

SECOND REGULAR SESSION

HOUSE BILL NO. 1960

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANKLIN.

5516H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 43.390, 58.445, 301.716, 306.010, 306.080, 306.124, 306.127, 306.130, 306.132, 306.147, 306.165, 306.167, 306.168, 306.185, 542.261, 544.157, 577.090, and 650.005, RSMo, and to enact in lieu thereof twenty-five new sections relating to transfer of the division of water patrol within the Missouri state highway patrol to the Missouri state water patrol, with penalty provisions.

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

Section A. Sections 43.390, 58.445, 301.716, 306.010, 306.080, 306.124, 306.127, 2 306.130, 306.132, 306.147, 306.165, 306.167, 306.168, 306.185, 542.261, 544.157, 577.090, and 3 650.005, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known 4 as sections 58.445, 104.812, 301.716, 306.010, 306.080, 306.124, 306.127, 306.130, 306.132, 5 306.147, 306.161, 306.163, 306.165, 306.167, 306.168, 306.185, 306.227, 306.228, 306.229, 6 306.230, 306.232, 542.261, 544.157, 577.090, and 650.005, to read as follows:

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] **water** patrol[, water 8 patrol division,] in writing. The report required by this subsection shall be made within five days 9 of the conclusion of the tests required in subsection 2 of this section.

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 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 as required by subsection 1 of this
14 section.

**104.812. 1. Employees of the division of water patrol within the state highway
2 patrol who are earning creditable service with the closed plan of the Missouri department
3 of transportation and highway patrol employees' retirement system and who are
4 transferred to the Missouri state water patrol shall elect within ninety days of January 1,
5 2017, to either remain a member of the closed plan of the Missouri department of
6 transportation and highway patrol employees' retirement system or transfer membership
7 and creditable service to the closed plan of the Missouri state employees' retirement
8 system. The election shall be made in writing after the employee has received a detailed
9 analysis comparing retirement, life insurance, disability benefits, and medical benefits of
10 the Missouri department of transportation and highway patrol employees' retirement
11 system with the corresponding benefits provided to an employee of the Missouri state
12 employees' retirement system. In electing plan membership, the employee shall
13 acknowledge and agree that an election made under this subsection is irrevocable, and
14 constitutes a waiver to receive retirement, life insurance, disability benefits, and medical
15 benefits except as provided by the system elected by the employee. Furthermore, in
16 connection with the election, the employee shall be required to acknowledge that the
17 benefits provided by virtue of membership in either system and any associated costs to the
18 employee may be different now or in the future as a result of the election and that the
19 employee agrees to hold both systems harmless with regard to benefit differences resulting
20 from the election.**

**21 2. The Missouri department of transportation and highway patrol employees'
22 retirement system shall pay to the Missouri state employees' retirement system, by June
23 30, 2017, an amount actuarially determined to equal the liability at the time of the transfer
24 for any employee who elects under subsection 1 of this section to transfer to the Missouri
25 state employees' retirement system, to the extent that liability is funded as of the most
26 recent actuarial valuation and based on the actuarial value of assets not to exceed one
27 hundred percent.**

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

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, or the provisions of this chapter, chapter 304 or 307, as such
4 provisions relate to all-terrain vehicles may be made by the duly authorized law enforcement
5 officer of any political subdivision of the state, [and] the highway patrol, **and the state water**
6 **patrol.**

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

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

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

2 (1) **"Missouri state water patrol" or "state water patrol", the entity within the**
3 **department of public safety responsible for enforcing the provisions of this chapter on the**
4 **waters of this state. The revisor of statutes is instructed to replace the term "water patrol**
5 **division" wherever that term exists in this chapter with the term "state water patrol".**

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

8 [(2)] (3) "Operate", to navigate or otherwise use a motorboat or a vessel;

9 [(3)] (4) "Operator", the person who operates or has charge of the navigation or use of
10 a vessel;

11 [(4)] (5) "Owner", a person other than a lienholder, having the property in or title to a
12 motorboat. The term includes a person entitled to the use or possession of a motorboat subject
13 to an interest of another person, reserved or created by agreement and securing payment or
14 performance of an obligation, but the term excludes a lessee under a lease not intended as
15 security;

