



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

April 19, 2005

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit:

Senate File 265, an Act relating to delinquent property taxes and other duties of the county treasurer and including effective date and applicability date provisions.

Senate File 283, an Act relating to the department of public safety by updating references, changing the names of divisions in the department, and changing practices and procedures.

Senate File 320, an Act requiring performance of a criminal history check on applicants for real estate broker and salesperson licenses.

The above Senate Files are hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 283

AN ACT

RELATING TO THE DEPARTMENT OF PUBLIC SAFETY BY UPDATING REFERENCES, CHANGING THE NAMES OF DIVISIONS IN THE DEPARTMENT, AND CHANGING PRACTICES AND PROCEDURES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 80.1A DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Commissioner" means the commissioner of public safety.
2. "Controlled substance" means the same as defined in section 124.101.
3. "Counterfeit substance" means the same as defined in section 124.101.
4. "Department" means the department of public safety.
5. "Peace officer" means a peace officer of the department as defined in section 97A.1.

Sec. 2. Section 80.6, Code 2005, is amended to read as follows:

80.6 IMPERSONATING PEACE OFFICER OR EMPLOYEE -- UNIFORM.

Any person who impersonates ~~a member of the Iowa state patrol or other~~ a peace officer or employee of the department, or wears a uniform likely to be confused with the official uniform of any such officer or employee, with intent to deceive anyone, shall be guilty of a simple misdemeanor.

Sec. 3. Section 80.8, unnumbered paragraphs 1, 3, and 5, Code 2005, are amended to read as follows:

The commissioner ~~of public safety, with the approval of the governor,~~ shall ~~appoint such deputies, inspectors, officers,~~ employ personnel as may

be required to properly discharge the duties of ~~this~~ the department.

The salaries of ~~all-members~~ peace officers and employees of the department and the expenses of the department shall be provided for by ~~the~~ a legislative appropriation ~~therefor~~. The compensation of peace officers of the department shall be fixed according to grades as to rank and length of service by the commissioner with the approval of the ~~governor~~ department of administrative services, unless covered by a collective bargaining agreement that provides otherwise. The peace officers shall be paid additional compensation in accordance with the following formula: When peace officers have served for a period of five years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described five-year period; when peace officers have served for a period of ten years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described ten-year period, such sums being in addition to the increase provided herein to be paid after five years of service; when peace officers have served for a period of fifteen years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described fifteen-year period, such sums being in addition to the increases previously provided for herein; when peace officers have served for a period of twenty years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described twenty-year period, such sums being in addition to the increases previously provided for herein. While on active duty, each peace officer shall also receive a flat daily sum as fixed by the commissioner ~~with-the-approval-of-the-governor~~ for meals unless the amount of the flat daily sum is covered by a collective bargaining agreement that provides otherwise.

Peace officer-~~members~~ officers of the department excluded from the provisions of chapter 20 who are injured in the line of duty shall receive paid time off in the same manner as provided to peace officer-~~members~~ officers of the department covered by a collective bargaining agreement entered into between the state and the employee organization representing such covered peace officer-~~members~~ officers under chapter 20.

Sec. 4. Section 80.9, unnumbered paragraph 1, Code 2005, is amended to read as follows:

It shall be the duty of the department ~~of public safety~~ to prevent crime, to detect and apprehend criminals and to enforce such other laws as are hereinafter specified. ~~The members~~ A peace officer of the department ~~of public safety,~~ ~~except clerical workers therein,~~ when authorized by the commissioner ~~of public safety~~ shall have and exercise all the powers of any other peace officer of the state.

Sec. 5. Section 80.9, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. When request is made by the mayor of any city, with the approval of the commissioner ~~of public safety;~~

Sec. 6. Section 80.9, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

When ~~any member~~ a peace officer of the department ~~shall be~~ is acting in cooperation with any other local peace officer, or county attorney in general criminal investigation work, or when acting on a special assignment by the commissioner, the ~~member's~~ jurisdiction ~~shall be~~ of the peace officer is statewide.

Sec. 7. Section 80.9, subsection 4, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

4. The state patrol is established in the department. The patrol shall be under the direction of the commissioner. The number of supervisory officers shall be in proportion to the membership of the state patrol.

