this shall be prima facie evidence
18 that the person was intoxicated at the time the specimen was taken.

19 2. Percent by weight of alcohol in the blood shall be based upon grams of
20 alcohol per one hundred milliliters of blood.

21 3. A chemical analysis of a person's breath, blood, urine, or saliva, in
22 order to give rise to the presumption or to have the effect provided for in
23 subsection 1 of this section, shall have been performed as provided in sections
24 306.111 to 306.119 and in accordance with methods and standards approved by
25 the department of health and senior services.

26 4. The provisions of this section shall not be construed as limiting the
27 introduction of any other competent evidence bearing upon the question whether
28 the person was intoxicated or under the influence of a controlled substance, or
29 drug, or a combination of either or both with or without alcohol.

**306.118. 1. For purposes of this section, unless the context
2 clearly indicates otherwise, the following terms mean:**

3 (1) "Aggravated offender", a person who:

4 (a) Has pleaded guilty to or has been found guilty of three or
5 more intoxication-related boating offenses; or

6 (b) Has pleaded guilty to or has been found guilty of one or more
7 intoxication-related boating offenses and, in addition, any of the
8 following: involuntary manslaughter under subsection 3 of section
9 306.111; assault with a vessel in the second degree under subsection 4
10 of section 306.111; or assault of a law enforcement officer in the second
11 degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

12 (2) "Chronic offender", a person who:

13 (a) Has pleaded guilty to or has been found guilty of four or
14 more intoxication-related boating offenses; or

15 (b) Has pleaded guilty to or has been found guilty of, on two or
16 more separate occasions, any combination of the following: involuntary
17 manslaughter under subsection 3 of section 306.111; assault with a
18 vessel in the second degree under subsection 4 of section 306.111; or
19 assault of a law enforcement officer in the second degree under
20 subdivision (4) of subsection 1 of section 565.082, RSMo; or

21 (c) Has pleaded guilty to or has been found guilty of two or more
22 intoxication-related boating offenses and, in addition, any of the
23 following: involuntary manslaughter under subsection 3 of section
24 306.111; assault with a vessel in the second degree under subsection 4
25 of section 306.111; or assault of a law enforcement officer in the second
26 degree under subdivision (4) of subsection 1 of section 565.082;

27 (3) "Intoxication-related boating offense", operating a vessel
28 while intoxicated under section 306.111; operating with excessive blood
29 alcohol content under section 306.112; involuntary manslaughter under
30 subsection 3 of section 306.111; or assault of a law enforcement officer
31 in the second degree under subdivision (4) of subsection 1 of section
32 565.082, RSMo;

33 (4) "Persistent offender", one of the following:

34 (a) A person who has pleaded guilty to or has been found guilty
35 of two or more intoxication-related boating offenses;

36 (b) A person who has pleaded guilty to or has been found guilty
37 of involuntary manslaughter under subsection 3 of section 306.111;
38 assault in the second degree under subsection 4 of section 306.111; or
39 assault of a law enforcement officer in the second degree under

40 subdivision (4) of subsection 1 of section 565.082, RSMo;

41 (5) "Prior offender", a person who has pleaded guilty to or has
42 been found guilty of one intoxication-related boating offense, where
43 such prior offense occurred within five years of the occurrence of the
44 intoxication-related boating offense for which the person is charged.

45 2. Any person who pleads guilty to or is found guilty of a
46 violation of sections 306.110, 306.111, or 306.112 who is alleged and
47 proved to be a prior offender shall be guilty of a class A misdemeanor.

48 3. Any person who pleads guilty to or is found guilty of a
49 violation of sections 306.110, 306.111, or 306.112 who is alleged and
50 proved to be a persistent offender shall be guilty of a class D felony.

51 4. Any person who pleads guilty to or is found guilty of a
52 violation of sections 306.110, 306.111, or 306.112 who is alleged and
53 proved to be an aggravated offender shall be guilty of a class C felony.