16 [(5)] (6) "Parasailing", the towing of any person equipped with a parachute or kite
17 equipment by any watercraft operating on the waters of this state;

18 [(6)] (7) "Personal watercraft", a class of vessel, which is less than sixteen feet in length,
19 propelled by machinery which is designed to be operated by a person sitting, standing or
20 kneeling on the vessel, rather than being operated by a person sitting or standing inside the
21 vessel;

22 [(7)] (8) "Skiing", any activity that involves a person or persons being towed by a vessel,
23 including but not limited to waterskiing, wake boarding, wake surfing, knee boarding, and
24 tubing;

25 [(8)] (9) "Vessel", every motorboat and every description of motorized watercraft, and
26 any watercraft more than twelve feet in length which is powered by sail alone or by a
27 combination of sail and machinery, used or capable of being used as a means of transportation
28 on water, but not any watercraft having as the only means of propulsion a paddle or oars;

29 [(9) "Water patrol division of the state highway patrol" or "water patrol division", the
30 division responsible for enforcing the provisions of this chapter on the waters of this state. The
31 revisor of statutes is instructed to replace the terms "Missouri state water patrol" or "state water
32 patrol" wherever those terms exist in this chapter with the term "water patrol division";]

33 (10) "Watercraft", any boat or craft, including a vessel, used or capable of being used as
34 a means of transport on waters;

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

306.080. A vessel shall not be required to be numbered under this chapter if it is:

2 (1) Already covered by a number in full force and effect which has been awarded to it
3 pursuant to federal law or a federally approved numbering system of another state; except that
4 the boat shall not have been within this state for a period in excess of sixty consecutive days;

5 (2) A vessel from a country other than the United States using the waters of this state for
6 not more than sixty consecutive days;

7 (3) A vessel whose owner is the United States;

8 (4) A ship's lifeboat which is used solely for lifesaving purposes;

9 (5) A vessel documented by the United States Coast Guard or any federal successor
10 thereto; or

11 (6) A motorboat designed and intended solely for racing while competing in any race
12 previously approved by the **Missouri state** water patrol [division] in accordance with section
13 306.130. This exemption shall include operation within a twenty-four-hour period prior to such
14 approved race in order to test or tune up the motorboat.

306.124. 1. (1) "Aids to navigation" means buoys, beacons or other fixed objects in the
2 water which are used to mark obstructions to navigation or to direct navigation through safe
3 channels.

4 (2) "Regulatory markers" means any anchored or fixed markers in or on the water or
5 signs on the shore or on bridges over the water other than aids to navigation and shall include

6 but not be limited to bathing markers, speed zone markers, information markers, danger zone
7 markers, boat keep-out areas, and mooring buoys.

8 2. The **Missouri state** water patrol [division] after a public hearing pursuant to notice
9 thereof published not less than ten days prior thereto in each county to be affected may provide
10 for the uniform marking of the water areas in this state through the placement of aids to
11 navigation and regulatory markers. The **Missouri state** water patrol [division] shall establish
12 a marking system compatible with the system of aids to navigation prescribed by the United
13 States Coast Guard. No city, county, or person shall mark or obstruct the water of this state in
14 any manner so as to endanger the operation of watercraft or conflict with the marking system
15 prescribed by the **Missouri state** water patrol [division].

16 3. Whenever, due to any actual or imminent man-made or natural disaster, the navigation
17 or use of any waters of this state presents an unreasonable danger to persons or property, the
18 **Missouri state** water patrol [division] may, with the consent of the director of the department
19 of public safety, close such waters.

20 4. The operation of any watercraft within prohibited areas that are marked shall be prima
21 facie evidence of negligent operation.

22 5. It shall be unlawful for any person to operate a watercraft on the waters of this state
23 in a manner other than that prescribed or permitted by regulatory markers.

24 6. No person shall moor or fasten a watercraft to or willfully damage, tamper, remove,
25 obstruct, or interfere with any aid to navigation or regulatory marker established pursuant to
26 sections 306.010 to 306.126.