Sec. 8. Section 80.9, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department shall be primarily responsible for the enforcement of all laws and rules relating to any controlled substance or counterfeit substance, except for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, physicians, hospitals, and health care facilities as defined in section 135C.1, as well as in the possession of any and all other individuals or institutions authorized to have possession of any controlled substances.

Sec. 9. Section 80.11, Code 2005, is amended to read as follows:

80.11 COURSE OF INSTRUCTION.

The course ~~or courses~~ of instruction for peace officers of the department shall ~~include instruction in the following subjects and such others as shall be deemed advisable by the college of law and the commissioner of public safety:~~

~~1.--Criminal-law.~~

~~2.--Identification-of-criminals-and-fingerprinting.~~

~~3.--Methods-of-criminal-investigation.~~

~~4.--Rules-of-criminal-evidence.~~

~~5.--Presentation-of-cases-in-court.~~

~~6.--Making-of-complaints-and-securing-of-criminal-warrants.~~

~~7.--Securing-and-use-of-search-warrants.~~

~~8.--How-to-secure-extradition-and-return.~~

~~9.--Small-arms-instruction.~~

~~10.--Regulation-of-traffic.~~

~~11.--First-aid.~~, at a minimum, be equal to the course of instruction required by the Iowa law enforcement academy pursuant to chapter 80B.

Sec. 10. Section 80.13, Code 2005, is amended to read as follows:

80.13 TRAINING SCHOOLS.

The commissioner ~~of public safety is authorized to~~ may hold a training school for peace officer candidates ~~for or members for peace officers~~ of the department ~~of public safety~~, and may send to recognized training schools ~~such members~~ peace officers of the department as the commissioner may deem advisable. The expenses of such school of training shall be paid in the same manner as other expenses ~~of the patrol~~ paid by the department.

Sec. 11. Section 80.15, Code 2005, is amended to read as follows:

80.15 EXAMINATION -- OATH -- PROBATION -- DISCIPLINE -- DISMISSAL.

An applicant ~~for membership~~ to be a peace officer in the department ~~of public safety, except clerical workers and special agents appointed under section 80:7,~~ shall not be appointed as a member peace officer until the applicant has passed a satisfactory physical and mental examination. In addition, the applicant must be a citizen of the United States and be not less than twenty-two years of age. However, an applicant applying for assignment to provide protection and security for persons and property on the grounds of the state

capitol complex or a peace officer candidate shall not be less than eighteen years of age. The mental examination shall be conducted under the direction or supervision of the commissioner ~~of public safety~~ and may be oral or written or both. ~~Each~~ An applicant shall take an oath on becoming a ~~member~~ peace officer of the ~~force~~ department, to uphold the laws and Constitution of the United States and Constitution of the ~~state~~ State of Iowa. During the period of twelve months after appointment, ~~any member~~ a peace officer of the department ~~of public safety, except members of the present Iowa state patrol who have served more than six months,~~ is subject to dismissal at the will of the commissioner. After the twelve months' service, a ~~member~~ peace officer of the department, who was appointed after having passed the examinations, is not subject to dismissal, suspension, disciplinary demotion, or other disciplinary action resulting in the loss of pay unless charges have been filed with the department of inspections and appeals and a hearing held by the employment appeal board created by section 10A.601, if requested by the ~~member~~ peace officer, at which the ~~member~~ peace officer has an opportunity to present a defense to the charges. The decision of the appeal board is final, subject to the right of judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. However, these procedures as to dismissal, suspension, demotion, or other discipline do not apply to a ~~member~~ peace officer who is covered by a collective bargaining agreement which provides otherwise ~~nor~~ and do not apply to the demotion of a division head to the rank which the division head held at the time of appointment as division head, if any. A division head who is demoted has the right to return to the rank which the division head held at the time of appointment as division head, if any. All rules, except employment provisions negotiated pursuant to chapter 20, regarding the enlistment, appointment, and employment affecting the personnel of the department shall be established by the commissioner in consultation with the director of the department of administrative services, subject to approval by the governor.

