

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

INTERIM STUDY PROPOSAL 2007-120

1
2 State of Arkansas
3 86th General Assembly
4 Regular Session, 2007

A Bill

SENATE BILL 121

5
6 By: Senator Glover
7 By: Representative L. Evans

8 Referred to
9 State Agencies & Gov't Affairs - Senate
10 by the Arkansas Senate
11 on 03/27/2007
12
13

For An Act To Be Entitled

14
15 AN ACT TO TRANSFER THE POWERS AND DUTIES OF THE
16 ARKANSAS HIGHWAY POLICE DIVISION OF THE ARKANSAS
17 STATE HIGHWAY AND TRANSPORTATION DEPARTMENT TO
18 THE DEPARTMENT OF ARKANSAS STATE POLICE; TO MAKE
19 ALL NECESSARY CHANGES THROUGHOUT THE ARKANSAS
20 CODE TO PROVIDE CONSISTENCY WITH THE TRANSFER OF
21 THE POWERS AND DUTIES OF THE ARKANSAS HIGHWAY
22 POLICE DIVISION OF THE ARKANSAS STATE HIGHWAY AND
23 TRANSPORTATION DEPARTMENT TO THE DEPARTMENT OF
24 ARKANSAS STATE POLICE; CONCERNING THE RETIREMENT
25 BENEFITS OF CERTAIN PERSONS EMPLOYED BY THE
26 ARKANSAS STATE HIGHWAY AND TRANSPORTATION
27 DEPARTMENT AND THE ARKANSAS STATE POLICE; AND FOR
28 OTHER PURPOSES.
29

Subtitle

30
31 TO TRANSFER THE POWERS AND DUTIES OF THE
32 ARKANSAS HIGHWAY POLICE DIVISION OF THE
33 ARKANSAS STATE HIGHWAY AND
34 TRANSPORTATION DEPARTMENT TO THE
35 DEPARTMENT OF ARKANSAS STATE POLICE.
36

1
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

3
4 SECTION 1. TRANSFER LANGUAGE. NOT TO BE INCORPORATED INTO THE
5 ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL, AND TEMPORARY LAW.

6 (a) The General Assembly finds that a change in structure in the
7 enforcement of highway laws and rules is necessary to:

8 (1) Be responsive to the needs of the people of this state;

9 (2) Improve the efficiency of highway enforcement;

10 (3) Improve the organizational structure of highway enforcement;

11 and

12 (4) Eliminate overlapping duties and duplication of efforts in
13 regard to highway enforcement.

14 (b) The General Assembly intends to provide an orderly transfer of
15 powers, duties, and functions of the Arkansas Highway Police Division of the
16 Arkansas State Highway and Transportation Department to the Department of
17 Arkansas State Police with a minimum of disruption to governmental services
18 and functions.

19 (c)(1) Except as provided under subdivision (c)(2) of this section, on
20 July 1, 2007, the Arkansas Highway Police Division of the Arkansas State
21 Highway and Transportation Department established by § 27-50-201 et seq. is
22 abolished and its powers and duties are transferred to the Department of
23 Arkansas State Police by a type 3 transfer as prescribed in § 25-2-106.

24 (2) The duties related to the issuance of permits for overweight
25 or oversized vehicles shall remain with the Arkansas State Highway and
26 Transportation Department.

27 (d) For purposes of this act, the Department of Arkansas State Police
28 shall be considered a principal department established by Acts 1971, No. 38.

29
30 SECTION 2. Arkansas Code Title 12, Chapter 8, Subchapter 1 is amended
31 to add the following section:

32 12-8-125. Report on cost of functions and duties transferred to
33 Department of Arkansas State Police — Transfer of funds from State Highway
34 and Transportation Department Fund to Department of Arkansas State Police
35 Fund.