306.127. 1. Beginning January 1, 2005, every person born after January 1, 1984, or as
2 required pursuant to section 306.128, who operates a vessel on the lakes of this state shall
3 possess, on the vessel, a boating safety identification card issued by the **Missouri state** water
4 patrol [division] or its agent which shows that he or she has:

5 (1) Successfully completed a boating safety course approved by the National Association
6 of State Boating Law Administrators and certified by the **Missouri state** water patrol [division]
7 . The boating safety course may include a course sponsored by the United States Coast Guard
8 Auxiliary or the United States Power Squadron. The **Missouri state** water patrol [division] may
9 appoint agents to administer a boater education course or course equivalency examination and
10 issue boater identification cards under guidelines established by the water patrol. The **Missouri**
11 **state** water patrol [division] shall maintain a list of approved courses; or

12 (2) Successfully passed an equivalency examination prepared by the **Missouri**
13 **state** water patrol [division] and administered by the **state** water patrol [division] or its agent.
14 The equivalency examination shall have a degree of difficulty equal to, or greater than, that of
15 the examinations given at the conclusion of an approved boating safety course; or

16 (3) A valid master's, mate's, or operator's license issued by the United States Coast
17 Guard.

18 2. The **Missouri state** water patrol [division] or its agent shall issue a permanent boating
19 safety identification card to each person who complies with the requirements of this section
20 which is valid for life unless invalidated pursuant to law.

21 3. The **Missouri state** water patrol [division] may charge a fee for such card or any
22 replacement card that does not substantially exceed the costs of administrating this section. The
23 **Missouri state** water patrol [division] or its designated agent shall collect such fees. These
24 funds shall be forwarded to general revenue.

25 4. The provisions of this section shall not apply to any person who:

26 (1) Is licensed by the United States Coast Guard to serve as master of a vessel;

27 (2) Operates a vessel only on a private lake or pond that is not classified as waters of the
28 state;

29 (3) Until January 1, 2006, is a nonresident who is visiting the state for sixty days or less;

30 (4) Is participating in an event or regatta approved by the water patrol;

31 (5) Is a nonresident who has proof of a valid boating certificate or license issued by
32 another state if the boating course is approved by the National Association of State Boating Law
33 Administrators (NASBLA);

34 (6) Is exempted by rule of the water patrol;

35 (7) Is currently serving in any branch of the United States Armed Forces, reserves, or
36 Missouri National Guard, or any spouse of a person currently in such service; or

37 (8) Has previously successfully completed a boating safety education course approved
38 by the National Association of State Boating Law Administrators (NASBLA).

39 5. The **Missouri state** water patrol [division] shall inform other states of the
40 requirements of this section.

41 6. No individual shall be detained or stopped strictly for the purpose of checking whether
42 the individual possesses a boating safety identification card or a temporary boater education
43 permit.

44 7. Any person or company that rents or sells vessels may issue a temporary boating
45 safety identification card to an individual to operate a rented vessel or a vessel being considered
46 for sale, for a period of up to seven days, provided that the individual meets the minimum age
47 requirements for operating a vessel in this state. In order to qualify for the temporary boating
48 safety identification card, the applicant shall [provide a valid driver's license and shall sign an
49 affidavit that he or she has reviewed the Missouri state highway patrol handbook of Missouri
50 boating laws and responsibilities] **complete and pass a written examination developed by the**
51 **Missouri state water patrol. The Missouri state water patrol is authorized to promulgate**

