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CHAPTER 6.

 DEPARTMENT OF PUBLIC SAFETY

ARTICLE 1.

 GENERAL PROVISIONS

**SECTION 23‑6‑10.** Definitions.

For the purposes of this title, the following words, phrases, and terms are defined as follows:

(1) “Department” means the Department of Public Safety.

(2) “Director” means the chief administrative officer of the Department of Public Safety.

**SECTION 23‑6‑20.** Department of Public Safety established; divisions comprising Department; transfer of functions, powers, duties, responsibilities and authority; rules, standards, etc., of former entities remain in effect.

(A) The Department of Public Safety is established as an administrative agency of state government which is comprised of a South Carolina Highway Patrol Division, a South Carolina State Police Division, and a Division of Training and Continuing Education.

(B) The functions, powers, duties, responsibilities, and authority statutorily exercised by the following offices, sections, departments, or divisions of the following state agencies as existing on the effective date of this act are transferred to and devolved on the department to include the South Carolina Highway Patrol and the Safety Office Section of the Division of Finance and Administration of the South Carolina Department of Highways and Public Transportation; the Safety Enforcement Officers of the Office of Enforcement within the Transportation Division of the South Carolina Public Service Commission and the Governor’s Office of Public Safety, together with all assets, liabilities, records, property, personnel, unexpended appropriations, and other funds shall be transferred to the control of the department. All rules, regulations, standards, orders, or other actions of these entities shall remain in effect unless specifically changed or voided by the department in accordance with the Administrative Procedures Act, or otherwise provided.

**SECTION 23‑6‑30.** Duties and powers of department.

The department shall have the following duties and powers:

(1) carry out highway and other related safety programs;

(2) engage in driver training and safety activities;

(3) enforce the traffic, motor vehicle, commercial vehicle, and related laws;

(4) enforce size, weight, and safety enforcement statutes relating to commercial motor vehicles;

(5) operate a comprehensive law enforcement personnel training program;

(6) promulgate such rules and regulations in accordance with the Administrative Procedures Act and Article 7 of this chapter for the administration and enforcement of the powers delegated to the department by law, which shall have the full force and effect of law;

(7) operate such programs and disseminate information and material so as to continually improve highway safety;

(8) receive and disburse funds and grants, including any donations, contributions, funds, grants, or gifts from private individuals, foundations, agencies, corporations, or the state or federal governments, for the purpose of carrying out the programs and objectives of this chapter; and

(9) do all other functions and responsibilities as required or provided for by law.

**SECTION 23‑6‑40.** Director; appointment; duties; deputy directors.

(A) The Governor, with the advice and consent of the Senate, shall appoint the director of the department who shall serve a term of four years. The director may only be removed pursuant to the provisions of Section 1‑3‑240(C). He shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the annual general appropriation act. The term of office for the first appointment under the provisions of this section shall be February 1, 1994 for a term of two years. The Governor shall submit the name of his appointee to the Senate by December first of the year prior to the date on which the term begins. A person appointed by the Governor with the advice and consent of the Senate to fill a vacancy shall serve for the unexpired term only. This shall not prohibit the Governor from reappointing a person who is appointed to fill a vacancy as director of the department. All subsequent appointments shall be made in the manner of the original appointment for a term of four years.

(B) The director must administer the affairs of the department and must represent the department in its dealings with other state agencies, local governments, special purpose districts, and the federal government. The director must appoint a deputy director for each division and employ such other personnel for each division and prescribe their duties, powers, and functions as he considers necessary and as may be authorized by statute and for which funds have been authorized in the annual general appropriation act.

(C) The deputy director for each division shall serve at the pleasure of the director and the director shall recommend the salary for each deputy director as allowed by statute or applicable law.

**SECTION 23‑6‑50.** Annual audit; carrying funds into next fiscal year; retention of revenue to meet department expenses.

The director shall annually cause the department to be audited. The audit must be conducted by a certified public accountant or firm of certified public accountants to be selected by the State Auditor. The department may undergo an Agreed Upon Procedures audit in lieu of audited financial statements. The audit shall be in coordination with the State Auditor’s Office and will be in accordance with generally accepted accounting principles and must comprise all financial records and controls. The audit must be completed by November 1 following the close of the fiscal year. The costs and expenses of the audit must be paid by the department out of its funds.

