

1 A bill to be entitled
2 An act relating to the Department of Public Safety;
3 creating s. 20.60, F.S.; creating the Department of Public
4 Safety; transferring the Florida Highway Patrol from the
5 Department of Highway Safety and Motor Vehicles to the
6 Department of Public Safety; transferring the Boating and
7 Waterways Section of the Division of Law Enforcement of
8 the Fish and Wildlife Conservation Commission to the
9 Department of Public Safety; transferring certain law
10 enforcement officers within the Fish and Wildlife
11 Conservation Commission to the Department of Public
12 Safety; providing a limit on the number of such sworn law
13 enforcement positions transferred; amending ss. 20.24,
14 20.331, 23.1231, 120.80, 282.1095, 316.003, 316.065,
15 316.066, 316.068, 316.1905, 316.1906, 316.611, 316.614,
16 and 316.640, F.S.; conforming provisions to the creation
17 of the Department of Public Safety and the transfers of
18 powers, duties, and personnel to the department; creating
19 s. 321.011, F.S.; providing definitions; amending ss.
20 321.02, 321.03, 321.04, 321.05, 321.051, 321.065, 321.23,
21 and 321.25, F.S.; conforming provisions to the creation of
22 the Department of Public Safety and the transfers of
23 powers, duties, and personnel to the department; providing
24 a directive to the Division of Statutory Revision;
25 creating ss. 327.901, 327.902, 327.903, 327.904, 327.905,
26 and 327.9065, F.S.; providing definitions; providing for
27 duties, powers, and organization of the Florida Marine
28 Patrol; providing for uniforms, emblems, and distinctive

29 colors for the patrol; prohibiting imitations; providing
 30 penalties; providing for rulemaking; providing for boating
 31 accident investigators; amending ss. 337.406, 338.239,
 32 339.281, 370.0603, 401.245, 403.413, 790.25, 843.08, and
 33 870.04, F.S.; conforming provisions to the creation of the
 34 Department of Public Safety and the transfers of powers,
 35 duties, and personnel to the department; providing an
 36 effective date.

37

38 Be It Enacted by the Legislature of the State of Florida:

39

40 Section 1. Section 20.60, Florida Statutes, is created to
 41 read:

42 20.60 Department of Public Safety.--

43 (1) There is created a Department of Public Safety.

44 (2) The head of the Department of Public Safety is the
 45 Governor and Cabinet.

46 (3) The following divisions of the Department of Public
 47 Safety are established:

48 (a) Division of the Florida Highway Patrol.

49 (b) Division of the Florida Marine Patrol. The division
 50 shall have all powers, duties, responsibilities, and functions
 51 as are necessary to manage and promote the use of state
 52 waterways for safe and enjoyable boating. Duties and
 53 responsibilities of the division include enforcement of all laws
 54 relating to boating, oversight, and coordination of waterway
 55 markers on state waters; providing boating education and boating
 56 safety programs; improving boating access; coordinating the

HB 1421

2006

57 removal of derelict vessels from state waters; implementing
58 economic development initiatives to promote boating in the
59 state; and coordinating the submission of state comments on
60 marine events.

61 (4) The department's officers also shall, when necessary,
62 assist in the enforcement of all general laws, provide search-
63 and-rescue and disaster response services, and coordinate with
64 local, state, and federal entities on law enforcement issues.

65 Section 2. All statutory powers, duties, and functions of
66 the Florida Highway Patrol within the Department of Highway
67 Safety and Motor Vehicles are transferred from the Department of
68 Highway Safety and Motor Vehicles to the Division of the Florida
69 Highway Patrol within the Department of Public Safety by a type
70 one transfer, as defined in s. 20.06, Florida Statutes.

71 Section 3. All statutory powers, duties, and functions of
72 the Boating and Waterways Section within the Fish and Wildlife
73 Conservation Commission are transferred from the Fish and
74 Wildlife Conservation Commission to the Division of the Florida
75 Marine Patrol within the Department of Public Safety by a type
76 one transfer, as defined in s. 20.06, Florida Statutes. This
77 transfer shall include the transfer of all law enforcement
78 officers within the Fish and Wildlife Conservation Commission
79 whose primary duties are to enforce laws relating to boating.
80 The number of sworn law enforcement FTE positions transferred
81 under this section shall be one-half the number of such
82 positions in the Fish and Wildlife Conservation Commission.

83 Section 4. Subsection (2) of section 20.24, Florida
84 Statutes, is amended to read:

HB 1421

2006

85 20.24 Department of Highway Safety and Motor
86 Vehicles.--There is created a Department of Highway Safety and
87 Motor Vehicles.

88 (2) The following divisions, and bureaus within the
89 divisions, of the Department of Highway Safety and Motor
90 Vehicles are established:

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

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

93 (b)~~(e)~~ Division of Motor Vehicles.

94 1. Bureau of Motor Vehicle Inspection.

95 Section 5. Paragraph (a) of subsection (4) and paragraph
96 (e) of subsection (7) of section 20.331, Florida Statutes, are
97 amended to read:

98 20.331 Fish and Wildlife Conservation Commission.--

99 (4) PROGRAM AND RESEARCH SERVICES.--Within the Fish and
100 Wildlife Conservation Commission, the principal unit for program
101 services is a "division" headed by a "director." The principal
102 subunit of the division is a "section" headed by a "leader." The
103 principal subunit of the section is a "subsection" headed by an
104 "administrator."

105 (a) The following divisions and section are created within
106 the commission:

107 1. Division of Freshwater Fisheries Management.

108 2. Division of Habitat and Species Conservation.

109 3. Division of Hunting and Game Management.

110 4. Division of Law Enforcement. ~~There is created within~~
111 ~~the division the Boating and Waterways Section with duties and~~
112 ~~responsibilities as provided in paragraph (7)(c).~~

113 5. Division of Marine Fisheries Management.

114 (7) ASSIGNMENT OF DUTIES AND RESPONSIBILITIES.--The
 115 commission, and the Legislature as provided in s. 9, Art. IV of
 116 the State Constitution, shall assign to the:

117 (e) Division of Law Enforcement such powers, duties,
 118 responsibilities, and functions as are necessary to ensure
 119 enforcement of laws and rules governing the management,
 120 protection, conservation, improvement, and expansion of wild
 121 animal life, freshwater aquatic life, and marine life resources.
 122 In performance of their duties as sworn law enforcement officers
 123 for the State of Florida, the division's officers also shall,
 124 ~~enforce all laws relating to boating, provide public safety~~
 125 ~~services for citizens on lands and waters of the state~~
 126 ~~particularly in remote areas, provide search and rescue and~~
 127 ~~disaster response services~~ when necessary, assist in the
 128 enforcement of all general laws, provide search-and-rescue and
 129 disaster response services, and coordinate with local, state,
 130 and federal entities on law enforcement issues.