52 **rules for developing the examination and any requirements necessary for the issuance of**
53 **a temporary boating safety identification card.** Any individual holding a valid temporary
54 boating safety identification card shall be deemed in compliance with the requirements of this
55 section. The Missouri state [highway] **water** patrol shall charge a fee of nine dollars for such
56 temporary boating safety identification card. Individuals shall not be eligible for more than one
57 temporary boating safety identification card. No person or company may issue a temporary
58 boating safety identification card to an individual under the provisions of this subsection unless
59 such person or company is capable of submitting the applicant's temporary boating safety
60 identification card information and payment in an electronic format as prescribed by the Missouri
61 state [highway] **water** patrol. The business entity issuing a temporary boating safety
62 identification card to an individual under the provisions of this subsection shall transmit the
63 applicant's temporary boating safety identification card information electronically to the Missouri
64 state [highway] **water** patrol, in a manner and format prescribed by the [superintendent]
65 **Missouri state water patrol**, using an electronic online registration process developed and
66 provided by the Missouri state [highway] **water** patrol. The electronic online process developed
67 and provided by the Missouri state [highway] **water** patrol shall allow the applicant to pay the
68 temporary boating safety identification card fee by credit card or debit card. Notwithstanding
69 any provision in section 306.185 to the contrary, all fees collected under the authority of this
70 subsection shall be deposited in the **Missouri state** water patrol [division] fund. The Missouri
71 state [highway] **water** patrol shall promulgate rules for developing the temporary boating safety
72 identification card and any requirements necessary to the issuance, processing, and payment of
73 the temporary boating safety identification card. The Missouri state [highway] **water** patrol
74 shall, by rule, develop a boating safety checklist for each applicant seeking a temporary boating
75 safety identification card. Nothing in this subsection shall allow a holder of a temporary boating
76 safety identification card to receive a notation on the person's driver's license or nondriver
77 identification under section 302.184. The provisions of this subsection shall expire on December
78 31, 2022.

306.130. 1. The **Missouri state** water patrol [division] shall authorize the holding of
2 regattas, motorboat or other watercraft races, marine parades, tournaments, parasail operations
3 or exhibitions on any waters of this state when it has determined that said event will not create
4 conditions of excessive danger for the participants, observers or operators of other watercraft nor
5 unduly disrupt navigation. It shall adopt and may, from time to time, amend regulations
6 concerning the safety of motorboats and other watercraft and persons thereon, either observers
7 or participants. Whenever a regatta, motorboat or other watercraft race, marine parade,
8 tournament, parasail operation or exhibition is proposed to be held, the person in charge thereof
9 shall, at least fifteen days prior thereto, file an application with the **Missouri state** water patrol

10 [division] for permission to hold the regatta, motorboat or other watercraft race, marine parade,
11 tournament, parasail operation or exhibition, and it shall not be conducted without authorization
12 of the **Missouri state** water patrol [division] in writing.

13 2. The provisions of this section shall not exempt any person from compliance with
14 applicable federal law or regulation, but nothing contained herein shall be construed to require
15 the securing of a state permit pursuant to this section if a permit therefor has been obtained from
16 an authorized agency of the United States.

306.132. 1. Any person operating a watercraft on the waters of this state shall stop such
2 watercraft upon a signal of any member of the **Missouri state** water patrol [division] and obey
3 any other reasonable signal or direction of such member of the **Missouri state** water patrol
4 [division] given in directing the movement of traffic on the waters of this state.

5 2. Any person operating a watercraft upon the waters of this state shall immediately stop
6 or position such watercraft in such a way as to give the right-of-way on the water to any
7 emergency watercraft, as established by the **Missouri state** water patrol [division], when such
8 emergency watercraft gives an audible signal by siren or gives a visible signal by having at least
9 one lighted lamp exhibiting a red or blue light visible under normal atmospheric conditions from
10 a distance of five hundred feet to the front of such emergency watercraft.

11 3. Vessels shall not be operated at a speed in excess of slow no-wake speed within one
12 hundred feet of any emergency vessel that has red or blue lighting displayed.

13 4. Any person who violates the provisions of this section is guilty of a class C
14 misdemeanor.

306.147. 1. As used in this section, the term "muffler" means a sound suppression
2 device or system designed and installed to abate the sound of exhaust gases emitted from an
3 internal combustion engine and which prevents excessive or unusual noise.

4 2. Effective January 1, 1996, a person shall not manufacture, sell or offer for sale or
5 operate in this state any motorboat manufactured after that date that exceeds the noise level of
6 90dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005. All
7 motorboats manufactured prior to January 1, 1996, shall not exceed eighty-six decibels on an
8 A-weighted scale when subjected to a sound level test as prescribed by SAE J34 when measured
9 from a distance of fifty or more feet from the motorboat.