Notwithstanding any other provision of law, all revenue generated by the department from the sale of vehicles, various equipment, less the cost of disposition incurred by the State Budget and Control Board Division of Operations, gasoline and insurance claims, during the prior fiscal year may be retained and carried forward into the current fiscal year and expended for the purpose of purchasing like items. Any unexpended balance on June 30 of the prior fiscal year authorized to be expended or used for any federal grant program may be retained and carried forward to the current fiscal year and used for matching committed or unanticipated grant funds, or both. The Department of Motor Vehicles is authorized to carry forward and expend all motor carrier registration fees collected pursuant to Chapter 23 of Title 58 for fiscal years 1996‑1997, 1997‑1998, 1998‑1999 into fiscal year 1999‑2000.

Notwithstanding any other provision of law, revenue received from the sale of publications, postal reimbursement, photo copying, electronic data from traffic collisions, sale of miscellaneous refuse and recyclable materials, insurance claim receipts, coin operated telephones, and revenue from building management services, and the Department of Public Safety training series shall be retained by the department and expended in budgeted operations for professional training, fees and dues, clothing allowance, and other related services or programs as the Director of the Department of Public Safety may deem necessary. In order to complete projects begun in a prior fiscal year, the department is authorized to expend federal and earmarked funds in the following fiscal year for expenditures incurred in the prior fiscal year.

**SECTION 23‑6‑90.** Security of government facilities; employment, equipment, and provision of officers.

The department may employ, equip, and provide such officers as may be necessary to maintain the security of the Governor’s Mansion Compound, and other governmental facilities, including the State Capitol Building, the facilities of the Capitol Complex, and other state buildings. The director must determine the most efficient and effective method of placing these officers within a law enforcement division in the department.

ARTICLE 3.

 HIGHWAY PATROL DIVISION

**SECTION 23‑6‑100.** Highway Patrol Division, State Police Division created; distinctive uniforms, emblems, etc.

(A) There is created a South Carolina Highway Patrol Division and a South Carolina State Police Division within the Department of Public Safety. The South Carolina Highway Patrol Division shall have such troopers, officers, agents and employees as the department may deem necessary and proper for the enforcement of the traffic and other related laws, and the South Carolina State Police Division shall have such troopers, officers, agents and employees as the department may deem necessary and proper for the enforcement of the commercial motor carrier related laws, the enforcement of which is devolved upon the department. Such officers and troopers shall be commissioned by the Governor upon the recommendation of the Director of the Department of Public Safety. Such commissions may be terminated at the pleasure of the director.

(B) The department must provide the officers of the Highway Patrol and of the State Police with distinctive uniforms and suitable arms and equipment for use in the performance of their duties. Such officers and troopers shall at all times, when in the performance of their duties, wear complete uniforms with badges conspicuously displayed on the outside of their uniforms.

(C) The commanding officers of the South Carolina Highway Patrol and the South Carolina State Police respectively, with the approval of the director of the department, shall prescribe a unique and distinctive official uniform, with appropriate insignia to be worn by all officers when on duty and at such other times as the director shall order, and a distinctive color or colors and appropriate emblems for all motor vehicles used by the Highway Patrol and the State Police except those designated by the director. No other law enforcement agency, private security agency, or any person shall wear a similar uniform and insignia which may be confused with the uniform and insignia of the Highway Patrol or State Police. An emblem must not be used on a nondepartment motor vehicle, nor may such vehicle be painted in a color or in any manner which would cause the vehicle to be similar to a Highway Patrol or State Police vehicle or readily confused with it.

(D) The director shall file with the Legislative Council for publication in the State Register a description and illustration of the official highway patrol uniform with insignia and the emblems of the official highway patrol and motor vehicles including a description of the color of such uniforms and vehicles and a description and illustration of the official state police uniform with insignia and the emblems of the official state police and motor vehicles including a description of the color of such uniforms and vehicles.