Sec. 12. Section 80.17, Code 2005, is amended to read as follows:

80.17 GENERAL ALLOCATION OF DUTIES.

1. In general, the allocation of duties of the department ~~of-public-safety~~ shall be as follows:

~~1-~~ a. Commissioner's office.

~~2-~~ b. Division of ~~statistics-and-records~~ administrative services.

~~3-~~ c. Division of criminal investigation.

~~4-~~ d. Division of ~~the-Iowa~~ state patrol.

~~5-~~ e. Division of state fire protection marshal.

~~6-~~ f. Division of ~~inspection~~ narcotics enforcement.

~~7---Division-of-capitol-police-~~

2. The commissioner may appoint a chief, director, a first and second assistant to the director, and all other supervisory officers in each division. All appointments and promotions shall be made on the basis of seniority and a merit examination.

3. ~~Nothing-in-the~~ The aforesaid allocation of duties shall not be interpreted to prevent flexibility in interdepartmental operations or to forbid other divisional allocations of duties in the discretion of the commissioner ~~of-public-safety~~.

Sec. 13. Section 80.18, Code 2005, is amended to read as follows:

80.18 EXPENSES AND SUPPLIES -- REIMBURSEMENT.

~~It-shall-be-the-duty-of-the~~ The commissioner ~~of-public safety-to~~ shall provide ~~for-the-members~~ peace officers of the department when on duty, with suitable uniforms, subsistence, arms, equipment, quarters, and other necessary supplies, and also the expense and means of travel and boarding ~~the-members of-the-department,~~ according to rules ~~made~~ adopted by the commissioner, and as may be provided by appropriation.

The department may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's peace officers or employees damaged or destroyed during ~~the~~ a peace officer's or employee's ~~tour-of-duty~~ course of employment. However, the reimbursement shall not exceed the greater of one hundred fifty dollars or the amount agreed to under the collective bargaining agreement for each item. The department shall ~~establish~~ adopt rules in accordance with chapter 17A to ~~carry out-the-purpose-of~~ administer this paragraph.

Sec. 14. Section 80.19, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The commissioner ~~of-public-safety~~ may ~~co-operate~~ cooperate with any recognized agency in the education of the public in highway safety.

Sec. 15. Section 80.20, Code 2005, is amended to read as follows:

80.20 DIVISIONAL HEADQUARTERS.

The commissioner ~~of-public-safety~~ may, subject to the approval of the governor, establish divisional headquarters at various places in the state. Supervisory officers may be at all times on duty in each district headquarters.

Sec. 16. Section 80.23, Code 2005, is amended to read as follows:

80.23 SPECIAL STATE AGENTS -- MEANING.

~~Whenever-mention-is-made-in-the-Code-of~~ If the term "special state agents" is used in the Code in connection with law enforcement, the same term shall be construed to mean members a peace officer of the state department ~~of-public safety~~.

Sec. 17. Section 80.24, Code 2005, is amended to read as follows:

80.24 MUNICIPAL AND INDUSTRIAL DISPUTES.

~~The-police-employees~~ A peace officer of the department shall not be used or called upon for service within any municipality or in any industrial dispute unless actual a threat of imminent violence has-occurred-therein exists, and then only either by order of the governor or on the request of the chief executive officer of the municipality or the sheriff of the county ~~wherein where~~ the dispute-has-occurred threat of imminent violence exists if such request is approved by the governor.

Sec. 18. Section 80.33, Code 2005, is amended to read as follows:

80.33 ACCESS TO DRUG RECORDS BY ~~AGENTS~~ PEACE OFFICERS.

~~Every~~ A person required by law to keep records, and ~~any~~ a carrier maintaining records with respect to any shipment containing any controlled or counterfeit substances shall, upon request of an authorized ~~agent~~ peace officer of the department ~~of-public-safety~~, designated by the commissioner ~~of public-safety~~, permit such ~~agent~~ peace officer at reasonable times to have access to and copy such records. For the purpose of examining and verifying such records, an authorized ~~agents~~ peace officer of the department ~~of-public-safety~~,

designated by the commissioner ~~of public safety~~, may enter at reasonable times any place or vehicle in which any controlled or counterfeit substance is held, manufactured, dispensed, compounded, processed, sold, delivered, or otherwise disposed of and inspect such place or vehicle, and the contents ~~thereof of such place or vehicle~~. For the purpose of enforcing laws relating to controlled or counterfeit substances, and upon good cause shown, ~~personnel of the division of drug law enforcement in~~ the peace officer of the department ~~of public safety~~ shall be allowed to inspect audits and records in the possession of the state board of pharmacy examiners.