36 Commencing with the fiscal year beginning July 1, 2007, the Director of

1 the Department of Arkansas State Police shall certify on the last day of
 2 business in each calendar month to the Chief Fiscal Officer of the State the
 3 cost associated with performing the functions and duties transferred to the
 4 Department of Arkansas State Police on July 1, 2007, as previously performed
 5 by the Arkansas Highway Police Division of the Arkansas State Highway and
 6 Transportation Department, and the Chief Fiscal Officer of the State shall
 7 cause the Treasurer of State to transfer that amount of funds from the State
 8 Highway and Transportation Department Fund to the Department of Arkansas
 9 State Police Fund.

10
 11 SECTION 3. Arkansas Code §§ 12-12-1402 and 12-12-1403 are amended to
 12 read as follows:

13 12-12-1402. Prohibition on racial profiling.

14 (a) No member of the Department of Arkansas State Police, ~~the Arkansas~~
 15 ~~Highway Police Division of the Arkansas State Highway and Transportation~~
 16 ~~Department~~, a sheriff's department, or a municipal police department,
 17 constable, or any other law enforcement officer of this state shall engage in
 18 racial profiling.

19 (b) The statements of policy and definitions contained in this
 20 subchapter shall not be construed or interpreted to be contrary to the
 21 Arkansas Rules of Criminal Procedure or the United States Constitution or the
 22 Arkansas Constitution.

23
 24 12-12-1403. Policies.

25 (a) The Department of Arkansas State Police, ~~the Arkansas Highway~~
 26 ~~Police Division of the Arkansas State Highway and Transportation Department~~,
 27 all sheriffs' departments, municipal police departments, constables, and all
 28 other law enforcement agencies of this state shall adopt a written policy
 29 that:

30 (1) Prohibits racial profiling as defined in § 12-12-1401;

31 (2) Requires that law enforcement officers have reasonable
 32 suspicion prior to a stop, arrest, or detention;

33 (3) Defines reasonable suspicion, to ensure that individuals are
 34 stopped for valid reasons and that race, ethnicity, national origin, or
 35 religion is not the basis for stops for violations for which nongroup members
 36 would not be stopped;

1 (4) Requires law enforcement officers to identify themselves by
2 full name and jurisdiction and state the reason for the stop and when
3 possible present written identification;

4 (5) Provides for a systematic review process by supervising
5 personnel within a department or law enforcement agency for investigating
6 allegations of racial profiling to determine whether any officers of the law
7 enforcement agency have a pattern of stopping or searching persons, and if
8 the review reveals a pattern, requires an investigation to determine whether
9 a trend is present indicating that an officer may be using race, ethnicity,
10 national origin, or religion as a basis for investigating other violations of
11 criminal law;

12 (6) When a supervisor or other reviewer has detected a pattern
13 of racial profiling, provides timely assistance, remediation, or discipline
14 for individual law enforcement officers who have been found to be profiling
15 by race, ethnicity, national origin, or religion;

16 (7) Ensures that supervisors will not retaliate against officers
17 who report racial profiling by others; and

18 (8) Provides standards for the use of in-car audio and visual
19 equipment, including the duration for which the recordings are preserved.

20 (b) Each law enforcement agency shall include a copy of the law
21 enforcement agency's policy in the annual report that the law enforcement
22 agency submits to the Division of Legislative Audit.

23
24 SECTION 4. Arkansas Code § 20-32-105(a)(1), concerning the
25 authorization to stop vehicles suspected of transporting commercial medical
26 waste, is amended to read as follows:

27 (a)(1) The Department of Arkansas State Police ~~and the enforcement~~
28 ~~officers of the Arkansas Highway Police Division of the Arkansas State~~
29 ~~Highway and Transportation Department~~ may stop vehicles suspected of
30 transporting commercial medical waste to assure that all required permits for
31 transporting the commercial medical waste have been obtained and to enforce
32 all laws and regulations relating to the transportation of commercial medical
33 waste.

34
35 SECTION 5. Arkansas Code Title 24, Chapter 5, Subchapter 1 is amended
36 to add an additional section to read as follows:

1 24-5-136. Membership of Highway Police Division.