(E) The South Carolina Highway Patrol Division shall transfer the service sidearm of an active duty trooper killed in the line of duty to the trooper’s surviving spouse upon request at no charge once the sidearm has been rendered permanently inoperable.

**SECTION 23‑6‑110.** Existing uniforms and emblems continued in use during transition.

In order to carry out the provisions of Section 23‑6‑100 in an orderly and economical manner it is intended that all serviceable uniforms be continued in use until such time as the director considers it necessary for them to be replaced. These provisions shall also apply to the emblems for motor vehicles.

**SECTION 23‑6‑120.** Troopers and officers to file, or be covered by, bond.

Every officer and trooper commissioned pursuant to this chapter shall file a bond, or be covered by a surety bond, with the department in the amount of not less than two thousand dollars, subscribed by a duly licensed surety company, which shall be conditioned on the faithful performance of his duties. The duties include but are not limited to the prompt and proper accounting of all funds coming into his hands, the payment of any judgment recovered against him in any court of competent jurisdiction upon a cause of action arising out of breach or abuse of official duty or power, or the payment of damages sustained by any member of the public from any unlawful act of such officer or trooper. Coverage under such bond shall not include damage to persons or property arising out of the negligent operation of a motor vehicle. Such bond may be individual, schedule or blanket and on a form approved by the Attorney General. The premiums on such bonds shall be paid by the department.

**SECTION 23‑6‑130.** Violations of Section 23‑6‑100 may be enjoined; notice, petition, hearing.

Any violation of Section 23‑6‑100 may be enjoined by the court of common pleas upon petition of the director after due notice to the person violating the provisions of Section 23‑6‑100 and after a hearing on the petition.

**SECTION 23‑6‑140.** Powers, duties and responsibilities of officers and troopers.

The patrol of the highways of the State and the enforcement of the laws of the State relative to highway traffic, traffic safety, and motor vehicles shall be the primary responsibility of the troopers and officers of the South Carolina Highway Patrol. The troopers and officers of the State Police shall have the primary responsibility for the enforcement of laws relating to commercial motor carriers relating to size, weight, permits, licensing, and inspections for size and weight tolerance and safety. All officers and troopers shall have the same power to serve criminal processes against offenders as sheriffs of the various counties and also the same power as such sheriffs to arrest without warrants and to detain persons found violating or attempting to violate any laws of the State relative to highway traffic, motor vehicles or commercial motor carriers. These officers and troopers shall also have the same power and authority held by deputy sheriffs for the enforcement of the criminal laws of the State.

**SECTION 23‑6‑145.** Traffic stop by commissioned officer or uniformed officer; requirement of reasonable belief of violation of law.

A commissioned officer or a uniformed officer of the department may, upon reasonable belief that any vehicle is being operated in violation of any provision of statutory law, require the driver thereof to stop and exhibit the registration card issued for the vehicle, the individual’s driver’s license, and submit to an inspection of such vehicle and license.

**SECTION 23‑6‑150.** Summons; bail.

When any person is apprehended by a officer upon a charge of violating any laws of the State relative to highway traffic, motor vehicles or commercial motor carriers such person shall immediately be served with an official summons. The person charged may deposit bail with the arresting officer in lieu of being immediately brought before the proper magistrate, recorder, or other judicial officer to enter into a formal recognizance or make direct the deposit of a proper sum of money in lieu of a recognizance or incarceration. The apprehending officer may accept a sum of money as bail, not less than the minimum nor more than the maximum fine, but in no case to exceed two hundred dollars, to be in due course turned over to the judicial officer as money for bail. The bail deposited shall be in lieu of entering into a recognizance for his appearance for trial as set in the aforesaid summons or being incarcerated by the arresting officer and held for further action by the appropriate judicial officer. A receipt for the sum so deposited shall be given to such person by the arresting officer. The summons duly served as herein provided shall give the judicial officer jurisdiction to dispose of the matter. Upon receipt of the fixed sum of money the officer may release the person so charged as above provided for his further appearance before the proper judicial officer as provided for and required by the summons.

**SECTION 23‑6‑170.** Promotions; adoption of promotion policy.

No officer or trooper may be promoted to a higher rank until such time as the council adopts a promotion policy for commissioned personnel and officers as provided for in Section 23‑6‑520.