131 ~~1. The Boating and Waterways Section such powers, duties,~~
 132 ~~responsibilities, and functions as are necessary to manage and~~
 133 ~~promote the use of state waterways for safe and enjoyable~~
 134 ~~boating. Duties and responsibilities of the section include~~
 135 ~~oversight and coordination of waterway markers on state waters,~~
 136 ~~providing boating education and boating safety programs,~~
 137 ~~improving boating access, coordinating the removal of derelict~~
 138 ~~vessels from state waters, implementing economic development~~
 139 ~~initiatives to promote boating in the state, and coordinating~~
 140 ~~the submission of state comments on marine events.~~

HB 1421

2006

141 Section 6. Paragraph (e) of subsection (2) of section
 142 23.1231, Florida Statutes, is amended to read:

143 23.1231 Florida Mutual Aid Plan; powers and duties.--

144 (2) The executive director of the Department of Law
 145 Enforcement acting under the Governor as the state's chief law
 146 enforcement officer is the director of the Florida Mutual Aid
 147 Plan. The director of the Florida Mutual Aid Plan shall:

148 (e) Act as the liaison with the Division of the Florida
 149 Highway Patrol of the Department of Public Highway Safety and
 150 ~~Motor Vehicles~~ in order to coordinate and integrate plans for
 151 traffic control and the participation of the department in the
 152 law enforcement operation;

153 Section 7. Subsection (8) of section 120.80, Florida
 154 Statutes, is amended, and paragraph (b) of that subsection is
 155 renumbered as subsection (18) of that section, to read:

156 120.80 Exceptions and special requirements; agencies.--

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

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

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

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

166 (18)(b) DEPARTMENT OF PUBLIC SAFETY Wrecker
 167 operators.--Notwithstanding s. 120.57(1)(a), hearings held by
 168 the Division of the Florida Highway Patrol of the Department of

HB 1421

2006

169 Public Highway Safety and Motor Vehicles to deny, suspend, or
 170 remove a wrecker operator from participating in the wrecker
 171 rotation system established by s. 321.051 need not be conducted
 172 by an administrative law judge assigned by the division. These
 173 hearings shall be held by a hearing officer appointed by the
 174 director of the Division of the Florida Highway Patrol.

175 Section 8. Paragraph (a) of subsection (2) of section
 176 282.1095, Florida Statutes, is amended to read:

177 282.1095 State agency law enforcement radio system and
 178 interoperability network.--

179 (2) (a) The Joint Task Force on State Agency Law
 180 Enforcement Communications shall consist of nine ~~eight~~ members,
 181 as follows:

182 1. A representative of the Division of Alcoholic Beverages
 183 and Tobacco of the Department of Business and Professional
 184 Regulation who shall be appointed by the secretary of the
 185 department.

186 2. A representative of the Division of the Florida Highway
 187 Patrol and a representative of the Division of the Florida
 188 Marine Patrol of the Department of Public Highway Safety and
 189 ~~Motor Vehicles~~ who each shall be appointed by the executive
 190 director of the department.

191 3. A representative of the Department of Law Enforcement
 192 who shall be appointed by the executive director of the
 193 department.

194 4. A representative of the Fish and Wildlife Conservation
 195 Commission who shall be appointed by the executive director of
 196 the commission.

197 5. A representative of the Division of Law Enforcement of
 198 the Department of Environmental Protection who shall be
 199 appointed by the secretary of the department.

200 6. A representative of the Department of Corrections who
 201 shall be appointed by the secretary of the department.

202 7. A representative of the Division of State Fire Marshal
 203 of the Department of Financial Services who shall be appointed
 204 by the State Fire Marshal.

205 8. A representative of the Department of Transportation
 206 who shall be appointed by the secretary of the department.

207 Section 9. Subsection (9) of section 316.003, Florida
 208 Statutes, is amended to read:

209 316.003 Definitions.--The following words and phrases,
 210 when used in this chapter, shall have the meanings respectively
 211 ascribed to them in this section, except where the context
 212 otherwise requires:

213 (9) DIRECTOR.--The Director of the Division of the Florida
 214 Highway Patrol of the Department of Public Highway Safety and
 215 ~~Motor Vehicles~~.

216 Section 10. Subsection (2) of section 316.065, Florida
 217 Statutes, is amended to read:

218 316.065 Crashes; reports; penalties.--

219 (2) Every coroner or other official performing like
 220 functions, upon learning of the death of a person in his or her
 221 jurisdiction as the result of a traffic crash, shall immediately
 222 notify the nearest office or station of the Department of Public
 223 Safety.

HB 1421

2006

224 Section 11. Subsections (1) and (2) and paragraph (a) of
225 subsection (3) of section 316.066, Florida Statutes, are amended
226 to read:

227 316.066 Written reports of crashes.--

228 (1) The driver of a vehicle which is in any manner
229 involved in a crash resulting in bodily injury to or death of
230 any person or damage to any vehicle or other property in an
231 apparent amount of at least \$500 shall, within 10 days after the
232 crash, forward a written report of such crash to the Department
233 of Public Safety or traffic records center. However, when the
234 investigating officer has made a written report of the crash
235 pursuant to paragraph (3) (a), no written report need be
236 forwarded to the Department of Public Safety or traffic records
237 center by the driver.

238 (2) The receiving entity may require any driver of a
239 vehicle involved in a crash of which a written report must be
240 made as provided in this section to file supplemental written
241 reports whenever the original report is insufficient in the
242 opinion of the Department of Public Safety and may require
243 witnesses of crashes to render reports to the Department of
244 Public Safety.

245 (3) (a) Every law enforcement officer who in the regular
246 course of duty investigates a motor vehicle crash:

247 1. Which crash resulted in death or personal injury shall,
248 within 10 days after completing the investigation, forward a
249 written report of the crash to the Department of Public Safety
250 or traffic records center.

251 2. Which crash involved a violation of s. 316.061(1) or s.
 252 316.193 shall, within 10 days after completing the
 253 investigation, forward a written report of the crash to the
 254 Department of Public Safety or traffic records center.

255 3. In which crash a vehicle was rendered inoperative to a
 256 degree which required a wrecker to remove it from traffic may,
 257 within 10 days after completing the investigation, forward a
 258 written report of the crash to the Department of Public Safety
 259 or traffic records center if such action is appropriate, in the
 260 officer's discretion.