10 3. No person shall remove, alter or otherwise modify in any way a muffler or muffler
11 system in a manner which will prevent it from being operated in accordance with this section.
12 Nothing in this section shall preclude a person from removing, altering or modifying a muffler
13 or muffler system so long as the muffler or muffler system continues to comply with subsection
14 2 of this section. This section shall not be construed so as to prohibit the use of any exhaust

15 system or device, including but not limited to those not discharging water with exhaust gases,
16 so long as the device or system is in compliance with subsection 2 of this section.

17 4. No motorboat shall be equipped with any electrical or mechanical device or switch
18 that when manipulated in any manner would allow the muffler or exhaust system to emit a noise
19 level that exceeds the maximums in subsection 2 of this section.

20 5. Effective January 1, 1996, a person shall not manufacture, nor shall any person sell
21 or offer for sale any motorboat which is manufactured after January 1, 1996, which is equipped
22 with a muffler or muffler system which does not comply with this section. The subsection shall
23 not apply to power vessels designed, manufactured and sold for the sole purpose of competing
24 in racing events and for no other purpose. Any such exemption or exception shall be
25 documented in every sale agreement and shall be formally acknowledged by signature on the part
26 of both the buyer and the seller. Copies of such agreement shall be maintained by both parties.
27 A copy of such agreement shall be kept on board whenever the motorboat is operated. Any
28 motorboat sold under this exemption may only be operated on the waters of this state in
29 accordance with subsection 7 of this section.

30 6. As of January 1, 1996, every manufacturer which delivers a new motorboat for sale
31 in this state shall certify, if the purchaser or dealer makes a request in writing, that the decibel
32 level of the motorboat engine, muffler and exhaust system, as delivered to any licensed dealer
33 in this state, does not exceed the noise level of 90dB(A) when subjected to a stationary sound
34 level test as prescribed by SAE J2005. Such certificate of decibel level from the manufacturer
35 shall be given by the dealer to the purchaser of the new motorboat if the motorboat is sold for
36 use upon the waters of this state. The purchaser shall sign a statement acknowledging receipt
37 of the certificate of decibel level which shall be supplied by the dealer. The dealer shall
38 represent by affidavit whether or not the engine or muffler system of the new motorboat being
39 sold has been altered or modified in any way.

40 7. The provisions of this section shall not apply to motorboats registered and actually
41 participating in a racing event or tune-up periods for such racing events or to a motorboat being
42 operated by a boat or engine manufacturer for the purpose of testing or development. The
43 operator of any motorboat operated upon the waters of this state for the purpose of a tune-up for
44 a sanctioned race or for testing or development by a boat or engine manufacturer shall at all
45 times have in such operator's possession and produce on demand by a law enforcement officer
46 a test permit issued by the **Missouri state** water patrol [division]. For the purpose of races or
47 racing events, such race shall only be sanctioned when conducted in accordance with and
48 approved by the United States Coast Guard or this state.

49 8. Any officer authorized to enforce the provisions of this section who has probable
50 cause to believe that a motorboat is not in compliance with the noise levels established in this

51 section may direct the operator of such motorboat to submit the motorboat to an on-site test to
52 measure noise levels, with the officer on board if such officer chooses, and the operator shall
53 comply with such request. The owner of any motorboat which violates any provision of this
54 section shall have sixty days from the date of the violation to bring the motorboat into
55 compliance with the provisions of this section. Thereafter, it shall be the owner's responsibility
56 to have the motorboat tested by the **Missouri state** water patrol [division]. If the motorboat fails
57 the **Missouri state** water patrol [division] test, the owner shall immediately moor the motorboat
58 and shall keep the motorboat moored until the **Missouri state** water patrol [division] certifies
59 that the motorboat is in compliance with the provisions of this section. Any person who fails to
60 comply with a request or direction of an officer made pursuant to this subsection is guilty of a
61 class C misdemeanor. Nothing in this subsection shall be construed to limit the officer's ability
62 to enforce this section and to issue citations to the owner or operator of any motorboat during the
63 sixty-day compliance period.