2 (a) All persons employed by the Arkansas Highway Police Division of
3 the Arkansas State Highway and Transportation Department on or before June
4 30, 2007, shall be members of the Arkansas State Highway Employees'
5 Retirement System.

6 (b) All persons employed by the Arkansas State Police to perform the
7 duties of the Arkansas Highway Police Division on and after July 1, 2007,
8 shall be members of the State Police Retirement System.

9
10 SECTION 6. Arkansas Code § 27-2-105 is amended to read as follows:

11 27-2-105. Enforcement.

12 ~~The enforcement personnel of the Department of Arkansas State Police~~
13 ~~and enforcement personnel of the Arkansas State Highway and Transportation~~
14 ~~Department shall have~~ has ~~the authority to enforce the provisions of this~~
15 ~~chapter.~~

16
17 SECTION 7. Arkansas Code § 27-35-211 is amended to read as follows:

18 27-35-211. Disposition of fees and penalties.

19 All fees and penalties collected under the provisions of §§ 27-35-202
20 and 27-35-210 shall be remitted by the tenth day of each month to the
21 Administration of Justice Fund Section of the Office of Administrative
22 Services of the Department of Finance and Administration on a form provided
23 by that office for deposit ~~in~~ into ~~the State Highway and Transportation~~
24 ~~Department Fund~~ Department of Arkansas State Police Fund, there to be used
25 for the operation and maintenance of the ~~Arkansas Highway Police Division of~~
26 ~~the Arkansas State Highway and Transportation Department~~ Department of
27 Arkansas State Police.

28
29 SECTION 8. Arkansas Code § 27-35-308 is amended to read as follows:

30 27-35-308. Disposition of fees.

31 All fees collected under the provisions of this subchapter shall
32 forthwith be deposited ~~in~~ into the State Treasury as special revenues. The
33 net amount shall be credited to the ~~State Highway and Transportation~~
34 ~~Department Fund~~ Department of Arkansas State Police Fund, there to be used
35 for the operation and maintenance of the ~~Arkansas Highway Police Division of~~
36 ~~the Arkansas State Highway and Transportation Department~~ Department of

1 Arkansas State Police.

2

3 SECTION 9. Arkansas Code Title 27, Chapter 50, Subchapter 2 is
4 repealed.

5 ~~27-50-201. Provisions deemed cumulative.~~

6 ~~This subchapter shall be cumulative to the laws in force relating to~~
7 ~~the functions and duties imposed upon the Department of Arkansas State Police~~
8 ~~under the provisions of Act No. 122 of 1953, and acts amendatory thereto. It~~
9 ~~shall also be cumulative to laws in effect which were in effect prior to the~~
10 ~~enactment of Act No. 122 of 1953, which imposed duties upon the Arkansas~~
11 ~~State Highway and Transportation Department and the Director of the~~
12 ~~Department of Finance and Administration, which were transferred to the~~
13 ~~Department of Arkansas State Police under the provisions of Act No. 122 of~~
14 ~~1953, as amended.~~

15

16 ~~27-50-202. Arkansas Highway Police Division of the Arkansas State~~
17 ~~Highway and Transportation Department — Creation.~~

18 ~~(a) A Division of Weights and Standards of the Arkansas State Highway~~
19 ~~and Transportation Department is created.~~

20 ~~(b) The Division of Weights and Standards is hereafter to be named the~~
21 ~~Arkansas Highway Police Division of the Arkansas State Highway and~~
22 ~~Transportation Department.~~

23 ~~(c) Whenever the words "Division of Weights and Standards of the~~
24 ~~Arkansas State Highway and Transportation Department" are found in any~~
25 ~~statute, directive, rule, or regulation, they shall be held and taken to mean~~
26 ~~the Arkansas Highway Police Division of the Arkansas State Highway and~~
27 ~~Transportation Department.~~