261
 262 However, in every case in which a crash report is required by
 263 this section and a written report to a law enforcement officer
 264 is not prepared, the law enforcement officer shall provide each
 265 party involved in the crash a short-form report, prescribed by
 266 the state, to be completed by the party. The short-form report
 267 must include, but is not limited to: the date, time, and
 268 location of the crash; a description of the vehicles involved;
 269 the names and addresses of the parties involved; the names and
 270 addresses of witnesses; the name, badge number, and law
 271 enforcement agency of the officer investigating the crash; and
 272 the names of the insurance companies for the respective parties
 273 involved in the crash. Each party to the crash shall provide the
 274 law enforcement officer with proof of insurance to be included
 275 in the crash report. If a law enforcement officer submits a
 276 report on the accident, proof of insurance must be provided to
 277 the officer by each party involved in the crash. Any party who
 278 fails to provide the required information commits ~~is guilty of~~

HB 1421

2006

279 an infraction for a nonmoving violation, punishable as provided
280 in chapter 318 unless the officer determines that due to
281 injuries or other special circumstances such insurance
282 information cannot be provided immediately. If the person
283 provides the law enforcement agency, within 24 hours after the
284 crash, proof of insurance that was valid at the time of the
285 crash, the law enforcement agency may void the citation.

286 Section 12. Section 316.068, Florida Statutes, is amended
287 to read:

288 316.068 Crash report forms.--

289 (1) The Department of Public Safety shall prepare and,
290 upon request, supply to police departments, sheriffs, and other
291 appropriate agencies or individuals forms for crash reports as
292 required in this chapter, suitable with respect to the persons
293 required to make such reports and the purposes to be served. The
294 form must call for sufficiently detailed information to
295 disclose, with reference to a vehicle crash, the cause and
296 conditions then existing and the persons and vehicles involved.
297 Every crash report form must call for the policy numbers of
298 liability insurance and the names of carriers covering any
299 vehicle involved in a crash required to be reported by this
300 chapter.

301 (2) Every crash report required to be made in writing must
302 be made on the appropriate form approved by the Department of
303 Public Safety and must contain all the information required
304 therein unless not available. Notwithstanding any other
305 provisions of this section, a crash report produced
306 electronically by a law enforcement officer must, at a minimum,

HB 1421

2006

307 contain the same information as is called for on those forms
 308 approved by the Department of Public Safety.

309 Section 13. Subsection (1) and paragraph (a) of subsection
 310 (3) of section 316.1905, Florida Statutes, are amended to read:

311 316.1905 Electrical, mechanical, or other speed
 312 calculating devices; power of arrest; evidence.--

313 (1) Whenever any peace officer engaged in the enforcement
 314 of the motor vehicle laws of this state uses an electronic,
 315 electrical, mechanical, or other device used to determine the
 316 speed of a motor vehicle on any highway, road, street, or other
 317 public way, such device shall be of a type approved by the
 318 Department of Public Safety and shall have been tested to
 319 determine that it is operating accurately. Tests for this
 320 purpose shall be made not less than once each 6 months,
 321 according to procedures and at regular intervals of time
 322 prescribed by the Department of Public Safety.

323 (3) (a) A witness otherwise qualified to testify shall be
 324 competent to give testimony against an accused violator of the
 325 motor vehicle laws of this state when such testimony is derived
 326 from the use of such an electronic, electrical, mechanical, or
 327 other device used in the calculation of speed, upon showing that
 328 the speed calculating device which was used had been tested.
 329 However, the operator of any visual average speed computer
 330 device shall first be certified as a competent operator of such
 331 device by the Department of Public Safety.

332 Section 14. Paragraph (f) of subsection (2) of section
 333 316.1906, Florida Statutes, is amended to read:

334 316.1906 Radar speed-measuring devices; evidence,
335 admissibility.--

336 (2) Evidence of the speed of a vehicle measured by any
337 radar speed-measuring device shall be inadmissible in any
338 proceeding with respect to an alleged violation of provisions of
339 law regulating the lawful speed of vehicles, unless such
340 evidence of speed is obtained by an officer who:

341 (f) Is using a radar unit that ~~which~~ meets the minimum
342 design criteria for such units established by the Department of
343 Public Highway Safety and Motor Vehicles.

344 Section 15. Section 316.611, Florida Statutes, is amended
345 to read:

346 316.611 Tandem trailer equipment and use.--The Department
347 of Transportation shall adopt rules to regulate tandem trailer
348 truck equipment and use in the interest of safety, public
349 convenience, and preservation of public road facilities. The
350 rules shall apply according to their terms to all jurisdictions
351 of the state except the Florida Turnpike. Such rules shall be
352 enforced by the Department of Transportation, the Department of
353 Public Highway Safety and Motor Vehicles, and local authorities.

354 Section 16. Subsection (9) of section 316.614, Florida
355 Statutes, is amended to read:

356 316.614 Safety belt usage.--

357 (9) By January 1, 2006, each law enforcement agency in
358 this state shall adopt departmental policies to prohibit the
359 practice of racial profiling. When a law enforcement officer
360 issues a citation for a violation of this section, the law
361 enforcement officer must record the race and ethnicity of the

HB 1421

2006

362 violator. All law enforcement agencies must maintain such
 363 information and forward the information to the Department of
 364 Public Safety in a form and manner determined by that ~~the~~
 365 department. The Department of Public Safety shall collect this
 366 information by jurisdiction and annually report the data to the
 367 Governor, the President of the Senate, and the Speaker of the
 368 House of Representatives. The report must show separate
 369 statewide totals for the state's county sheriffs and municipal
 370 law enforcement agencies, state law enforcement agencies, and
 371 state university law enforcement agencies.

372 Section 17. Paragraph (a) of subsection (1) of section
 373 316.640, Florida Statutes, is amended to read:

374 316.640 Enforcement.--The enforcement of the traffic laws
 375 of this state is vested as follows:

376 (1) STATE.--

377 (a)1.a. The Division of the Florida Highway Patrol and the
 378 Division of the Florida Marine Patrol of the Department of
 379 Public Highway Safety and Motor Vehicles; the Division of Law
 380 Enforcement of the Fish and Wildlife Conservation Commission;
 381 the Division of Law Enforcement of the Department of
 382 Environmental Protection; law enforcement officers of the
 383 Department of Transportation; and the agents, inspectors, and
 384 officers of the Department of Law Enforcement each have
 385 authority to enforce all of the traffic laws of this state on
 386 all the streets and highways thereof and elsewhere throughout
 387 the state wherever the public has a right to travel by motor
 388 vehicle.