64 9. Any officer who conducts motorboat sound level tests as provided in this section shall
65 be qualified in motorboat noise testing by the department of public safety. Such qualifications
66 shall include but may not be limited to the selection of the measurement site, and the calibration
67 and use of noise testing equipment in accordance with the testing procedure prescribed by SAE
68 J2005 and SAE J34.

69 10. Unless otherwise indicated, any person who knowingly violates this section is guilty
70 of an infraction for a first offense with a penalty not to exceed one hundred dollars, is guilty of
71 an infraction for a second offense with a penalty not to exceed two hundred dollars, and is guilty
72 of an infraction for a third or subsequent offense with a penalty not to exceed three hundred
73 dollars.

74 11. This section shall not apply to motorboats not intended for use in this state.

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

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

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

13 **3. The commissioner shall be given a certificate of appointment, a copy of which**
14 **shall be filed with the secretary of state, granting him or her all the powers of a peace**
15 **officer to enforce all the laws of this state within the jurisdiction of the water patrol as**
16 **listed in section 306.165, provided that he or she has completed a law enforcement training**
17 **course which meets the standards established in chapter 590.**

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

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

18 Each **water** patrol officer [assigned to the water patrol division] may board any watercraft at any
19 time, with probable cause, for the purpose of making any inspection necessary to determine
20 compliance with the provisions of this chapter. Each **water** patrol officer may arrest on view and
21 without a warrant any person he or she sees violating or who such **water** patrol officer has

22 reasonable grounds to believe has violated any law of this state, upon any water or land area
23 subject to his or her jurisdiction as provided in this section or may arrest anyone violating any
24 law in his or her presence throughout the state. Each **water** patrol officer, while investigating
25 an accident or crime that was originally committed within such patrol officer's jurisdiction, as
26 set forth in this section, may arrest any person who he or she has probable cause to believe has
27 committed such crime, even if the suspect is currently out of the [division of] **state** water patrol's
28 jurisdiction. **Water** patrol officers, if practicable, shall notify the sheriff or the police department
29 prior to making an arrest within their respective county or city. Each **water** patrol officer shall
30 comply with the training and certification provisions of chapter 590.

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

306.168. In the investigation of an accident or crime that was originally committed
2 within such **water** patrol officer's jurisdiction, as set forth in section 306.165, the members of
3 the water patrol [division] may request that the prosecuting or circuit attorney apply for, and
4 members of the water patrol [division] may serve, search warrants anywhere within the state of
5 Missouri, provided the sheriff of the county in which the warrant is to be served, or his designee,
6 shall be notified upon application by the applicant of the search warrant. The sheriff or his
7 designee shall participate in serving the search warrant except for offenses pertaining to boating
8 while intoxicated and the investigation of vessel accidents. Any designee of the sheriff shall be
9 a deputy sheriff or other person certified as a peace officer under chapter 590. The sheriff shall
10 always have a designee available.

306.185. 1. There is hereby created in the state treasury the "**Missouri State Water**
2 **Patrol [Division] Fund**", which shall consist of money collected under section 306.030. The state
3 treasurer shall be custodian of the fund and shall approve disbursements from the fund in
4 accordance with sections 30.170 and 30.180. Upon appropriation, money in the fund shall be
5 used solely for the expenses of the Missouri state [highway patrol,] water patrol [division],
6 including but not limited to 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, any moneys remaining in the fund
9 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
13 patrol shall establish with the advice of the director of personnel an equitable pay plan for
14 members of the water patrol 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
16 increase by two percent or more, the state treasurer shall deposit moneys, except for gifts,
17 donations, or bequests, received under this section beginning January first of the current
18 fiscal year into the state general revenue fund. Otherwise, the state treasurer shall deposit
19 such moneys in accordance with the provisions of this section.**

**306.227. Patrol officers of the water patrol shall not be less than twenty-one years
2 of age. No person shall be appointed as commissioner or as a member of the patrol who:**

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

6 **(2) Is not of good character;**

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

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

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

12 **(6) Does not possess ordinary physical strength, and who is not able to pass the
13 physical and mental examination that the commissioner prescribes.**

