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1 A bill to be entitled

2 An act relating to governmental reorganization; creating
3 s. 20.241, F.S.; creating the Department of the Florida
4 Highway Patrol; providing for organization of that
5 department; transferring powers, duties, functions,
6 records, personnel, property, and funds of the Division of
7 the Florida Highway Patrol within the Department of
8 Highway Safety and Motor Vehicles to said department;
9 transferring legal authorities and actions of that
10 division; transferring support positions; transferring
11 trust funds, portions of trust funds, unexpended balances
12 of appropriations, allocations, and other funds from the
13 Department of Highway Safety and Motor Vehicles to the
14 Department of the Florida Highway Patrol; transferring
15 authority and responsibility of the division for the
16 enforcement of laws to the Department of the Florida
17 Highway Patrol; transferring authority and responsibility
18 of the members of the Florida Highway Patrol within the
19 Department of Highway Safety and Motor Vehicles to the
20 members of the Florida Highway Patrol within the
21 Department of the Florida Highway Patrol; transferring
22 authority and responsibility for appointment of the
23 auxiliary to the Florida Highway Patrol to the director of
24 the Department of the Florida Highway Patrol; transferring
25 authority and responsibility of the members of the
26 auxiliary to the Florida Highway Patrol to the members of
27 the auxiliary to the Florida Highway Patrol within the
28 Department of the Florida Highway Patrol; transferring
29 authority and responsibility for maintaining the Florida
30 Highway Patrol wrecker operator system to the Department



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31 of the Florida Highway Patrol; providing the Governor with
32 specific organizational authority to effect restructuring
33 of said departments; authorizing said departments to enter
34 into interagency agreements for certain purposes;
35 providing for transfer of funds into the Administrative
36 Trust Fund; authorizing the Department of the Florida
37 Highway Patrol to request creation of trust funds;
38 requiring driver license information obtained by the
39 Department of Highway Safety and Motor Vehicles to be
40 available on a priority basis to the Department of the
41 Florida Highway Patrol; specifying that rules of the
42 Department of Highway Safety and Motor Vehicles relating
43 to said division become rules of the Department of the
44 Florida Highway Patrol; providing for preservation of
45 validity of judicial or administrative actions; providing
46 for substitution of certain parties in interest in such
47 actions; providing legislative intent relating to
48 statutory responsibility for enforcement of traffic laws
49 becoming the responsibility of the Department of the
50 Florida Highway Patrol; providing legislative intent
51 relating to job classifications, pay plans, rank
52 classifications, employment statuses, assignments, and
53 special assignments remaining in effect upon transfer;
54 providing legislative intent relating to statutory
55 responsibility for certain appointments becoming the
56 responsibility of the director of the Department of the
57 Florida Highway Patrol; providing for conforming
58 legislation; providing for assistance of certain
59 legislative substantive committees by the Division of
60 Statutory Revision for certain purposes; amending s.



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61 20.24, F.S., relating to organization of the Department of
 62 Highway Safety and Motor Vehicles; removing the Division
 63 of the Florida Highway Patrol; amending s. 110.2035, F.S.;
 64 maintaining pay band classifications of the Division of
 65 the Florida Highway Patrol when transferred to the
 66 Department of the Florida Highway Patrol; amending s.
 67 23.1231, F.S., relating to the Florida Mutual Aid Plan;
 68 providing for coordination between the liaison and the
 69 Department of the Florida Highway Patrol; amending ss.
 70 120.80, 282.1095, 316.003, 316.640, 321.02, 321.03,
 71 321.04, 321.05, 321.051, 321.23, 321.25, 338.239, and
 72 943.11, F.S., relating to administrative hearing
 73 procedures, the Joint Task Force on State Agency Law
 74 Enforcement Communications, the Florida Uniform Traffic
 75 Control Law, enforcement of traffic laws, powers and
 76 duties of highway patrol, imitation of highway patrol
 77 vehicles, personnel and rank, duties and functions and
 78 powers of patrol officers, the Florida Highway Patrol
 79 wrecker operator system, public records, training provided
 80 at patrol schools, traffic control on the turnpike system,
 81 and Criminal Justice Standards and Training Commission
 82 membership; conforming provisions to the reorganization
 83 and transfers made by the act; amending ss. 72.011,
 84 213.015, 215.26, and 519.101, F.S.; conforming references
 85 to changes made by the act; reenacting s. 321.065, F.S.,
 86 relating to employment of traffic accident investigation
 87 officers; providing an effective date.

88
 89 Be It Enacted by the Legislature of the State of Florida:
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91 Section 1. Section 20.241, Florida Statutes, is created to
 92 read:

93 20.241 Department of the Florida Highway Patrol.--There is
 94 created a Department of the Florida Highway Patrol.

95 (1) The head of the department is the director of the
 96 Department of the Florida Highway Patrol who shall have the rank
 97 designation of colonel. The colonel shall be appointed by the
 98 Governor with the approval of the majority of the members of the
 99 Cabinet, subject to confirmation by the Senate. The colonel
 100 shall serve at the pleasure of the Governor and Cabinet.

101 (2) The following divisions of the Department of the
 102 Florida Highway Patrol are established:

103 (a) Division of Administrative Services.

104 (b) Division of Highway Patrol Operations.

105 (c) Division of Criminal Investigations.

106 (3) Bureaus and sections may be established as deemed
 107 necessary to promote efficient and effective operation of the
 108 department, pursuant to s. 20.04.

109 Section 2. Department of the Florida Highway Patrol;
 110 transfers; operations.--

111 (1) All statutory powers, duties, functions, records,
 112 personnel, property, and unexpended balances of appropriations,
 113 allocations, law enforcement trust funds, trust funds, and other
 114 funds of the Division of the Florida Highway Patrol within the
 115 Department of Highway Safety and Motor Vehicles are transferred
 116 by a type two transfer, as defined in s. 20.06(2), Florida
 117 Statutes, to the Department of the Florida Highway Patrol.