HB 1421

2006

389 b. University police officers shall have authority to
390 enforce all of the traffic laws of this state when such
391 violations occur on or about any property or facilities that are
392 under the guidance, supervision, regulation, or control of a
393 state university, a direct-support organization of such state
394 university, or any other organization controlled by the state
395 university or a direct-support organization of the state
396 university, except that traffic laws may be enforced off-campus
397 when hot pursuit originates on or adjacent to any such property
398 or facilities.

399 c. Community college police officers shall have the
400 authority to enforce all the traffic laws of this state only
401 when such violations occur on any property or facilities that
402 are under the guidance, supervision, regulation, or control of
403 the community college system.

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

408 (I) An airport authority may employ as a parking
409 enforcement specialist any individual who successfully completes
410 a training program established and approved by the Criminal
411 Justice Standards and Training Commission for parking
412 enforcement specialists but who does not otherwise meet the
413 uniform minimum standards established by the commission for law
414 enforcement officers or auxiliary or part-time officers under s.
415 943.12. Nothing in this sub-sub-subparagraph shall be construed

416 to permit the carrying of firearms or other weapons, nor shall
 417 such parking enforcement specialist have arrest authority.

418 (II) A parking enforcement specialist employed by an
 419 airport authority is authorized to enforce all state, county,
 420 and municipal laws and ordinances governing parking only when
 421 such violations are on property or facilities owned or operated
 422 by the airport authority employing the specialist, by
 423 appropriate state, county, or municipal traffic citation.

424 e. The Office of Agricultural Law Enforcement of the
 425 Department of Agriculture and Consumer Services shall have the
 426 authority to enforce traffic laws of this state.

427 f. School safety officers shall have the authority to
 428 enforce all of the traffic laws of this state when such
 429 violations occur on or about any property or facilities which
 430 are under the guidance, supervision, regulation, or control of
 431 the district school board.

432 2. An agency of the state as described in subparagraph 1.
 433 is prohibited from establishing a traffic citation quota. A
 434 violation of this subparagraph is not subject to the penalties
 435 provided in chapter 318.

436 3. Any disciplinary action taken or performance evaluation
 437 conducted by an agency of the state as described in subparagraph
 438 1. of a law enforcement officer's traffic enforcement activity
 439 must be in accordance with written work-performance standards.
 440 Such standards must be approved by the agency and any collective
 441 bargaining unit representing such law enforcement officer. A
 442 violation of this subparagraph is not subject to the penalties
 443 provided in chapter 318.

HB 1421

2006

444 4. The Division of the Florida Highway Patrol may employ
 445 as a traffic accident investigation officer any individual who
 446 successfully completes instruction in traffic accident
 447 investigation and court presentation through the Selective
 448 Traffic Enforcement Program as approved by the Criminal Justice
 449 Standards and Training Commission and funded through the
 450 National Highway Traffic Safety Administration or a similar
 451 program approved by the commission, but who does not necessarily
 452 meet the uniform minimum standards established by the commission
 453 for law enforcement officers or auxiliary law enforcement
 454 officers under chapter 943. Any such traffic accident
 455 investigation officer who makes an investigation at the scene of
 456 a traffic accident may issue traffic citations, based upon
 457 personal investigation, when he or she has reasonable and
 458 probable grounds to believe that a person who was involved in
 459 the accident committed an offense under this chapter, chapter
 460 319, chapter 320, or chapter 322 in connection with the
 461 accident. This subparagraph does not permit the officer to carry
 462 firearms or other weapons, and such an officer does not have
 463 authority to make arrests.

464 Section 18. Section 321.011, Florida Statutes, is created
 465 to read:

466 321.011 Definitions.--As used in this chapter, the term:

467 (1) "Department" means the Department of Public Safety
 468 created in s. 20.60.

469 (2) "Director" means the executive director of the
 470 Department of Public Safety.

471 (3) "Division" means the Division of the Highway Patrol of
 472 the department.

473 Section 19. Section 321.02, Florida Statutes, is amended
 474 to read:

475 321.02 Powers and duties of department, ~~highway patrol.~~--

476 (1) ~~The director of the Division of Highway Patrol of the~~
 477 ~~Department of Highway Safety and Motor Vehieles~~ shall also be
 478 the commander of the Florida Highway Patrol. The ~~said~~ department
 479 shall adopt ~~set up and promulgate~~ rules and regulations by which
 480 ~~the personnel of the~~ Florida Highway Patrol officers shall be
 481 examined, employed, trained, located, suspended, reduced in
 482 rank, discharged, recruited, paid and pensioned, subject to
 483 civil service provisions hereafter set out.

484 (2) The department may enter into contracts or agreements,
 485 with or without competitive bidding or procurement, to make
 486 available, on a fair, reasonable, nonexclusive, and
 487 nondiscriminatory basis, property and other structures under
 488 division control for the placement of new facilities by any
 489 wireless provider of mobile service as defined in 47 U.S.C. s.
 490 153(n) or s. 332(d), and any telecommunications company as
 491 defined in s. 364.02 when it is determined to be practical and
 492 feasible to make such property or other structures available.
 493 The department may, without adopting a rule, charge a just,
 494 reasonable, and nondiscriminatory fee for placement of the
 495 facilities, payable annually, based on the fair market value of
 496 space used by comparable communications facilities in the state.
 497 The department and a wireless provider or telecommunications
 498 company may negotiate the reduction or elimination of a fee in

499 | consideration of services provided to the division by the
 500 | wireless provider or the telecommunications company. All such
 501 | fees collected by the department shall be deposited directly
 502 | into the State Agency Law Enforcement Radio System Trust Fund,
 503 | and may be used to construct, maintain, or support the system.

504 | (3) The department is further specifically authorized to
 505 | purchase, sell, trade, rent, lease and maintain all necessary
 506 | equipment, uniforms, motor vehicles, communication systems,
 507 | housing facilities, and office space, and perform any other acts
 508 | necessary for the proper administration and enforcement of this
 509 | chapter. However, all supplies and equipment consisting of
 510 | single items or in lots shall be purchased under the
 511 | requirements of s. 287.057. Purchases shall be made by accepting
 512 | the bid of the lowest responsive bidder, the right being
 513 | reserved to reject all bids.

514 | (4) The department shall prescribe a distinctive uniform
 515 | and distinctive emblem to be worn by all officers of the Florida
 516 | Highway Patrol. It shall be unlawful for any other person or
 517 | persons to wear a similar uniform or emblem, or any part or
 518 | parts thereof. The department shall also prescribe distinctive
 519 | colors for use on motor vehicles and motorcycles operated by the
 520 | Florida Highway Patrol. The prescribed colors shall be referred
 521 | to as "Florida Highway Patrol black and tan."