**SECTION 23‑6‑180.** Retention of Patrolmen’s permanent records after death or retirement.

The Department of Public Safety is directed to keep permanent records of all Highway Patrolmen who are killed in the line of duty or die in any other manner while actively employed as well as records of those who are retired.

**SECTION 23‑6‑185.** Enforcement by State Transport Police Division funded by motor carrier registration fees.

Notwithstanding any other provisions of law, enforcement by the State Transport Police Division, of Articles 3 and 5, Chapter 23 of Title 58, shall be funded from the motor carrier registration fees collected by the Department of Motor Vehicles that previously were collected by the Public Service Commission and the Department of Public Safety. Additionally, the State Transport Police is authorized to expend the motor carrier registration fees to build or renovate weigh stations. All unexpended funds from prior years collected pursuant to this section may be retained and carried forward by the department for the same purposes.

**SECTION 23‑6‑187.** Witness fees for trooper trained in Advanced Accident Investigation testifying in civil matters.

The department may charge a witness fee of one hundred thirty dollars per hour, up to one thousand dollars per day for each trooper trained in Advanced Accident Investigation testifying in civil matters which do not involve the State as a party in interest. The fee shall be charged in addition to any court prescribed payment due as compensation or reimbursement for judicial appearances and deposited into a designated revenue account. The department is authorized to receive, expend, retain, and carry forward these funds.

**SECTION 23‑6‑190.** Support of Highway Patrol.

All monies collected in the Department of Public Safety Building Fund, as established in Section 56‑3‑840 that exceed the annual bond payment and the amount needed for building repair must be utilized by the department to support the Highway Patrol.

**SECTION 23‑6‑191.** Physical examination costs.

The Department may pay the cost of physical examinations for department personnel who are required to receive physical examinations prior to or after receiving a law enforcement commission.

**SECTION 23‑6‑193.** Reimbursement for expenditures incurred during emergency; retention and expenditure of funds.

The department may collect, expend, retain, and carry forward all funds received from other state or federal agencies as reimbursement for expenditures incurred when personnel and equipment are mobilized and expenses incurred due to an emergency.

**SECTION 23‑6‑195.** Providing meals during emergencies.

The department may provide meals to employees of the department who are not permitted to leave assigned duty stations and are required to work during deployment, emergency simulation exercises, and when the Governor declares a state of emergency.

ARTICLE 5.

 DEPARTMENT OF PUBLIC SAFETY SPECIAL CONSTABLE

**SECTION 23‑6‑200.** Definitions.

For purposes of this article:

(1) “Former law enforcement officer” means:

(a) an officer who was previously commissioned by the Governor and who during his law enforcement career worked for the department;

(b) an officer who was commissioned by the Governor, and whose agency, office, or unit was transferred to the department pursuant to governmental restructuring, including former retired officers;

(c) an officer who was previously commissioned by the Governor whose agency, office, or unit was transferred to the department pursuant to governmental restructuring or any subsequent restructuring, including former retired officers; or

(d) other formerly commissioned law enforcement officers or retired officers in good standing from any law enforcement agency, state constables, or volunteer state constables serving without compensation whose appointment is certified by the State Law Enforcement Division as having completed the requisite training to maintain an active commission.

(2) “Department of Public Safety Special Constable” means a commission authorized by the department for a former law enforcement officer as defined in (1).

(3) “Director” means the chief administrative officer of the Department of Public Safety.

(4) “Department” means Department of Public Safety.

**SECTION 23‑6‑210.** Commissioning of special constables; powers and duties; removal; training.

(A) The director is authorized to establish programs for the commissioning of former law enforcement officers of the department. An individual commissioned pursuant to this section shall receive a Department of Public Safety Special Constable commission.

(B) The powers and duties of these special constables shall be determined by the director and specified in writing, and individuals commissioned pursuant to this section shall be subject to removal by the director at any time. Before assuming their duties, special constables shall take the oath of office required by law and successfully complete a course of training specified by the director.

(C) A constable shall be entitled to enforce the laws of this State and exercise the duties of his office throughout the State except as may be limited in subsection (B).