118 (2) All existing legal authorities and actions of the
 119 Division of the Florida Highway Patrol within the Department of
 120 Highway Safety and Motor Vehicles, including, but not limited



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121 to, all pending and completed action on orders and rules, all
122 enforcement matters, and all delegations, interagency
123 agreements, and contracts with federal, state, regional, and
124 local governments and private entities are transferred by a type
125 two transfer, as defined in s. 20.06(2), Florida Statutes, to
126 the Department of the Florida Highway Patrol.

127 (3) Those positions primarily supporting the Division of
128 the Florida Highway Patrol within the Department of Highway
129 Safety and Motor Vehicles, including, but not limited to, legal,
130 clerical, administrative, or other, are hereby transferred by a
131 type two transfer, as defined in s. 20.06(2), Florida Statutes,
132 to the Department of the Florida Highway Patrol.

133 (4) All existing statutory authority and responsibility
134 for the enforcement of laws of the state of the Division of the
135 Florida Highway Patrol within the Department of Highway Safety
136 and Motor Vehicles, including, but not limited to, law
137 enforcement and traffic control, are transferred by a type two
138 transfer, as defined in s. 20.06(2), Florida Statutes, to the
139 Department of the Florida Highway Patrol.

140 (5) All existing statutory authorities, responsibilities,
141 duties, functions, powers, protections, and immunities of
142 members of the Florida Highway Patrol within the Department of
143 Highway Safety and Motor Vehicles, including, but not limited
144 to, the power to bear arms and make arrests and powers relating
145 to law enforcement and traffic control, are transferred by a
146 type two transfer, as defined in s. 20.06(2), Florida Statutes,
147 to the members of the Florida Highway Patrol within the
148 Department of the Florida Highway Patrol.

149 (6) All existing statutory authority and responsibility
150 for the auxiliary to the Florida Highway Patrol of the director



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151 of the Florida Highway Patrol within the Department of Highway
152 Safety and Motor Vehicles, including, but not limited to,
153 establishment of, and training and purchase of uniforms and
154 equipment for, an auxiliary to the Florida Highway Patrol, are
155 transferred by a type two transfer, as defined in s. 20.06(2),
156 Florida Statutes, to the director of the Department of the
157 Florida Highway Patrol.

158 (7) All existing statutory authorities, responsibilities,
159 duties, functions, powers, protections, and immunities of the
160 members of the auxiliary to the Florida Highway Patrol within
161 the Department of Highway Safety and Motor Vehicles, including,
162 but not limited to, the power to bear arms and make arrests and
163 powers relating to law enforcement and traffic control on state
164 roads and highways, the U.S. Interstate Highway System, and the
165 Florida Turnpike, are transferred by a type two transfer, as
166 defined in s. 20.06(2), Florida Statutes, to the members of the
167 auxiliary to the Florida Highway Patrol within the Department of
168 the Florida Highway Patrol.

169 (8) All existing statutory authority and responsibility
170 for the wrecker operator system of the Division of the Florida
171 Highway Patrol within the Department of Highway Safety and Motor
172 Vehicles, including, but not limited to, establishment of a
173 wrecker operator system, are transferred by a type two transfer,
174 as defined in s. 20.06(2), Florida Statutes, to the Department
175 of the Florida Highway Patrol.

176 (9) The Governor is hereby granted the specific authority
177 to shift divisions as a class one transfer, consistent with the
178 notice and review requirements of s. 216.177, Florida Statutes,
179 between the Department of Highway Safety and Motor Vehicles and
180 the Department of the Florida Highway Patrol, as created by this



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181 act, to promote the efficient and effective operation of both
182 departments.

183 (10) All trust funds, portions of trust funds, unexpended
184 balances of appropriations, allocations, and other funds which
185 are used to fund the operations of the Division of the Florida
186 Highway Patrol within the Department of Highway Safety and Motor
187 Vehicles that are not otherwise transferred by this act are
188 transferred by a type two transfer, as defined in s. 20.06(2),
189 Florida Statutes, to the Administrative Trust Fund of the
190 Department of the Florida Highway Patrol. The Department of the
191 Florida Highway Patrol is authorized to submit with its
192 legislative budget request a request for the creation of any
193 trust funds necessary for the efficient and effective operation
194 of the department and its divisions.

195 (11) The Department of Highway Safety and Motor Vehicles
196 and the Department of the Florida Highway Patrol are authorized
197 to enter into interagency agreements with each other concerning
198 any matter affected by the creation of the Department of the
199 Florida Highway Patrol in order to promote the efficient and
200 effective operation of both departments.

201 (12) Driver license information obtained by the Department
202 of Highway Safety and Motor Vehicles shall be available on a
203 priority basis to the Department of the Florida Highway Patrol
204 for any purposes necessary to carry out the responsibilities of
205 the Department of the Florida Highway Patrol.

206 Section 3. Transfer of rules.--Effective July 1, 2003, the
207 rules of the Department of Highway Safety and Motor Vehicles
208 that relate to the Division of the Florida Highway Patrol that
209 were in effect on June 30, 2003, shall become rules of the
210 Department of the Florida Highway Patrol and shall remain in



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211 effect until specifically amended or repealed in the manner
212 provided by law.

213 Section 4. Validity; judicial or administrative
214 action.--This act shall not affect the validity of any judicial
215 or administrative action involving the Division of the Florida
216 Highway Patrol within the Department of Highway Safety and Motor
217 Vehicles pending on July 1, 2003, and the Department of the
218 Florida Highway Patrol shall be substituted as a party in
219 interest in any such action.

220 Section 5. Legislative intent; law enforcement and traffic
221 control.--It is specifically the intent of the Legislature that
222 the statutory responsibility for law enforcement and traffic
223 control in the state now vested in the Division of the Florida
224 Highway Patrol within the Department of Highway Safety and Motor
225 Vehicles shall become the responsibility of the Department of
226 the Florida Highway Patrol.