Sec. 19. Section 80.34, Code 2005, is amended to read as follows:

80.34 ~~POWERS OF PEACE OFFICERS~~ PEACE OFFICER -- AUTHORITY.

~~Any An~~ authorized ~~agent~~ peace officer of the department ~~of public safety~~ designated to conduct examinations, investigations, or inspections and enforce the laws relating to controlled or counterfeit substances shall have all the ~~powers~~ authority of other peace officers and may arrest a person without warrant for offenses under this chapter committed in the ~~agent's~~ peace officer's presence or, in the case of a felony, if the ~~agent~~ peace officer has probable cause to believe that the person arrested has committed or is committing such offense. ~~Such officers~~ A peace officer of the department shall have the same ~~powers~~ authority as other peace officers to seize controlled or counterfeit substances or articles used in the manufacture or sale of controlled or counterfeit substances which they have reasonable grounds to believe are in violation of law. Such controlled or counterfeit substances or articles shall be subject to condemnation.

Sec. 20. Section 80.36, Code 2005, is amended to read as follows:

80.36 MAXIMUM AGE.

A person shall not be employed as a peace officer in the department ~~of public safety~~ after attaining sixty-five years of age.

Sec. 21. Section 80.39, subsection 1, Code 2005, is amended to read as follows:

1. Personal property, except for motor vehicles subject to sale pursuant to section 321.89, and seizable property subject to disposition pursuant to chapter 809 or 809A, which personal

property is found or seized by, turned in to, or otherwise lawfully comes into the possession of the department ~~of public safety~~ or a local law enforcement agency and which the department or agency does not own, shall be disposed of pursuant to this section. If by examining the property the owner or lawful custodian of the property is known or can be readily ascertained, the department or agency shall notify the owner or custodian by certified mail directed to the owner's or custodian's last known address, as to the location of the property. If the identity or address of the owner cannot be determined, notice by one publication in a newspaper of general circulation in the area where the property was found is sufficient notice. A published notice may contain multiple items.

Sec. 22. Section 97A.1, subsection 13, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

13. "Peace officer" means a member, except a non-peace officer member, of the division of state patrol, narcotics enforcement, state fire marshal, or criminal investigation, including but not limited to a gaming enforcement officer, who has passed a satisfactory physical and mental examination and has been duly appointed as a member of the department of public safety in accordance with section 80.15.

Sec. 23. Section 97A.3, subsection 1, Code 2005, is amended to read as follows:

1. All peace officer members of the division of highway safety, uniformed force, and radio communications state patrol and the division of criminal investigation and bureau of identification in the department of public safety, excepting the members of the clerical force, who are employed by the state of Iowa on July 4, 1949, and all persons thereafter employed as members of such divisions in the department of public safety or division of drug-law narcotics enforcement and arson investigators or division of state fire marshal, except the members of the clerical force, shall be members of this system, except as otherwise provided in subsection 3. Effective July 1, 1994, gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, and fire prevention inspector peace officers employed by the department of public safety, and employees of the division of capitol police, except

~~clerical-workers~~, shall be members of this system, except as otherwise provided in subsection 3 or section 97B.42B. Such members shall not be required to make contributions under any other pension or retirement system of the state of Iowa, anything to the contrary notwithstanding.

Sec. 24. Section 97B.42B, subsection 1, paragraph c, Code 2005, is amended by striking the paragraph.

Sec. 25. Section 100B.13, subsections 1 and 4, Code 2005, are amended to read as follows:

1. A volunteer fire fighter preparedness fund is created as a separate and distinct fund in the state treasury under the control of the division of state fire protection marshal of the department of public safety.

4. Moneys in the volunteer fire fighter preparedness fund are appropriated to the division of state fire protection marshal of the department of public safety to be used annually to pay the costs of providing volunteer fire fighter training around the state and to pay the costs of providing volunteer fire fighting equipment.