54 5. Any person who pleads guilty to or is found guilty of a
55 violation of sections 306.110, 306.111, or 306.112 who is alleged and
56 proved to be a chronic offender shall be guilty of a class B felony.

57 6. Notwithstanding the provisions of section 557.011, RSMo, to
58 the contrary, no state, county, or municipal court shall suspend the
59 imposition of sentence as to a prior offender, persistent offender,
60 aggravated offender, or chronic offender under this section nor
61 sentence such person to pay a fine in lieu of a term of imprisonment.
62 No prior offender shall be eligible for parole or probation until he or
63 she has served a minimum of five days imprisonment, unless as a
64 condition of such parole or probation such person performs at least
65 thirty days of community service under the supervision of the court in
66 those jurisdictions which have a recognized program for community
67 service. No persistent offender shall be eligible for parole or probation
68 until he or she has served a minimum of ten days imprisonment, unless
69 as a condition of such parole or probation such person performs at least
70 sixty days of community service under the supervision of the court. No
71 aggravated offender shall be eligible for parole or probation until he
72 or she has served a minimum of sixty days imprisonment. No chronic
73 offender shall be eligible for parole or probation until he or she has
74 served a minimum of two years imprisonment.

75 7. The state, county, or municipal court shall find the defendant
76 to be a prior offender, persistent offender, aggravated offender, or

77 **chronic offender if:**

78 (1) The indictment or information, original or amended, or the
79 information in lieu of an indictment pleads all essential facts
80 warranting a finding that the defendant is a prior, persistent,
81 aggravated, or chronic offender; and

82 (2) Evidence is introduced that establishes sufficient facts
83 pleaded to warrant a finding beyond a reasonable doubt the defendant
84 is a prior offender, persistent offender, aggravated offender, or chronic
85 offender; and

86 (3) The court makes findings of fact that warrant a finding
87 beyond a reasonable doubt by the court that the defendant is a prior
88 offender, persistent offender, aggravated offender, or chronic offender.

89 8. In a jury trial, the facts shall be pleaded, established, and
90 found prior to submission to the jury outside of its hearing.

91 9. In a trial without a jury or upon a plea of guilty, the court may
92 defer the proof in findings of such facts to a later time, but prior to
93 sentencing.

94 10. The defendant shall be accorded full rights of confrontation
95 and cross-examination, with the opportunity to present evidence, at
96 such hearings.

97 11. The defendant may waive proof of the facts alleged.

98 12. Nothing in this section shall prevent the use of presentence
99 investigations or commitments.

100 13. At the sentencing hearing, both the state, county, or
101 municipality and the defendant shall be permitted to present additional
102 information bearing on the issue of sentence.

103 14. The pleas or findings of guilty shall be prior to the date of
104 commission of the present offense.

105 15. The court shall not instruct the jury as to the range of
106 punishment or allow the jury, upon a finding of guilty, to assess and
107 declare the punishment as part of its verdict in cases of prior offenders,
108 persistent offenders, aggravated offenders, or chronic offenders.

306.161. The Missouri state water patrol is authorized to employ, within
2 the limits of appropriations [made therefor and subject to the provisions of
3 chapter 36, RSMo,] **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 **306.166. Notwithstanding any other provision of law to the**
3 **contrary, the commissioner of the Missouri state water patrol shall**
4 **establish, with the advice of the director of the division of personnel of**
5 **the office of administration, a pay plan for members of the water patrol**
6 **and radio personnel employed by the water patrol that is equitable to**
7 **the pay plan established for members of the highway patrol under**
8 **chapter 43, RSMo. Such pay plan shall consider length of service and**
9 **ranking within the water patrol.**

10 565.082. 1. A person commits the crime of assault of a law enforcement
11 officer, emergency personnel, or probation and parole officer in the second degree
12 if such person:

13 (1) Knowingly causes or attempts to cause physical injury to a law
14 enforcement officer, emergency personnel, or probation and parole officer by
15 means of a deadly weapon or dangerous instrument;

16 (2) Knowingly causes or attempts to cause physical injury to a law
17 enforcement officer, emergency personnel, or probation and parole officer by
18 means other than a deadly weapon or dangerous instrument;