227 Section 6. Legislative intent; job and rank
228 classifications; pay plans; employment statuses;
229 assignments.--It is specifically the intent of the Legislature
230 that job classifications, pay plans, rank classifications,
231 employment statuses, assignments, and special assignments
232 currently in effect in the Division of the Florida Highway
233 Patrol within the Department of Highway Safety and Motor
234 Vehicles shall transfer to and remain in effect, as much as is
235 practicable, in the Department of the Florida Highway Patrol
236 unless changed by this act or as otherwise provided for by law.

237 Section 7. Legislative intent; appointments by
238 director.--It is specifically the intent of the Legislature
239 that, until June 30, 2004, the statutory responsibility for
240 appointments to commissions, boards, associations, councils,



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241 committees, or other collegial bodies now vested in the
 242 executive director of the Division of the Florida Highway Patrol
 243 within the Department of Highway Safety and Motor Vehicles shall
 244 become the responsibility of the director of the Department of
 245 the Florida Highway Patrol.

246 Section 8. Conforming legislation.--The Legislature
 247 recognizes that there is a need to conform the Florida Statutes
 248 to the policy decisions reflected in this act and that there is
 249 a need to resolve apparent conflicts between any other
 250 legislation that has been or may be enacted during 2003 and the
 251 creation by this act of the Department of the Florida Highway
 252 Patrol. Therefore, in the interim between this act becoming a
 253 law and the 2004 Regular Session of the Legislature or an
 254 earlier special session addressing this issue, the Division of
 255 Statutory Revision shall, upon request, provide the relevant
 256 substantive committees of the Senate and the House of
 257 Representatives with assistance to enable such committees to
 258 prepare draft legislation to conform the Florida Statutes and
 259 any legislation enacted during 2003 to the provisions of s.
 260 20.241, Florida Statutes, as created by this act.

261 Section 9. Subsection (2) of section 20.24, Florida
 262 Statutes, is amended to read:

263 20.24 Department of Highway Safety and Motor
 264 Vehicles.--There is created a Department of Highway Safety and
 265 Motor Vehicles.

266 (2) The following divisions, and bureaus within the
 267 divisions, of the Department of Highway Safety and Motor
 268 Vehicles are established:

269 ~~(a) Division of the Florida Highway Patrol.~~

270 (a)~~(b)~~ Division of Driver Licenses.



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271 (b)(e) Division of Motor Vehicles.

272 1. Bureau of Motor Vehicle Inspection.

273 Section 10. Effective July 1, 2003, subsection (2) of
274 section 110.2035, Florida Statutes, as amended by section 43 of
275 chapter 2002-402, Laws of Florida, is amended, and subsection
276 (7) is added to said section, to read:

277 110.2035 Classification and compensation program.--

278 (2) Except as provided in subsection (7), the program
279 shall consist of the following:

280 (a) A position classification system using no more than 50
281 occupational groups and up to a 6-class series structure for
282 each occupation within an occupational group. Additional
283 occupational groups may be established only by the Executive
284 Office of the Governor after consultation with the Legislature.

285 (b) A pay plan that shall provide broad-based salary
286 ranges for each occupational group.

287 (7) For the Department of the Florida Highway Patrol, the
288 program shall consist of the following:

289 (a) A position classification system using no more than 38
290 occupational groups and up to a 6-class series structure for
291 each occupation within an occupational group. Additional
292 occupational groups may be established only by the Executive
293 Office of the Governor after consultation with the Legislature.

294 (b) A pay plan that shall provide broad-based salary
295 ranges for each occupational group and shall consist of no more
296 than 25 pay bands.

297

298 The department shall adopt any rules necessary to implement the
299 classification and compensation program to include Career
300 Service, Selected Exempt Service, and Senior Management Service



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301 positions consistent with the plan submitted to the Legislature
 302 on December 1, 2001; however, the adopted plan shall include pay
 303 bandwidths of 150 percent for each occupational group except the
 304 manager and executive occupational groups.

305 Section 11. Paragraph (e) of subsection (2) of section
 306 23.1231, Florida Statutes, is amended to read:

307 23.1231 Florida Mutual Aid Plan; powers and duties.--

308 (2) The executive director of the Department of Law
 309 Enforcement acting under the Governor as the state's chief law
 310 enforcement officer is the director of the Florida Mutual Aid
 311 Plan. The director of the Florida Mutual Aid Plan shall:

312 (e) Act as the liaison with the Department ~~Division~~ of the
 313 Florida Highway Patrol ~~of the Department of Highway Safety and~~
 314 ~~Motor Vehicles~~ in order to coordinate and integrate plans for
 315 traffic control and the participation of the department in the
 316 law enforcement operation;

317 Section 12. Subsections (9) through (17) of section
 318 120.80, Florida Statutes, are renumbered as subsections (10)
 319 through (18), respectively, and subsection (8) of said section
 320 is amended to read:

321 120.80 Exceptions and special requirements; agencies.--

322 (8) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.--

323 ~~(a) Drivers' licenses.--~~

324 (a)1- Notwithstanding s. 120.57(1)(a), hearings regarding
 325 drivers' licensing pursuant to chapter 322 need not be conducted
 326 by an administrative law judge assigned by the division.

327 (b)2- Notwithstanding s. 120.60(5), cancellation,
 328 suspension, or revocation of a driver's license shall be by
 329 personal delivery to the licensee or by first-class mail as
 330 provided in s. 322.251.



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331 (9)(b) DEPARTMENT OF THE FLORIDA HIGHWAY PATROL ~~Wrecker~~
 332 ~~operators~~.--Notwithstanding s. 120.57(1)(a), hearings held by
 333 the Department ~~Division~~ of the Florida Highway Patrol ~~of the~~
 334 ~~Department of Highway Safety and Motor Vehicles~~ to deny,
 335 suspend, or remove a wrecker operator from participating in the
 336 wrecker rotation system established by s. 321.051 need not be
 337 conducted by an administrative law judge assigned by the
 338 division. These hearings shall be held by a hearing officer
 339 appointed by the director of the Department ~~Division~~ of the
 340 Florida Highway Patrol.