522 | Section 20. Section 321.03, Florida Statutes, is amended
 523 | to read:

524 | 321.03 Imitations prohibited; penalty.--It shall be
 525 | unlawful for any person or persons in the state to color or
 526 | cause to be colored any motor vehicle or motorcycle the same or

HB 1421

2006

527 similar color as the color or colors so prescribed for the
 528 Florida Highway Patrol. Any person violating any of the
 529 provisions of this section or s. 321.02 with respect to
 530 uniforms, emblems, motor vehicles and motorcycles commits ~~shall~~
 531 ~~be guilty of~~ a misdemeanor of the first degree, punishable as
 532 provided in s. 775.082 or s. 775.083. The department ~~of Highway~~
 533 ~~Safety and Motor Vehicles~~ shall employ such clerical help and
 534 mechanics as may be necessary for its ~~the~~ economical and
 535 efficient operation ~~of such department~~.

536 Section 21. Subsections (1) and (3) of section 321.04,
 537 Florida Statutes, are amended to read:

538 321.04 Personnel ~~of the highway patrol~~; rank
 539 classifications; probationary status of new ~~patrol~~ officers;
 540 subsistence; special assignments.--

541 (1) The department ~~of Highway Safety and Motor Vehicles~~
 542 shall employ patrol officers, as authorized by the Legislature
 543 in appropriating funds for their salaries exclusive of those
 544 members of the patrol who are assigned to and paid by special
 545 departments,† and shall establish the necessary supervisory
 546 ranks within the Florida Highway Patrol to efficiently supervise
 547 and carry out its ~~the designated~~ functions ~~of the patrol~~ and
 548 those of the department in accordance with the regulations
 549 established by the Department of Management Services. Management
 550 positions shall not exceed 6 percent of the total workforce.

551 (3) The Governor shall select ~~department of Highway Safety~~
 552 ~~and Motor Vehicles shall assign~~ one patrol officer to be
 553 assigned by the department to the office of the Governor.† ~~said~~
 554 ~~patrol~~ The officer so assigned shall be selected by the Governor

HB 1421

2006

555 ~~and~~ shall have rank and pay not less than that of a lieutenant
 556 within the department ~~of the Florida Highway Patrol, and said~~
 557 ~~patrol officer so assigned~~ shall be paid by the said department
 558 from the department's appropriation, ~~made to said department,~~
 559 and said patrol officer shall have and receive all other
 560 benefits provided for officers of that rank ~~in this chapter or~~
 561 ~~any other statute now in existence or hereinafter enacted.~~

562 Section 22. Section 321.05, Florida Statutes, is amended
 563 to read:

564 321.05 Duties, functions, and powers of patrol
 565 officers.--The members of the Florida Highway Patrol are hereby
 566 declared to be conservators of the peace and law enforcement
 567 officers of the state, with the common-law right to arrest a
 568 person who, in the presence of the arresting officer, commits a
 569 felony or commits an affray or breach of the peace constituting
 570 a misdemeanor, with full power to bear arms; and they shall
 571 apprehend, without warrant, any person in the unlawful
 572 commission of any of the acts over which the members of the
 573 Florida Highway Patrol are given jurisdiction as hereinafter set
 574 out and deliver him or her to the sheriff of the county that
 575 further proceedings may be had against him or her according to
 576 law. In the performance of any of the powers, duties, and
 577 functions authorized by law, members of the Florida Highway
 578 Patrol shall have the same protections and immunities afforded
 579 other peace officers, which shall be recognized by all courts
 580 having jurisdiction over offenses against the laws of this
 581 state, and shall have authority to apply for, serve, and execute
 582 search warrants, arrest warrants, capias, and other process of

HB 1421

2006

583 the court in those matters in which patrol officers have primary
584 responsibility as set forth in subsection (1). The patrol
585 officers under the direction and supervision of the department
586 ~~of Highway Safety and Motor Vehicles~~ shall perform and exercise
587 throughout the state the following duties, functions, and
588 powers:

589 (1) To patrol the state highways and regulate, control,
590 and direct the movement of traffic thereon; to maintain the
591 public peace by preventing violence on highways; to apprehend
592 fugitives from justice; to enforce all laws now in effect
593 regulating and governing traffic, travel, and public safety upon
594 the public highways and providing for the protection of the
595 public highways and public property thereon; to make arrests
596 without warrant for the violation of any state law committed in
597 their presence in accordance with the laws of this state;
598 providing that no search shall be made unless it is incident to
599 a lawful arrest, to regulate and direct traffic concentrations
600 and congestions; to enforce laws governing the operation,
601 licensing, and taxing and limiting the size, weight, width,
602 length, and speed of vehicles and licensing and controlling the
603 operations of drivers and operators of vehicles; to cooperate
604 with officials designated by law to collect all state fees and
605 revenues levied as an incident to the use or right to use the
606 highways for any purpose; to require the drivers of vehicles to
607 stop and exhibit their driver's licenses, registration cards, or
608 documents required by law to be carried by such vehicles; to
609 investigate traffic accidents, secure testimony of witnesses and
610 of persons involved, and make report thereof with copy, when

HB 1421

2006

611 requested in writing, to any person in interest or his or her
612 attorney; to investigate reported thefts of vehicles and to
613 seize contraband or stolen property on or being transported on
614 the highways.

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

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

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

624 (4) (a) All fines and costs and the proceeds of the
625 forfeiture of bail bonds and recognizances resulting from the
626 enforcement of this chapter by patrol officers shall be paid
627 into the fine and forfeiture fund established pursuant to s.
628 142.01 of the county where the offense is committed. In all
629 cases of arrest by patrol officers, the person arrested shall be
630 delivered forthwith by said officer to the sheriff of the
631 county, or he or she shall obtain from such person arrested a
632 recognizance or, if deemed necessary, a cash bond or other
633 sufficient security conditioned for his or her appearance before
634 the proper tribunal of such county to answer the charge for
635 which he or she has been arrested; and all fees accruing shall
636 be taxed against the party arrested, which fees are hereby
637 declared to be part of the compensation of said sheriffs
638 authorized to be fixed by the Legislature under s. 5(c), Art. II

HB 1421

2006

639 of the State Constitution, to be paid such sheriffs in the same
640 manner as fees are paid for like services in other criminal
641 cases. All patrol officers are hereby directed to deliver all
642 bonds accepted and approved by them to the sheriff of the county
643 in which the offense is alleged to have been committed. However,
644 no sheriff shall be paid any arrest fee for the arrest of a
645 person for violation of any section of chapter 316 when the
646 arresting officer was transported in a Florida Highway Patrol
647 car to the vicinity where the arrest was made; and no sheriff
648 shall be paid any fee for mileage for himself or herself or a
649 prisoner for miles traveled in a Florida Highway Patrol car. No
650 patrol officer shall be entitled to any fee or mileage cost
651 except when responding to a subpoena in a civil cause or except
652 when such patrol officer is appearing as an official witness to
653 testify at any hearing or law action in any court of this state
654 as a direct result of his or her employment as a patrol officer
655 during time not compensated as a part of his or her normal
656 duties. Nothing herein shall be construed as limiting the power
657 to locate and to take from any person under arrest or about to
658 be arrested deadly weapons. Nothing contained in this section
659 shall be construed as a limitation upon existing powers and
660 duties of sheriffs or police officers.