(D) The course of training required in subsection (B) does not apply to former officers holding a valid commission issued by another agency or governmental entity, except that all officers shall meet any annual continuing training requirements established by the director in order to maintain their commissions.

**SECTION 23‑6‑220.** Compensation; uniforms and equipment; workers’ compensation and death benefits.

(A) Constables may not receive compensation including, but not limited to, salary for services rendered absent specific statutory authorization.

(B) Any uniforms and equipment issued by the department shall remain the property of the department, but may, in the discretion of the director, be entrusted to the care and control of the constables. A constable assisting a full‑time department law enforcement officer shall wear uniforms or other insignia which identify the constable as a special law enforcement officer assisting the department.

(C) Workers’ compensation benefits may be provided on an as needed basis for special constables by the director in the same manner as benefits are provided for full‑time officers. For purposes of compensation or benefits arising from duty‑related injury or death, special constables shall be considered as employees of the department.

**SECTION 23‑6‑230.** Identification cards.

Identification cards registering a special constable must be issued by the Department of Public Safety for all individuals commissioned pursuant to this article.

**SECTION 23‑6‑240.** Authority to carry pistols.

Notwithstanding any other provision of law, constables who have received the required training shall be authorized by the director to carry pistols on and about their persons unless otherwise restricted by the director in writing. However, the director, after hearing and for cause, may deny such privilege to any constable pursuant to this section who is guilty of using his pistol at any time in a manner inconsistent with accepted law enforcement procedures as determined by the director or who has been convicted of any crime for which a penalty of imprisonment for more than one year may be imposed. The term “conviction” shall include a plea of guilty, a plea of nolo contendere, or forfeiture of bail.

ARTICLE 9.

 DIVISION OF TRAINING AND CONTINUING EDUCATION [REPEALED]

**SECTIONS 23‑6‑400 to 23‑6‑495.** Repealed by 2006 Act No. 317, Section 7, eff May 30, 2006.

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ARTICLE 11.

 SOUTH CAROLINA PUBLIC SAFETY COORDINATING COUNCIL

**SECTION 23‑6‑500.** South Carolina Public Safety Coordinating Council created; purpose.

There is created a council to administer certain responsibilities of the Department of Public Safety and coordinate certain activities between the department, the South Carolina Law Enforcement Division and municipal and county law enforcement agencies. The council is to be known as the South Carolina Public Safety Coordinating Council.

**SECTION 23‑6‑510.** Composition; filling of vacancies.

The council is composed of the following persons for terms as indicated:

(1) the Governor or his designee, to serve as chairman, for the term of the Governor;

(2) the Chief of the South Carolina Law Enforcement Division for the term of office for which he is appointed;

(3) the Chairman of the Senate Judiciary Committee for his term of office in the Senate or his designee;

(4) the Chairman of the House of Representatives Judiciary Committee for his term of office in the House of Representatives or his designee;

(5) the Director of the Department of Public Safety;

(6) a sheriff appointed by the Governor for the term of office for which he is elected;

(7) a municipal police chief appointed by the Governor for a term of two years; and

(8) a victim representative appointed by the Governor for a term of four years.

Any vacancy occurring must be filled in the manner of the original appointment for the unexpired portion of the term.

**SECTION 23‑6‑520.** Duties.

The council has the following duties to:

(1) recommend a hiring and promotion policy for commissioned personnel or officers to be administered under the sole authority of the director;

(2) establish a process for the solicitation of applications for public safety grants and to review and approve the disbursement of funds available under Section 402 of Chapter 4 of Title 1 of the Federal Highway Safety Program, public law 89‑564 in a fair and equitable manner;

(3) coordinate the use of department personnel by other state or local agencies or political subdivisions;

(4) advise and consult on questions of jurisdiction and law enforcement and public safety activities between the Department of Public Safety, the South Carolina Law Enforcement Division and law enforcement agencies of local political subdivisions.

**SECTION 23‑6‑530.** Council may elect officers; service is without pay; per diem, mileage and subsistence.

The council may elect such other officers as it deems necessary from its membership and the members of the council shall serve without pay but are authorized, as eligible, to receive the usual per diem, mileage and subsistence provided for by law.