341 Section 13. Paragraph (a) of subsection (2) of section
 342 282.1095, Florida Statutes, is amended to read:

343 282.1095 State agency law enforcement radio system.--

344 (2)(a) The Joint Task Force on State Agency Law
 345 Enforcement Communications shall consist of eight members, as
 346 follows:

347 1. A representative of the Division of Alcoholic Beverages
 348 and Tobacco of the Department of Business and Professional
 349 Regulation who shall be appointed by the secretary of the
 350 department.

351 2. A representative of the Department of the ~~Division of~~
 352 ~~Florida Highway Patrol of the Department of Highway Safety and~~
 353 ~~Motor Vehicles~~ who shall be appointed by the ~~executive~~ director
 354 of the department.

355 3. A representative of the Department of Law Enforcement
 356 who shall be appointed by the executive director of the
 357 department.

358 4. A representative of the Fish and Wildlife Conservation
 359 Commission who shall be appointed by the executive director of
 360 the commission.



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361 5. A representative of the Division of Law Enforcement of
 362 the Department of Environmental Protection who shall be
 363 appointed by the secretary of the department.

364 6. A representative of the Department of Corrections who
 365 shall be appointed by the secretary of the department.

366 7. A representative of the Division of State Fire Marshal
 367 of the Department of Insurance who shall be appointed by the
 368 State Fire Marshal.

369 8. A representative of the Department of Transportation
 370 who shall be appointed by the secretary of the department.

371 Section 14. Subsection (9) of section 316.003, Florida
 372 Statutes, is amended to read:

373 316.003 Definitions.--The following words and phrases,
 374 when used in this chapter, shall have the meanings respectively
 375 ascribed to them in this section, except where the context
 376 otherwise requires:

377 (9) DIRECTOR.--The Director of the Department ~~Division~~ of
 378 the Florida Highway Patrol ~~of the Department of Highway Safety~~
 379 ~~and Motor Vehicles~~.

380 Section 15. Paragraph (a) of subsection (1) of section
 381 316.640, Florida Statutes, is amended to read:

382 316.640 Enforcement.--The enforcement of the traffic laws
 383 of this state is vested as follows:

384 (1) STATE.--

385 (a)1.a. The Department ~~Division~~ of the Florida Highway
 386 Patrol ~~of the Department of Highway Safety and Motor Vehicles~~,
 387 the Division of Law Enforcement of the Fish and Wildlife
 388 Conservation Commission, the Division of Law Enforcement of the
 389 Department of Environmental Protection, and law enforcement
 390 officers of the Department of Transportation each have authority



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391 to enforce all of the traffic laws of this state on all the
392 streets and highways thereof and elsewhere throughout the state
393 wherever the public has a right to travel by motor vehicle. The
394 Department ~~Division~~ of the Florida Highway Patrol may employ as
395 a traffic accident investigation officer any individual who
396 successfully completes instruction in traffic accident
397 investigation and court presentation through the Selective
398 Traffic Enforcement Program as approved by the Criminal Justice
399 Standards and Training Commission and funded through the
400 National Highway Traffic Safety Administration or a similar
401 program approved by the commission, but who does not necessarily
402 meet the uniform minimum standards established by the commission
403 for law enforcement officers or auxiliary law enforcement
404 officers under chapter 943. Any such traffic accident
405 investigation officer who makes an investigation at the scene of
406 a traffic accident may issue traffic citations, based upon
407 personal investigation, when he or she has reasonable and
408 probable grounds to believe that a person who was involved in
409 the accident committed an offense under this chapter, chapter
410 319, chapter 320, or chapter 322 in connection with the
411 accident. This paragraph does not permit the carrying of
412 firearms or other weapons, nor do such officers have arrest
413 authority.

414 b. University police officers shall have authority to
415 enforce all of the traffic laws of this state when such
416 violations occur on or about any property or facilities that are
417 under the guidance, supervision, regulation, or control of a
418 state university, a direct-support organization of such state
419 university, or any other organization controlled by the state
420 university or a direct-support organization of the state



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421 university, except that traffic laws may be enforced off-campus
422 when hot pursuit originates on or adjacent to any such property
423 or facilities.

424 c. Community college police officers shall have the
425 authority to enforce all the traffic laws of this state only
426 when such violations occur on any property or facilities that
427 are under the guidance, supervision, regulation, or control of
428 the community college system.

429 d. Police officers employed by an airport authority shall
430 have the authority to enforce all of the traffic laws of this
431 state only when such violations occur on any property or
432 facilities that are owned or operated by an airport authority.

433 (I) An airport authority may employ as a parking
434 enforcement specialist any individual who successfully completes
435 a training program established and approved by the Criminal
436 Justice Standards and Training Commission for parking
437 enforcement specialists but who does not otherwise meet the
438 uniform minimum standards established by the commission for law
439 enforcement officers or auxiliary or part-time officers under s.
440 943.12. Nothing in this sub-sub-paragraph shall be construed
441 to permit the carrying of firearms or other weapons, nor shall
442 such parking enforcement specialist have arrest authority.

443 (II) A parking enforcement specialist employed by an
444 airport authority is authorized to enforce all state, county,
445 and municipal laws and ordinances governing parking only when
446 such violations are on property or facilities owned or operated
447 by the airport authority employing the specialist, by
448 appropriate state, county, or municipal traffic citation.



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449 e. The Office of Agricultural Law Enforcement of the
450 Department of Agriculture and Consumer Services shall have the
451 authority to enforce traffic laws of this state.

452 f. School safety officers shall have the authority to
453 enforce all of the traffic laws of this state when such
454 violations occur on or about any property or facilities which
455 are under the guidance, supervision, regulation, or control of
456 the district school board.

457 2. An agency of the state as described in subparagraph 1.
458 is prohibited from establishing a traffic citation quota. A
459 violation of this subparagraph is not subject to the penalties
460 provided in chapter 318.

461 3. Any disciplinary action taken or performance evaluation
462 conducted by an agency of the state as described in subparagraph
463 1. of a law enforcement officer's traffic enforcement activity
464 must be in accordance with written work-performance standards.
465 Such standards must be approved by the agency and any collective
466 bargaining unit representing such law enforcement officer. A
467 violation of this subparagraph is not subject to the penalties
468 provided in chapter 318.