Sec. 26. Section 100C.9, Code 2005, is amended to read as follows:

100C.9 DEPOSIT AND USE OF MONEYS COLLECTED.

1. All fees assessed pursuant to this chapter shall be retained as repayment receipts by the division of state fire protection marshal in the department of public safety and such fees received shall be used exclusively to offset the costs of administering this chapter.

2. Notwithstanding section 8.33, fees collected by the division of state fire protection marshal that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 27. Section 100C.10, subsection 1, Code 2005, is amended to read as follows:

1. A fire extinguishing system contractors advisory board is established in the division of state fire protection marshal of the department of public safety and shall advise the ~~state-fire-marshal~~ division on matters pertaining to the application and certification of fire extinguishing system contractors pursuant to this chapter.

Sec. 28. Section 123.14, Code 2005, is amended to read as follows:

123.14 BEER, WINE, AND LIQUOR LAW ENFORCEMENT.

1. The ~~division of beer and liquor law enforcement of the~~ department of public safety, ~~created pursuant to section 80-25,~~ is the primary beer, wine, and liquor law enforcement authority for this state.

2. The ~~other law enforcement divisions of the department of public safety,~~ the county attorney, the county sheriff and the sheriff's deputies, and the police department of every city, and the alcoholic beverages division of the department of commerce, shall be supplementary aids to the division of beer and liquor law enforcement department of public safety. Any neglect, misfeasance, or malfeasance shown by any peace officer included in this section shall be sufficient cause for the peace officer's removal as provided by law. ~~Nothing in this~~ This section shall not be construed to affect the duties and responsibilities of any county attorney or peace officer with respect to law enforcement.

3. The ~~division of beer and liquor law enforcement~~ department of public safety shall have full access to all records, reports, audits, tax reports and all other documents and papers in the alcoholic beverages division pertaining to liquor licensees and wine and beer permittees and their business.

Sec. 29. Section 124.510, unnumbered paragraph 2, Code 2005, is amended to read as follows:

This information is for the exclusive use of the division of narcotic ~~and drug~~ enforcement, in the department of public safety, and shall not be a matter of public record.

Sec. 30. Section 305.8, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. In consultation with the homeland security and emergency management division of the department of public safety defense, establish policies, standards, and guidelines for the identification, protection, and preservation of records essential for the continuity or reestablishment of governmental functions in the event of an emergency arising from a natural or other disaster.

Sec. 31. CODE EDITOR DIRECTIVES.

1. The Code editor is directed to change the term "Iowa state patrol" to "state patrol" wherever that term appears in

the 2005 Code or in Acts enacted during a regular or extraordinary 2005 session of the general assembly, or in other Acts pending codification.

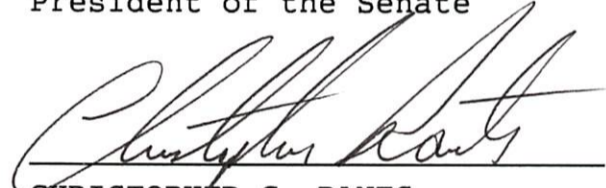
2. The Code editor is directed to change the term "division of criminal investigation and bureau of identification" to "division of criminal investigation" wherever the term appears in the 2005 Code or in Acts enacted during a regular or extraordinary 2005 session of the general assembly, or in other Acts pending codification.

Sec. 32. Sections 80.4, 80.5, 80.10, 80.12, 80.16, 80.25, 80.27, 80.30, and 80.35, Code 2005, are repealed.



JOHN P. KIBBIE

President of the Senate



CHRISTOPHER C. RANTS

Speaker of the House

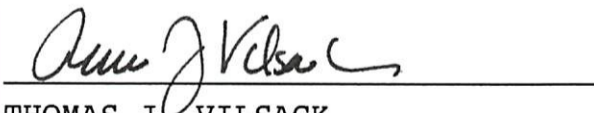
I hereby certify that this bill originated in the Senate and is known as Senate File 283, Eighty-first General Assembly.



MICHAEL E. MARSHALL

Secretary of the Senate

Approved April 19, 2005



THOMAS J. VILSACK

Governor