**306.228. 1. The commissioner may appoint from within the membership not more
2 than one assistant commissioner, two majors, nine captains, and nine lieutenants, each of
3 whom shall have the same qualifications as the commissioner, and such additional force
4 of sergeants, corporals, and patrol officers as the commissioner deems necessary.**

5 **2. In case of a national emergency the commissioner may name additional patrol
6 officers in a number sufficient to replace, temporarily, patrol officers called into military
7 services.**

8 **3. Applicants shall not be discriminated against because of race, creed, color,
9 national origin, religion, or sex.**

**306.229. 1. The commissioner is authorized and empowered to prescribe policies
2 providing increases in the salaries of patrol officers of the water patrol, subject to**

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

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

306.230. 1. The commissioner shall prescribe rules for instruction and discipline
2 and make all administrative rules and regulations and fix the hours of duty for the
3 members of the patrol. Any rule or portion of a rule, as that term is defined in section
4 536.010, that is created under the authority delegated in this section shall become effective
5 only if it complies with and is subject to all of the provisions of chapter 536 and, if
6 applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of
7 the powers vested with the general assembly pursuant to chapter 536 to review, to delay
8 the effective date, or to disapprove and annul a rule are subsequently held
9 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
10 after August 28, 2016, shall be invalid and void.

11 **2. The commissioner shall divide the state into districts and assign members of the**
12 **patrol to such districts in a manner deemed proper to carry out the purposes of this**
13 **chapter. The commissioner may call members of the patrol from one district to another.**

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

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

15 **(1) Suspension without pay for not more than thirty days;**

16 **(2) Reduction in rank; or**

17 **(3) Disciplinary transfer at the member's expense.**

18

19 **Nothing in this section shall be construed to prevent nondisciplinary transfers of members**
20 **if the commissioner determines that such transfers are for the good of the patrol. No**
21 **hearings shall be required in the case of reprimands or suspensions of three days or less**
22 **which may be imposed at the discretion of the commissioner.**

23 **2. If a complaint is filed against a member, the member shall be provided a copy**
24 **of the complaint promptly after the complaint is filed by or received by the patrol. Unless**
25 **the member consents in writing to an earlier time, the member shall not be questioned by**
26 **the patrol about the complaint or ordered to respond in writing to the complaint until**

27 **forty-eight hours after the member has received a copy of the complaint. The member**
28 **shall have a reasonable opportunity to have counsel present during any questioning related**
29 **to the complaint. Prior to the commissioner or the patrol making an initial**
30 **recommendation of discipline, the member shall be entitled to a copy of any investigation**
31 **reports and any other written or recorded information or other evidence reviewed by the**
32 **patrol which relates to the complaint; and the member will be afforded an opportunity to**
33 **present a written response thereto.**

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

542.261. As used in sections 542.261 to 542.296 and section 542.301, the term "peace
2 officer" means a police officer [or] , 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 of any
2 political subdivision of this state, any authorized agent of the department of conservation, any
3 commissioned member of the Missouri capitol police, any college or university police officer,
4 [and] any commissioned member of the Missouri state park rangers, **and any authorized agent**
5 **of the Missouri state water patrol** in fresh pursuit of a person who is reasonably believed by
6 such officer to have committed a felony in this state or who has committed, or attempted to
7 commit, in the presence of such officer or agent, any criminal offense or violation of a municipal
8 or county ordinance, or for whom such officer holds a warrant of arrest for a criminal offense,
9 shall have the authority to arrest and hold in custody such person anywhere in this state. Fresh
10 pursuit may only be initiated from within the pursuing peace officer's, conservation agent's,
11 capitol police officer's, college or university police officer's, [or] state park ranger's, **or water**
12 **patrol officer's** jurisdiction and shall be terminated once the pursuing peace officer is outside
13 of such officer's jurisdiction and has lost contact with the person being pursued. If the offense
14 is a traffic violation, the uniform traffic ticket shall be used as if the violator had been
15 apprehended in the municipality or county in which the offense occurred.