469 Section 16. Section 321.02, Florida Statutes, is amended
470 to read:

471 321.02 Powers and duties of department, ~~highway~~
472 ~~patrol~~.--The director of the Department ~~Division~~ of the Florida
473 Highway Patrol ~~of the Department of Highway Safety and Motor~~
474 ~~Vehicles~~ shall also be the commander of the Florida Highway
475 Patrol. The said department shall set up and promulgate rules
476 and regulations by which the personnel of the Florida Highway
477 Patrol officers shall be examined, employed, trained, located,
478 suspended, reduced in rank, discharged, recruited, paid and



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479 pensioned, subject to civil service provisions hereafter set
480 out. The department may enter into contracts or agreements, with
481 or without competitive bidding or procurement, to make
482 available, on a fair, reasonable, nonexclusive, and
483 nondiscriminatory basis, property and other structures under
484 department ~~division~~ control for the placement of new facilities
485 by any wireless provider of mobile service as defined in 47
486 U.S.C. s. 153(n) or s. 332(d), and any telecommunications
487 company as defined in s. 364.02 when it is determined to be
488 practical and feasible to make such property or other structures
489 available. The department may, without adopting a rule, charge a
490 just, reasonable, and nondiscriminatory fee for placement of the
491 facilities, payable annually, based on the fair market value of
492 space used by comparable communications facilities in the state.
493 The department and a wireless provider or telecommunications
494 company may negotiate the reduction or elimination of a fee in
495 consideration of services provided to the department ~~division~~ by
496 the wireless provider or the telecommunications company. All
497 such fees collected by the department shall be deposited
498 directly into the State Agency Law Enforcement Radio System
499 Trust Fund, and may be used to construct, maintain, or support
500 the system. The department is further specifically authorized to
501 purchase, sell, trade, rent, lease and maintain all necessary
502 equipment, uniforms, motor vehicles, communication systems,
503 housing facilities, office space, and perform any other acts
504 necessary for the proper administration and enforcement of this
505 chapter. However, all supplies and equipment consisting of
506 single items or in lots shall be purchased under the
507 requirements of s. 287.057. Purchases shall be made by
508 accepting the bid of the lowest responsive bidder, the right



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509 being reserved to reject all bids. The department shall
 510 prescribe a distinctive uniform and distinctive emblem to be
 511 worn by all officers of the Florida Highway Patrol. It shall be
 512 unlawful for any other person or persons to wear a similar
 513 uniform or emblem, or any part or parts thereof. The department
 514 shall also prescribe distinctive colors for use on motor
 515 vehicles and motorcycles operated by the Florida Highway Patrol.
 516 The prescribed colors shall be referred to as "Florida Highway
 517 Patrol black and tan."

518 Section 17. Section 321.03, Florida Statutes, is amended
 519 to read:

520 321.03 Imitations prohibited; penalty.--It shall be
 521 unlawful for any person or persons in the state to color or
 522 cause to be colored any motor vehicle or motorcycle the same or
 523 similar color as the color or colors so prescribed for the
 524 Florida Highway Patrol. Any person violating any of the
 525 provisions of this section or s. 321.02 with respect to
 526 uniforms, emblems, motor vehicles and motorcycles shall be
 527 guilty of a misdemeanor of the first degree, punishable as
 528 provided in s. 775.082 or s. 775.083. The Department of the
 529 Florida Highway Patrol ~~Highway Safety and Motor Vehicles~~ shall
 530 employ such clerical help and mechanics as may be necessary for
 531 the economical and efficient operation of such department.

532 Section 18. Section 321.04, Florida Statutes, is amended
 533 to read:

534 321.04 Personnel of the highway patrol; rank
 535 classifications; probationary status of new patrol officers;
 536 subsistence; special assignments.--

537 (1) The Department of the Florida Highway Patrol ~~Highway~~
 538 ~~Safety and Motor Vehicles~~ shall employ patrol officers, as



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539 authorized by the Legislature in appropriating funds for their
540 salaries exclusive of those members of the patrol who are
541 assigned to and paid by special departments; and shall establish
542 the necessary supervisory ranks within the Florida Highway
543 Patrol to efficiently supervise and carry out the designated
544 functions of the patrol and the department in accordance with
545 the regulations established by the Department of Management
546 Services.

547 (2) Each person who is employed as a patrol officer shall
548 be carried on a probationary status for the period of 1 year
549 from date of employment, during which period he or she may be
550 dismissed without recourse. Patrol officers when sent on special
551 detail or missions out of their regular assigned territories or
552 headquarters shall be reimbursed for travel expenses as provided
553 in s. 112.061.

554 (3) The Department of the Florida Highway Patrol ~~Highway~~
555 ~~Safety and Motor Vehicles~~ shall assign one patrol officer to the
556 office of the Governor; said patrol officer so assigned shall be
557 selected by the Governor and shall have rank and pay not less
558 than that of a lieutenant of the Florida Highway Patrol, and
559 said patrol officer so assigned shall be paid by said department
560 from the appropriation made to said department; said patrol
561 officer shall have and receive all other benefits provided for
562 in this chapter or any other statute now in existence or
563 hereinafter enacted.