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

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

675 (6) The department may adopt ~~division of Florida Highway~~
 676 ~~Patrol is authorized to promulgate~~ rules under ss. 120.536(1)
 677 and 120.54 ~~and regulations which may be~~ necessary to implement
 678 ~~the provisions of~~ chapter 316.

679 Section 23. Subsection (2) of section 321.051, Florida
 680 Statutes, is amended to read:

681 321.051 Florida Highway Patrol wrecker operator system;
 682 penalties for operation outside of system.--

683 (2) The ~~division of Florida Highway Patrol of the~~
 684 ~~Department of Highway Safety and Motor Vehicles~~ is authorized to
 685 establish within areas designated by the patrol a wrecker
 686 operator system using qualified, reputable wrecker operators for
 687 removal and storage of wrecked or disabled vehicles from a crash
 688 scene or for removal and storage of abandoned vehicles, in the
 689 event the owner or operator is incapacitated or unavailable or
 690 leaves the procurement of wrecker service to the officer at the
 691 scene. All reputable wrecker operators shall be eligible for use
 692 in the system provided their equipment and drivers meet
 693 recognized safety qualifications and mechanical standards set by

694 rules of the division of ~~Florida Highway Patrol~~ for the size of
 695 vehicle it is designed to handle. The division is authorized to
 696 limit the number of wrecker operators participating in the
 697 wrecker operator system, which authority shall not affect
 698 wrecker operators currently participating in the system
 699 established by this section. The division is authorized to
 700 establish maximum rates for the towing and storage of vehicles
 701 removed at the division's request, where such rates have not
 702 been set by a county or municipality pursuant to s. 125.0103 or
 703 s. 166.043. Such rates shall not be considered rules for the
 704 purpose of chapter 120; however, the department shall establish
 705 by rule a procedure for setting such rates. Any provision in
 706 chapter 120 to the contrary notwithstanding, a final order of
 707 the department denying, suspending, or revoking a wrecker
 708 operator's participation in the system shall be reviewable in
 709 the manner and within the time provided by the Florida Rules of
 710 Appellate Procedure only by a writ of certiorari issued by the
 711 circuit court in the county wherein such wrecker operator
 712 resides.

713 Section 24. Section 321.065, Florida Statutes, is amended
 714 to read:

715 321.065 Traffic accident investigation officers~~+~~
 716 ~~employment; standards.~~--The department may employ traffic
 717 accident investigation officers who must complete any applicable
 718 standards adopted by the division ~~Florida Highway Patrol~~,
 719 including, but not limited to: cognitive testing, drug testing,
 720 polygraph testing, psychological testing, and an extensive
 721 background check, including a credit check.

HB 1421

2006

722 Section 25. Subsection (1) of section 321.23, Florida
 723 Statutes, is amended to read:

724 321.23 Public records; fees for copies; destruction of
 725 obsolete records; photographing records; effect as evidence.--

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

731 Section 26. Section 321.25, Florida Statutes, is amended
 732 to read:

733 321.25 Training provided at patrol schools.--The
 734 department ~~of Highway Safety and Motor Vehicles~~ is authorized to
 735 provide for the training of law enforcement officials and
 736 individuals in matters relating to the duties, functions, and
 737 powers of the Florida Highway Patrol and the Florida Marine
 738 Patrol in the schools established by the department for the
 739 training of highway patrol and marine patrol candidates and
 740 officers. The department ~~of Highway Safety and Motor Vehicles~~ is
 741 authorized to charge a fee for providing the training authorized
 742 by this section. The fee shall be charged to persons attending
 743 the training. The fee shall be based on the department's
 744 ~~Department of Highway Safety and Motor Vehicles'~~ costs for
 745 providing the training, and such costs may include, but are not
 746 limited to, tuition, lodging, and meals. Revenues from the fees
 747 shall be used to offset the department's ~~Department of Highway~~
 748 ~~Safety and Motor Vehicles'~~ costs for providing the training. The
 749 cost of training local enforcement officers shall be paid for by

HB 1421

2006

750 their respective offices, counties, or municipalities, as the
751 case may be. Such cost shall be deemed a proper county or
752 municipal expense or a proper expenditure of the office of
753 sheriff.

754 Section 27. The Division of Statutory Revision is
755 requested to designate ss. 327.01-327.804, Florida Statutes, as
756 part I of chapter 327, Florida Statutes, entitled "Vessel
757 Safety," and ss. 327.901-327.9065, Florida Statutes, as created
758 by this act, as part II of that chapter, entitled "Florida
759 Marine Patrol." The title of chapter 327, Florida Statutes,
760 shall remain "Vessel Safety."

761 Section 28. Section 327.901, Florida Statutes, is created
762 to read:

763 327.901 Definitions.--As used in this part, the term:

764 (1) "Department" means the Department of Public Safety
765 created in s. 20.60.

766 (2) "Director" means the executive director of the
767 Department of Public Safety.

768 (3) "Patrol" means the Florida Marine Patrol.

769 Section 29. Section 327.902, Florida Statutes, is created
770 to read:

771 327.902 Powers and duties of department.--

772 (1) The department shall adopt rules by which the officers
773 of the patrol shall be examined, employed, trained, located,
774 suspended, reduced in rank, discharged, recruited, paid, and
775 pensioned, subject to civil service provisions hereinafter set
776 out.

HB 1421

2006

777 (2) The department shall have the same powers and duties
778 regarding supplies and equipment for the patrol as are provided
779 for the Florida Highway Patrol in s. 321.02(3).

780 (3) The department shall prescribe a distinctive uniform
781 and distinctive emblem to be worn by all patrol officers. It
782 shall be unlawful for any other person or persons to wear a
783 similar uniform or emblem or any part or parts thereof. The
784 department shall also prescribe distinctive colors for use on
785 motor vehicles and vessels operated by the patrol. The
786 prescribed colors for the patrol shall be referred to as
787 "Florida Marine Patrol black and gray."