28

29 ~~27-50-203. Appointment of director.~~

30 ~~The State Highway Commission shall appoint a Director of the Arkansas~~
31 ~~Highway Police Division of the Arkansas State Highway and Transportation~~
32 ~~Department who shall serve at the pleasure of the commission.~~

33

34 ~~27-50-204. Division employees.~~

35 ~~(a)(1) The State Highway Commission shall establish rules and~~
36 ~~regulations governing employees of the Arkansas Highway Police Division of~~

1 ~~the Arkansas State Highway and Transportation Department.~~

2 ~~(2) Employees of the Weights and Standards Division of the~~
3 ~~Arkansas State Police shall be eligible for employment under this subchapter~~
4 ~~without meeting the qualifications that may be established by the commission.~~

5 ~~(b) Employees of the division may be required to wear some type of~~
6 ~~regalia or uniform identifying the employees as members of the division.~~

7 ~~(c) All moneys coming into the hands of the employees in the~~
8 ~~enforcement of revenue laws shall be subject to regulations and procedures as~~
9 ~~the Director of the Department of Finance and Administration shall direct.~~

10
11 ~~27-50-205. Power and authority of division.~~

12 ~~(a) The Arkansas Highway Police Division of the Arkansas State Highway~~
13 ~~and Transportation Department shall have the power and authority to enforce~~
14 ~~all laws pertaining to the unlawful operation of motor vehicles over the~~
15 ~~highways of this state.~~

16 ~~(b) This responsibility shall include, but not be limited to, a full~~
17 ~~responsibility along with the Department of Arkansas State Police and the~~
18 ~~Arkansas Transportation Commission [abolished] for enforcement of the~~
19 ~~Hazardous Materials Transportation Act of 1977, § 27-2-101 et seq., and the~~
20 ~~rules and regulations promulgated thereunder.~~

21
22 SECTION 10. Arkansas Code § 27-65-139 is repealed.

23 ~~27-65-139. Uniform allowance.~~

24 ~~(a)(1) The State Highway Commission is hereby authorized to pay from~~
25 ~~funds appropriated for maintenance and operation a uniform allowance not to~~
26 ~~exceed one thousand eight hundred dollars (\$1,800) per annum for all~~
27 ~~uniformed personnel (Arkansas Highway Police Patrol Officer through Chief,~~
28 ~~Police Division) of the Arkansas Highway Police Division of the Arkansas~~
29 ~~State Highway and Transportation Department.~~

30 ~~(2) The above mentioned per annum allowance shall be divided and~~
31 ~~paid on a monthly basis for each month of the employment for those eligible~~
32 ~~personnel of the Arkansas Highway Police Division of the department.~~

33 ~~(b) Provided further, that when uniformed personnel are hired, they~~
34 ~~shall be paid an initial lump sum uniform allowance of two hundred dollars~~
35 ~~(\$200) that shall be in addition to the monthly allowance as herein provided.~~

36

SECTION 11. Arkansas Code § 27-65-143 is repealed.

~~27-65-143. Award of pistol upon retirement.~~

~~When a highway police patrol officer of the Arkansas Highway Police Division of the Arkansas State Highway and Transportation retires from service or dies while still employed with the Arkansas State Highway and Transportation Department, the State Highway Commission may award the pistol carried by the officer at the time of his or her death or retirement from service to:~~

~~(1) The officer upon retirement; or~~

~~(2) The officer's spouse if the officer is deceased and the spouse is eligible under applicable state and federal laws to possess a firearm.~~

SECTION 12. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that an immediate change in the structure of the enforcement of highway laws and rules is necessary to be responsive to the needs of the people of the State of Arkansas, to improve the efficiency of highway enforcement, to improve the organizational structure of highway enforcement, and to eliminate overlapping duties and the duplication of efforts; and that this act is immediately necessary to ensure the integrity of our highway law enforcement with a minimum disruption to governmental services. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007.

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