564 Section 19. Section 321.05, Florida Statutes, is amended
565 to read:

566 321.05 Duties, functions, and powers of patrol
567 officers.--The members of the Florida Highway Patrol are hereby
568 declared to be conservators of the peace and law enforcement



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569 officers of the state, with the common-law right to arrest a
 570 person who, in the presence of the arresting officer, commits a
 571 felony or commits an affray or breach of the peace constituting
 572 a misdemeanor, with full power to bear arms; and they shall
 573 apprehend, without warrant, any person in the unlawful
 574 commission of any of the acts over which the members of the
 575 Florida Highway Patrol are given jurisdiction as hereinafter set
 576 out and deliver him or her to the sheriff of the county that
 577 further proceedings may be had against him or her according to
 578 law. In the performance of any of the powers, duties, and
 579 functions authorized by law, members of the Florida Highway
 580 Patrol shall have the same protections and immunities afforded
 581 other peace officers, which shall be recognized by all courts
 582 having jurisdiction over offenses against the laws of this
 583 state, and shall have authority to apply for, serve, and execute
 584 search warrants, arrest warrants, capias, and other process of
 585 the court in those matters in which patrol officers have primary
 586 responsibility as set forth in subsection (1). The patrol
 587 officers under the direction and supervision of the Department
 588 of the Florida Highway Patrol ~~Highway Safety and Motor Vehicles~~
 589 shall perform and exercise throughout the state the following
 590 duties, functions, and powers:

591 (1) To patrol the state highways and regulate, control,
 592 and direct the movement of traffic thereon; to maintain the
 593 public peace by preventing violence on highways; to apprehend
 594 fugitives from justice; to enforce all laws now in effect
 595 regulating and governing traffic, travel, and public safety upon
 596 the public highways and providing for the protection of the
 597 public highways and public property thereon; to make arrests
 598 without warrant for the violation of any state law committed in



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599 their presence in accordance with the laws of this state;
 600 providing that no search shall be made unless it is incident to
 601 a lawful arrest, to regulate and direct traffic concentrations
 602 and congestions; to enforce laws governing the operation,
 603 licensing, and taxing and limiting the size, weight, width,
 604 length, and speed of vehicles and licensing and controlling the
 605 operations of drivers and operators of vehicles; to cooperate
 606 with officials designated by law to collect all state fees and
 607 revenues levied as an incident to the use or right to use the
 608 highways for any purpose; to require the drivers of vehicles to
 609 stop and exhibit their driver's licenses, registration cards, or
 610 documents required by law to be carried by such vehicles; to
 611 investigate traffic accidents, secure testimony of witnesses and
 612 of persons involved, and make report thereof with copy, when
 613 requested in writing, to any person in interest or his or her
 614 attorney; to investigate reported thefts of vehicles and to
 615 seize contraband or stolen property on or being transported on
 616 the highways.

617 (2) To assist other constituted law enforcement officers
 618 of the state to quell mobs and riots, guard prisoners, and
 619 police disaster areas.

620 (3)(a) To make arrests while in fresh pursuit of a person
 621 believed to have violated the traffic and other laws.

622 (b) To make arrest of a person wanted for a felony or
 623 against whom a warrant has been issued on any charge in
 624 violation of federal, state, or county laws or municipal
 625 ordinances.

626 (4)(a) All fines and costs and the proceeds of the
 627 forfeiture of bail bonds and recognizances resulting from the
 628 enforcement of this chapter by patrol officers shall be paid



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629 into the fine and forfeiture fund of the county where the
630 offense is committed. In all cases of arrest by patrol
631 officers, the person arrested shall be delivered forthwith by
632 said officer to the sheriff of the county, or he or she shall
633 obtain from such person arrested a recognizance or, if deemed
634 necessary, a cash bond or other sufficient security conditioned
635 for his or her appearance before the proper tribunal of such
636 county to answer the charge for which he or she has been
637 arrested; and all fees accruing shall be taxed against the party
638 arrested, which fees are hereby declared to be part of the
639 compensation of said sheriffs authorized to be fixed by the
640 Legislature under s. 5(c), Art. II of the State Constitution, to
641 be paid such sheriffs in the same manner as fees are paid for
642 like services in other criminal cases. All patrol officers are
643 hereby directed to deliver all bonds accepted and approved by
644 them to the sheriff of the county in which the offense is
645 alleged to have been committed. However, no sheriff shall be
646 paid any arrest fee for the arrest of a person for violation of
647 any section of chapter 316 when the arresting officer was
648 transported in a Florida Highway Patrol car to the vicinity
649 where the arrest was made; and no sheriff shall be paid any fee
650 for mileage for himself or herself or a prisoner for miles
651 traveled in a Florida Highway Patrol car. No patrol officer
652 shall be entitled to any fee or mileage cost except when
653 responding to a subpoena in a civil cause or except when such
654 patrol officer is appearing as an official witness to testify at
655 any hearing or law action in any court of this state as a direct
656 result of his or her employment as a patrol officer during time
657 not compensated as a part of his or her normal duties. Nothing
658 herein shall be construed as limiting the power to locate and to



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659 take from any person under arrest or about to be arrested deadly
 660 weapons. Nothing contained in this section shall be construed as
 661 a limitation upon existing powers and duties of sheriffs or
 662 police officers.

663 (b) Any person so arrested and released on his or her own
 664 recognizance by an officer and who shall fail to appear or
 665 respond to a notice to appear shall, in addition to the traffic
 666 violation charge, be guilty of a noncriminal traffic infraction
 667 subject to the penalty provided in s. 318.18(2).

668 (5) The department may employ or assign some fit and
 669 suitable person with experience in the field of public relations
 670 who shall have the duty to promote, coordinate, and publicize
 671 the traffic safety activities in the state and assign such
 672 person to the office of the Governor at a salary to be fixed by
 673 the department. The person so assigned or employed shall be a
 674 member of the uniform division of the Florida Highway Patrol,
 675 and he or she shall have the pay and rank of lieutenant while on
 676 such assignment.

677 (6) The Department ~~Division~~ of the Florida Highway Patrol
 678 is authorized to promulgate rules and regulations which may be
 679 necessary to implement the provisions of chapter 316.

680 Section 20. Subsections (1) and (2) of section 321.051,
 681 Florida Statutes, are amended to read:

682 321.051 Florida Highway Patrol wrecker operator system;
 683 penalties for operation outside of system.--

684 (1) As used in this section, the term:

685 (a) "Authorized wrecker operator" means any wrecker
 686 operator who has been designated by the Department ~~Division~~ of
 687 the Florida Highway Patrol as part of the wrecker operator
 688 system.



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689 (b) "Unauthorized wrecker operator" means any wrecker
690 operator who has not been designated by the department ~~division~~
691 as part of the wrecker operator system.