788 Section 30. Section 327.903, Florida Statutes, is created
789 to read:

790 327.903 Imitations prohibited; penalty.--It shall be
791 unlawful for any person or persons in the state to color or
792 cause to be colored any motor vehicle, vessel, or motorcycle the
793 same or similar color as the color or colors so prescribed for
794 the patrol. Any person violating any of the provisions of this
795 section or s. 327.902 with respect to uniforms, emblems, motor
796 vehicles, vessels, and motorcycles commits a misdemeanor of the
797 first degree, punishable as provided in s. 775.082 or s.
798 775.083.

799 Section 31. Section 327.904, Florida Statutes, is created
800 to read:

801 327.904 Personnel.--

802 (1) The department shall employ patrol officers as
803 authorized by legislative appropriation, exclusive of those who
804 are assigned to and paid by special departments, and shall

HB 1421

2006

805 establish the necessary supervisory ranks within the patrol to
806 efficiently supervise and carry out its functions and those of
807 the department in accordance with the personnel regulations of
808 the Department of Management Services. Management positions
809 shall not exceed 6 percent of the total workforce.

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

817 Section 32. Section 327.905, Florida Statutes, is created
818 to read:

819 327.905 Duties and powers of officers; rulemaking.--

820 (1) The patrol officers are declared to be conservators of
821 the peace and law enforcement officers of the state, with the
822 common-law right to arrest a person who, in the presence of the
823 arresting officer, commits a felony or commits an affray or
824 breach of the peace constituting a misdemeanor, with full power
825 to bear arms; and they shall apprehend, without warrant, any
826 person in the unlawful commission of any of the acts over which
827 the officers of the patrol are given jurisdiction as hereinafter
828 set out and deliver him or her to the sheriff of the county
829 wherein such unlawful act occurred in order that further
830 proceedings may be had against him or her according to law. In
831 the performance of any of the powers, duties, and functions
832 authorized by law, patrol officers shall have the same

HB 1421

2006

833 protections and immunities afforded other peace officers, which
834 shall be recognized by all courts having jurisdiction over
835 offenses against the laws of this state, and shall have
836 authority to apply for, serve, and execute search warrants,
837 arrest warrants, capias, and other process of the court in those
838 matters in which patrol officers have primary responsibility as
839 set forth in paragraph (2)(a).

840 (2)(a) Patrol officers shall perform and exercise
841 throughout the state the duties, functions, and powers provided
842 in s. 20.60(3)(b) as required by the director.

843 (b) In addition, patrol officers shall have all duties and
844 powers as provided for the officers of the Florida Highway
845 Patrol in s. 321.05(2) and (3).

846 (3) The department may adopt rules under ss. 120.536(1)
847 and 120.54 to implement this part.

848 Section 33. Section 327.9065, Florida Statutes, is created
849 to read:

850 327.9065 Boating accident investigation officers.--The
851 department may employ boating accident investigation officers
852 who must complete any applicable standards adopted by the
853 patrol, including, but not limited to: cognitive testing, drug
854 testing, polygraph testing, psychological testing, and an
855 extensive background check, including a credit check.

856 Section 34. Subsection (3) of section 337.406, Florida
857 Statutes, is amended to read:

858 337.406 Unlawful use of state transportation facility
859 right-of-way; penalties.--

HB 1421

2006

860 (3) The Department of Public Highway Safety and ~~Motor~~
 861 ~~Vehicles~~ and other law enforcement agencies are authorized and
 862 directed to enforce this statute.

863 Section 35. Subsection (2) of section 338.239, Florida
 864 Statutes, is amended to read:

865 338.239 Traffic control on the turnpike system.--

866 (2) Members of the Florida Highway Patrol are vested with
 867 the power, and charged with the duty, to enforce the rules of
 868 the department. Approved expenditures incurred by the Florida
 869 Highway Patrol in carrying out its powers and duties under ss.
 870 338.22-338.241 may be treated as a part of the cost of the
 871 operation of the turnpike system, and the Department of Public
 872 ~~Highway~~ Safety and ~~Motor Vehicles~~ shall be reimbursed by the
 873 turnpike enterprise for such expenses incurred on the turnpike
 874 system. Florida Highway Patrol Troop K shall be headquartered
 875 with the turnpike enterprise and shall be the official and
 876 preferred law enforcement troop for the turnpike system. The
 877 Department of Public Highway Safety and ~~Motor Vehicles~~ may, upon
 878 request of the executive director of the turnpike enterprise and
 879 approval of the Legislature, increase the number of authorized
 880 positions for Troop K, or the executive director of the turnpike
 881 enterprise may contract with the Department of Public Highway
 882 ~~Safety and Motor Vehicles~~ for additional troops to patrol the
 883 turnpike system.

884 Section 36. Subsection (1) of section 339.281, Florida
 885 Statutes, is amended to read:

886 339.281 Damage to transportation facility by vessel;
 887 marine accident report; investigative authorities; penalties.--

888 (1) Whenever any vessel has caused damage to a
 889 transportation facility, the managing owner, agent, or master of
 890 such vessel shall immediately, or as soon thereafter as
 891 possible, report the same to the nearest Fish and Wildlife
 892 Conservation Commission officer, an officer of the Florida
 893 Marine Patrol, the sheriff of the county wherein such accident
 894 occurred, or the Florida Highway Patrol, who shall immediately
 895 go to the scene of the accident and, if necessary, board the
 896 vessel subsequent to the accident in pursuance of its
 897 investigation. The law enforcement agency investigating the
 898 accident shall submit a copy of its report to the department.

899 Section 37. Subsection (4) of section 370.0603, Florida
 900 Statutes, is amended to read:

901 370.0603 Marine Resources Conservation Trust Fund;
 902 purposes.--

903 (4) Funds transferred to the Marine Resources Conservation
 904 Trust Fund from the Fuel Tax Collection Trust Fund pursuant to
 905 s. 206.606 shall be used for the following purposes:

906 (a) To provide additional water-related law enforcement
 907 positions within the Fish and Wildlife Conservation Commission
 908 primarily for the purpose of enforcing laws designed to protect
 909 manatee populations. Law enforcement positions funded under this
 910 provision shall be assigned to counties having the highest
 911 incidence of manatee deaths and injuries.

912 (b) For the placement of uniform waterway markers on state
 913 waters.

914 (c) To provide funding for construction and maintenance of
 915 publicly owned boat ramps, piers, and docks, directly and
 916 through grants to counties and municipalities.