16 2. If such an arrest is made in obedience to a warrant, the disposition of the prisoner shall
17 be made as in other cases of arrest under a warrant; if the violator is served with a uniform traffic
18 ticket, the violator shall be directed to appear before a court having jurisdiction to try the offense;

19 if the arrest is without a warrant, the prisoner shall be taken forthwith before a judge of a court
20 with original criminal jurisdiction in the county wherein such arrest was made or before a
21 municipal judge thereof having original jurisdiction to try such offense, who may release the
22 person as provided in section 544.455, conditioned upon such person's appearance before the
23 court having jurisdiction to try the offense. The person so arrested need not be taken before a
24 judge as herein set out if given a summons by the arresting officer.

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

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

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

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

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

41 (4) There shall be guidelines for determining when the interests of public safety and
42 effective law enforcement justify a vehicular pursuit and when a vehicular pursuit should not be
43 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, **or state** water patrol [division,]
3 **officer** may enforce the provisions of sections 577.070 and 577.080 and arrest violators thereof;
4 except that conservation agents **and water patrol officers** may enforce such provisions only
5 upon the water, the 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 and others,
9 are transferred by type II transfer to the department of public safety. The governor by and with
10 the advice and consent of the senate shall appoint the superintendent of the patrol. With the
11 exception of sections 43.100 to 43.120 relating to financial procedures, the director of public
12 safety shall succeed the state highways and transportation commission in approving actions of
13 the superintendent and related matters as provided in chapter 43. Uniformed members of the
14 patrol shall be selected in the manner provided by law and shall receive the compensation
15 provided by law. Nothing in the Reorganization Act of 1974, however, shall be interpreted to
16 affect the funding of appropriations or the operation of chapter 104 relating to retirement system
17 coverage or section 226.160 relating to workers' compensation for members of the patrol.

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

25 4. All the powers, duties and functions of the safety and fire prevention bureau of the
26 department of public health and welfare are transferred by type I transfer to the director of public
27 safety.

28 5. All the powers, duties and functions of the state fire marshal, chapter 320 and others,
29 are transferred to the department of public safety by a type I transfer.

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

35 7. The director of public safety shall promulgate motor vehicle regulations and be ex
36 officio a member of the safety compact commission in place of the director of revenue and all
37 powers, duties and functions relating to chapter 307 are transferred by type I transfer to the
38 director of public safety.

39 8. The office of adjutant general and the state militia are assigned to the department of
40 public safety; provided, however, nothing herein shall be construed to interfere with the powers

41 and duties of the governor as provided in Article IV, Section 6 of the Constitution of the state
42 of Missouri or chapter 41.

43 9. All the powers, duties and functions of the Missouri boat commission, chapter 306
44 and others, are transferred by type I transfer to the "Missouri State Water Patrol", which is hereby
45 created, in the department of public safety. The Missouri boat commission and the office of
46 secretary to the commission are abolished. **The Missouri state water patrol shall be headed
47 by a commissioner who shall be appointed by the governor, with the advice and consent
48 of the senate.** All deputy boat commissioners and all other employees of the commission who
49 were employed on February 1, 1974, shall be transferred to the water patrol without further
50 qualification. Effective January 1, [2011] **2017**, all the powers, duties, and functions of the
51 [Missouri state water patrol] **division of water patrol within the Missouri state highway
52 patrol** are transferred to the [division of water patrol within the Missouri state highway patrol
53 as set out in section 43.390] **Missouri state water patrol within the department of public
54 safety. Tangible property including, but not limited to, facilities, motor vehicles,
55 watercraft, watercraft equipment, and safety equipment utilized by the Missouri water
56 patrol prior to December 31, 2010, and acquired for use of the division of water patrol
57 between January 1, 2011 and December 31, 2016, shall be transferred to the Missouri state
58 water patrol within the department of public safety. Any communication and technology
59 devices, systems, and related personnel including, but not limited to, those relating to
60 emergency dispatch services shall remain under the department of public safety in order
61 to maintain the communications and technology infrastructure in place prior to January
62 1, 2017.**

63 10. The Missouri veterans's commission, chapter 42, is assigned to the department of
64 public safety.

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

2 [43.390. 1. Notwithstanding the provisions of subsection 1 of section
3 43.025, there is hereby created within the Missouri state highway patrol a
4 "Division of Water Patrol".

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

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

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

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

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