692 (2) The Department ~~Division~~ of the Florida Highway Patrol
693 ~~of the Department of Highway Safety and Motor Vehicles~~ is
694 authorized to establish within areas designated by the patrol a
695 wrecker operator system using qualified, reputable wrecker
696 operators for removal and storage of wrecked or disabled
697 vehicles from a crash scene or for removal and storage of
698 abandoned vehicles, in the event the owner or operator is
699 incapacitated or unavailable or leaves the procurement of
700 wrecker service to the officer at the scene. All reputable
701 wrecker operators shall be eligible for use in the system
702 provided their equipment and drivers meet recognized safety
703 qualifications and mechanical standards set by rules of the
704 Department ~~Division~~ of the Florida Highway Patrol for the size
705 of vehicle it is designed to handle. The department ~~division~~ is
706 authorized to limit the number of wrecker operators
707 participating in the wrecker operator system, which authority
708 shall not affect wrecker operators currently participating in
709 the system established by this section. The department ~~division~~
710 is authorized to establish maximum rates for the towing and
711 storage of vehicles removed at the department's ~~division's~~
712 request, where such rates have not been set by a county or
713 municipality pursuant to s. 125.0103 or s. 166.043. Such rates
714 shall not be considered rules for the purpose of chapter 120;
715 however, the department shall establish by rule a procedure for
716 setting such rates. Any provision in chapter 120 to the
717 contrary notwithstanding, a final order of the department
718 denying, suspending, or revoking a wrecker operator's



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719 participation in the system shall be reviewable in the manner
 720 and within the time provided by the Florida Rules of Appellate
 721 Procedure only by a writ of certiorari issued by the circuit
 722 court in the county wherein such wrecker operator resides.

723 Section 21. Subsection (1) of section 321.23, Florida
 724 Statutes, is amended to read:

725 321.23 Public records; fees for copies; destruction of
 726 obsolete records; photographing records; effect as evidence.--

727 (1) The purpose of this section is to make available for
 728 the use of the Department of the Florida Highway Patrol ~~Highway~~
 729 ~~Safety and Motor Vehicles~~ sufficient floor space to enable it to
 730 efficiently administer the affairs of the department and to
 731 provide fees for copies of public records.

732 Section 22. Section 321.25, Florida Statutes, is amended
 733 to read:

734 321.25 Training provided at patrol schools.--The
 735 Department of the Florida Highway Patrol ~~Highway Safety and~~
 736 ~~Motor Vehicles~~ is authorized to provide for the training of law
 737 enforcement officials and individuals in matters relating to the
 738 duties, functions, and powers of the Florida Highway Patrol in
 739 the schools established by the department for the training of
 740 highway patrol candidates and officers. The Department of the
 741 Florida Highway Patrol ~~Highway Safety and Motor Vehicles~~ is
 742 authorized to charge a fee for providing the training authorized
 743 by this section. The fee shall be charged to persons attending
 744 the training. The fee shall be based on the Department of the
 745 Florida Highway Patrol's ~~Highway Safety and Motor Vehicles'~~
 746 costs for providing the training, and such costs may include,
 747 but are not limited to, tuition, lodging, and meals. Revenues
 748 from the fees shall be used to offset the Department of the



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749 Florida Highway Patrol's Highway Safety and Motor Vehicles'
 750 costs for providing the training. The cost of training local
 751 enforcement officers shall be paid for by their respective
 752 offices, counties or municipalities, as the case may be. Such
 753 cost shall be deemed a proper county or municipal expense or a
 754 proper expenditure of the office of sheriff.

755 Section 23. Subsection (2) of section 338.239, Florida
 756 Statutes, is amended to read:

757 338.239 Traffic control on the turnpike system.--

758 (2) Members of the Florida Highway Patrol are vested with
 759 the power, and charged with the duty, to enforce the rules of
 760 the department. Approved expenditures incurred by the Florida
 761 Highway Patrol in carrying out its powers and duties under ss.
 762 338.22-338.241 may be treated as a part of the cost of the
 763 operation of the turnpike system, and the Department of the
 764 Florida Highway Patrol Highway Safety and Motor Vehicles shall
 765 be reimbursed by the turnpike enterprise for such expenses
 766 incurred on the turnpike system. Florida Highway Patrol Troop K
 767 shall be headquartered with the turnpike enterprise and shall be
 768 the official and preferred law enforcement troop for the
 769 turnpike system. The Department of the Florida Highway Patrol
 770 Highway Safety and Motor Vehicles may, upon request of the
 771 executive director of the turnpike enterprise and approval of
 772 the Legislature, increase the number of authorized positions for
 773 Troop K, or the executive director of the turnpike enterprise
 774 may contract with the Department of the Florida Highway Patrol
 775 Highway Safety and Motor Vehicles for additional troops to
 776 patrol the turnpike system.

777 Section 24. Paragraph (a) of subsection (1) of section
 778 943.11, Florida Statutes, is amended to read:



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779 943.11 Criminal Justice Standards and Training Commission;
780 membership; meetings; compensation.--

781 (1)(a) There is created a Criminal Justice Standards and
782 Training Commission within the Department of Law Enforcement.
783 The commission shall be composed of 19 members, consisting of
784 the secretary of the Department of Corrections or a designated
785 assistant; the Attorney General or a designated assistant; the
786 Commissioner of Education or a designated assistant; the
787 Director of the Department ~~Division~~ of the Florida Highway
788 Patrol; and 15 members, to be appointed by the Governor,
789 consisting of 3 sheriffs; 3 chiefs of police; 4 law enforcement
790 officers who are neither sheriffs nor chiefs of police, at least
791 3 of whom are of the rank of sergeant or below within the
792 employing agency; 2 correctional officers, 1 of whom is an
793 administrator of a state correctional institution and 1 of whom
794 is of the rank of sergeant or below within the employing agency;
795 1 training center director; 1 person who is in charge of a
796 county correctional institution; and 1 resident of the state who
797 falls into none of the foregoing classifications. Prior to the
798 appointment, the sheriff, chief of police, law enforcement
799 officer, and correctional officer members shall have had at
800 least 4 years' experience as law enforcement officers or
801 correctional officers.