917 (d) To implement and administer programs related to
 918 boating safety and education, manatee technical avoidance
 919 technology, and economic development initiatives to promote
 920 boating in the state, including competitive grants programs as
 921 provided in s. 327.47.

922 (e) For other activities of the Florida Marine Patrol
 923 ~~Boating and Waterways Section~~ such as coordinating the
 924 submission of state comments on boating-related events.

925
 926 Funds not used in one fiscal year must be carried over for use
 927 in subsequent years.

928 Section 38. Paragraph (b) of subsection (2) of section
 929 401.245, Florida Statutes, is amended to read:

930 401.245 Emergency Medical Services Advisory Council.--

931 (2)

932 (b) Representation on the Emergency Medical Services
 933 Advisory Council shall include: two licensed physicians who are
 934 "medical directors" as defined in s. 401.23(15) or whose medical
 935 practice is closely related to emergency medical services; two
 936 emergency medical service administrators, one of whom is
 937 employed by a fire service; two certified paramedics, one of
 938 whom is employed by a fire service; two certified emergency
 939 medical technicians, one of whom is employed by a fire service;
 940 one emergency medical services educator; one emergency nurse;
 941 one hospital administrator; one representative of air ambulance

HB 1421

2006

942 services; one representative of a commercial ambulance operator;
 943 and two laypersons who are in no way connected with emergency
 944 medical services, one of whom is a representative of the
 945 elderly. Ex officio members of the advisory council from state
 946 agencies shall include, but shall not be limited to,
 947 representatives from the Department of Education, the Department
 948 of Management Services, the State Fire Marshal, the Department
 949 of Public Highway Safety and Motor Vehicles, the Department of
 950 Transportation, and the Department of Community Affairs.

951 Section 39. Paragraph (c) of subsection (2) of section
 952 403.413, Florida Statutes, is amended to read:

953 403.413 Florida Litter Law.--

954 (2) DEFINITIONS.--As used in this section:

955 (c) "Law enforcement officer" means any officer of the
 956 Florida Highway Patrol, the Florida Marine Patrol, a county
 957 sheriff's department, a municipal law enforcement department, a
 958 law enforcement department of any other political subdivision,
 959 the department, or the Fish and Wildlife Conservation
 960 Commission. In addition, and solely for the purposes of this
 961 section, "law enforcement officer" means any employee of a
 962 county or municipal park or recreation department designated by
 963 the department head as a litter enforcement officer.

964 Section 40. Paragraph (d) of subsection (3) of section
 965 790.25, Florida Statutes, is amended to read:

966 790.25 Lawful ownership, possession, and use of firearms
 967 and other weapons.--

968 (3) LAWFUL USES.--The provisions of ss. 790.053 and 790.06
 969 do not apply in the following instances, and, despite such

970 sections, it is lawful for the following persons to own,
 971 possess, and lawfully use firearms and other weapons,
 972 ammunition, and supplies for lawful purposes:

973 (d) Sheriffs, marshals, prison or jail wardens, police
 974 officers, Florida Highway Patrol officers, Florida Marine Patrol
 975 officers, game wardens, revenue officers, forest officials,
 976 special officers appointed under the provisions of chapter 354,
 977 and other peace and law enforcement officers and their deputies
 978 and assistants and full-time paid peace officers of other states
 979 and of the Federal Government who are carrying out official
 980 duties while in this state;

981 Section 41. Section 843.08, Florida Statutes, is amended
 982 to read:

983 843.08 Falsely personating officer, etc.--A person who
 984 falsely assumes or pretends to be a sheriff, officer of the
 985 Florida Highway Patrol, officer of the Florida Marine Patrol,
 986 officer of the Fish and Wildlife Conservation Commission,
 987 officer of the Department of Environmental Protection, officer
 988 of the Department of Transportation, officer of the Department
 989 of Corrections, correctional probation officer, deputy sheriff,
 990 state attorney or assistant state attorney, statewide prosecutor
 991 or assistant statewide prosecutor, state attorney investigator,
 992 coroner, police officer, lottery special agent or lottery
 993 investigator, beverage enforcement agent, or watchman, or any
 994 member of the Parole Commission and any administrative aide or
 995 supervisor employed by the commission, or any personnel or
 996 representative of the Department of Law Enforcement, and takes
 997 upon himself or herself to act as such, or to require any other

HB 1421

2006

998 person to aid or assist him or her in a matter pertaining to the
 999 duty of any such officer, commits a felony of the third degree,
 1000 punishable as provided in s. 775.082, s. 775.083, or s. 775.084;
 1001 however, a person who falsely personates any such officer during
 1002 the course of the commission of a felony commits a felony of the
 1003 second degree, punishable as provided in s. 775.082, s. 775.083,
 1004 or s. 775.084; except that if the commission of the felony
 1005 results in the death or personal injury of another human being,
 1006 the person commits a felony of the first degree, punishable as
 1007 provided in s. 775.082, s. 775.083, or s. 775.084.

1008 Section 42. Section 870.04, Florida Statutes, is amended
 1009 to read:

1010 870.04 Specified officers to disperse riotous
 1011 assembly.--If any number of persons, whether armed or not, are
 1012 unlawfully, riotously or tumultuously assembled in any county,
 1013 city or municipality, the sheriff or the sheriff's deputies, or
 1014 the mayor, or any commissioner, council member, alderman or
 1015 police officer of the said city or municipality, or any officer
 1016 or member of the Florida Highway Patrol, any officer of the
 1017 Florida Marine Patrol, or any officer or agent of the Fish and
 1018 Wildlife Conservation Commission, Department of Environmental
 1019 Protection, or beverage enforcement agent, any personnel or
 1020 representatives of the Department of Law Enforcement or its
 1021 successor, or any other peace officer, shall go among the
 1022 persons so assembled, or as near to them as may be with safety,
 1023 and shall in the name of the state command all the persons so
 1024 assembled immediately and peaceably to disperse; and if such
 1025 persons do not thereupon immediately and peaceably disperse,

HB 1421

2006

1026 | said officers shall command the assistance of all such persons
1027 | in seizing, arresting and securing such persons in custody; and
1028 | if any person present being so commanded to aid and assist in
1029 | seizing and securing such rioter or persons so unlawfully
1030 | assembled, or in suppressing such riot or unlawful assembly,
1031 | refuses or neglects to obey such command, or, when required by
1032 | such officers to depart from the place, refuses and neglects to
1033 | do so, the person shall be deemed one of the rioters or persons
1034 | unlawfully assembled, and may be prosecuted and punished
1035 | accordingly.

1036 | Section 43. This act shall take effect July 1, 2006.