19 (3) Recklessly causes serious physical injury to a law enforcement officer,
20 emergency personnel, or probation and parole officer; or

21 (4) While in an intoxicated condition or under the influence of controlled
22 substances or drugs, operates a motor vehicle **or motorboat** in this state and
23 when so operating, acts with criminal negligence to cause physical injury to a law
24 enforcement officer, emergency personnel, or probation and parole officer;

25 (5) Acts with criminal negligence to cause physical injury to a law
26 enforcement officer, emergency personnel, or probation and parole officer by
27 means of a deadly weapon or dangerous instrument;

28 (6) Purposely or recklessly places a law enforcement officer, emergency
29 personnel, or probation and parole officer in apprehension of immediate serious
30 physical injury; or

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

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

28 190.100, RSMo.

29 3. Assault of a law enforcement officer, emergency personnel, or probation
30 and parole officer in the second degree is a class B felony unless committed
31 pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which
32 case it is a class C felony.

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

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

22 3. All the powers, duties and functions of the supervisor of liquor control,
23 chapters 311 and 312, RSMo, and others, are transferred by type II transfer to
24 the department of public safety. The supervisor shall be nominated by the
25 department director and appointed by the governor with the advice and consent
26 of the senate. The supervisor shall appoint such agents, assistants, deputies and
27 inspectors as limited by appropriations. All employees shall have the
28 qualifications provided by law and may be removed by the supervisor or director
29 of the department as provided in section 311.670, RSMo.

30 4. The director of public safety, superintendent of the highway patrol and
31 transportation division of the department of economic development are to

32 examine the motor carrier inspection laws and practices in Missouri to determine
33 how best to enforce the laws with a minimum of duplication, harassment of
34 carriers and to improve the effectiveness of supervision of weight and safety
35 requirements and to report to the governor and general assembly by January 1,
36 1975, on their findings and on any actions taken.

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

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

43 7. All the powers, duties and functions of the state fire marshal, chapter
44 320, RSMo, and others, are transferred to the department of public safety by a
45 type I transfer.

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

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

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

60 11. All the powers, duties and functions of the Missouri boat commission,
61 chapter 306, RSMo, and others, are transferred by type I transfer to the "Missouri
62 State Water Patrol", which is hereby created, in the department of public
63 safety. The Missouri boat commission and the office of secretary to the
64 commission are abolished. The Missouri state water patrol shall be headed by a
65 boat commissioner who shall be appointed by the governor, with the advice and
66 consent of the senate. All deputy boat commissioners and all other employees of
67 the commission who were employed on February 1, 1974, shall be transferred to

68 the water patrol [and they shall be immediately covered by the provisions of
69 chapter 36, RSMo,] without further qualification. [All deputy boat commissioners
70 and others employed by the water patrol after May 2, 1974, shall be selected and
71 removed pursuant to the provisions of chapter 36, RSMo.]

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

76 13. Any rule or portion of a rule, as that term is defined in section
77 536.010, RSMo, that is promulgated under the authority of this chapter, shall
78 become effective only if the agency has fully complied with all of the requirements
79 of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if
80 applicable, after August 28, 1999. If the provisions of section 536.028, RSMo,
81 apply, the provisions of this section are nonseverable and if any of the powers
82 vested with the general assembly pursuant to section 536.028, RSMo, to review,
83 to delay the effective date, or to disapprove and annul a rule or portion of a rule
84 are held unconstitutional or invalid, the purported grant of rulemaking authority
85 and any rule so proposed and contained in the order of rulemaking shall be
86 invalid and void, except that nothing in this section shall affect the validity of
87 any rule adopted and promulgated prior to August 28, 1999.

Section B. Because of the need to protect the citizens of this state, section
2 A of this act is deemed necessary for the immediate preservation of the public
3 health, welfare, peace and safety, and is hereby declared to be an emergency act
4 within the meaning of the constitution, and section A of this act shall be in full
5 force and effect upon its passage and approval.

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