802 Section 25. Paragraph (a) of subsection (1) of section
803 72.011, Florida Statutes, is amended to read:

804 72.011 Jurisdiction of circuit courts in specific tax
805 matters; administrative hearings and appeals; time for
806 commencing action; parties; deposits.--

807 (1)(a) A taxpayer may contest the legality of any
808 assessment or denial of refund of tax, fee, surcharge, permit,



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809 interest, or penalty provided for under s. 125.0104, s.
 810 125.0108, chapter 198, chapter 199, chapter 201, chapter 202,
 811 chapter 203, chapter 206, chapter 207, chapter 210, chapter 211,
 812 chapter 212, chapter 213, chapter 220, chapter 221, s.
 813 370.07(3), chapter 376, s. 403.717, s. 403.718, s. 403.7185, s.
 814 538.09, s. 538.25, chapter 550, chapter 561, chapter 562,
 815 chapter 563, chapter 564, chapter 565, chapter 624, or s.
 816 681.117 by filing an action in circuit court; or, alternatively,
 817 the taxpayer may file a petition under the applicable provisions
 818 of chapter 120. However, once an action has been initiated under
 819 s. 120.56, s. 120.565, s. 120.569, s. 120.57, or s.
 820 120.80(15)(b) ~~120.80(14)(b)~~, no action relating to the same
 821 subject matter may be filed by the taxpayer in circuit court,
 822 and judicial review shall be exclusively limited to appellate
 823 review pursuant to s. 120.68; and once an action has been
 824 initiated in circuit court, no action may be brought under
 825 chapter 120.

826 Section 26. Subsection (8) of section 213.015, Florida
 827 Statutes, is amended to read:

828 213.015 Taxpayer rights.--There is created a Florida
 829 Taxpayer's Bill of Rights to guarantee that the rights, privacy,
 830 and property of Florida taxpayers are adequately safeguarded and
 831 protected during tax assessment, collection, and enforcement
 832 processes administered under the revenue laws of this state.
 833 The Taxpayer's Bill of Rights compiles, in one document, brief
 834 but comprehensive statements which explain, in simple,
 835 nontechnical terms, the rights and obligations of the Department
 836 of Revenue and taxpayers. Section 192.0105 provides additional
 837 rights afforded to payors of property taxes and assessments. The
 838 rights afforded taxpayers to ensure that their privacy and



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839 property are safeguarded and protected during tax assessment and
 840 collection are available only insofar as they are implemented in
 841 other parts of the Florida Statutes or rules of the Department
 842 of Revenue. The rights so guaranteed Florida taxpayers in the
 843 Florida Statutes and the departmental rules are:

844 (8) The right to seek review, through formal or informal
 845 proceedings, of any adverse decisions relating to determinations
 846 in the audit or collections processes and the right to seek a
 847 reasonable administrative stay of enforcement actions while the
 848 taxpayer pursues other administrative remedies available under
 849 Florida law (see ss. 120.80(15)(b) ~~120.80(14)(b)~~, 213.21(1),
 850 220.717, and 220.719(2)).

851 Section 27. Subsection (5) of section 215.26, Florida
 852 Statutes, is amended to read:

853 215.26 Repayment of funds paid into State Treasury through
 854 error.--

855 (5) When a taxpayer has pursued administrative remedies
 856 before the Department of Revenue pursuant to s. 213.21 and has
 857 failed to comply with the time limitations and conditions
 858 provided in ss. 72.011 and 120.80(15)(b) ~~120.80(14)(b)~~, a claim
 859 of refund under subsection (1) shall be denied by the
 860 Comptroller. However, the Comptroller may entertain a claim for
 861 refund under this subsection when the taxpayer demonstrates that
 862 his or her failure to pursue remedies under chapter 72 was not
 863 due to neglect or for the purpose of delaying payment of
 864 lawfully imposed taxes and can demonstrate reasonable cause for
 865 such failure.

866 Section 28. Subsection (3) of section 519.101, Florida
 867 Statutes, is amended to read:



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868 519.101 Florida equity exchange feasibility study;
869 structure, operation, and regulation.--

870 (3) Within 30 days following such determination, a
871 committee shall be appointed to write the constitution and
872 bylaws of the exchange. The Comptroller may provide technical
873 assistance to the committee on the development of the
874 constitution and bylaws of the exchange. The committee shall
875 consist of 15 members, 11 members to be appointed by the
876 Governor, 2 members to be appointed by the Speaker of the House
877 of Representatives, and 2 members to be appointed by the
878 President of the Senate. The chair shall be elected by a
879 majority of the committee. The committee shall transmit such
880 proposed constitution, bylaws, and other recommendations for the
881 approval of the Comptroller no later than 90 days following the
882 first meeting of the committee. In reviewing the constitution
883 and the bylaws of the exchange, as well as any other
884 recommendations made to the Comptroller by the committee, the
885 Comptroller shall consider whether such constitution, bylaws,
886 and recommendations are reasonably consistent with the public
887 interest and the efficient functioning of the exchange. The
888 Comptroller shall approve the constitution and bylaws of the
889 exchange if he or she finds that they specifically describe the
890 types of business that the exchange will conduct, that such
891 business activities are not inconsistent with state or federal
892 law, that the form of business organization of the exchange
893 complies with statutory requirements, and that the interest of
894 owners or members of the exchange would be adequately protected.
895 The submission of the proposed constitution and bylaws to the
896 Comptroller shall be deemed an application for a license and
897 shall be subject to the provisions of s. 120.80(10) ~~120.80(9)~~.



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898 Section 29. Section 321.065, Florida Statutes, is
899 reenacted to read:

900 321.065 Traffic accident investigation officers;
901 employment; standards.--The department may employ traffic
902 accident investigation officers who must complete any applicable
903 standards adopted by the Florida Highway Patrol, including, but
904 not limited to: cognitive testing, drug testing, polygraph
905 testing, psychological testing, and an extensive background
906 check, including a credit check.

907 Section 30. This act shall take effect July 1, 2003.