SENATE FILE 513
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SSB 1175)

(As Amended and Passed by the Senate March 15, 2023)
ALL New Language by the Senate

A BILL FOR

An Act relating to motor vehicle enforcement duties of the department of public safety and the department of transportation, providing transfers of moneys, and including effective date provisions.

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

Section 1. Section 80.5, subsection 2, Code 2023, is amended to read as follows:

2. 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. The department shall maintain a vehicle theft unit in the state patrol to investigate and assist in the examination and identification of stolen, altered, or forfeited vehicles. In addition to other duties, powers, and responsibilities prescribed by law, the state patrol shall conduct enforcement activities that ensure the safe and lawful movement and operation of commercial motor vehicles and vehicles transporting loads, including but not limited to the enforcement of motor vehicle laws relating to the operating authority, registration, size, weight, and load of motor vehicles and trailers.

Sec. 2. Section 80.5, Code 2023, is amended by adding the following new subsections:

NEW SUBSECTION. 10. The department of public safety shall adopt, after consultation with the department of natural resources and the department of transportation, rules relating to enforcement of the rules regarding transportation of hazardous wastes adopted by the department of natural resources and the department of transportation. The state patrol shall carry out the enforcement of the rules, in accordance with state law.

NEW SUBSECTION. 11. The department shall submit a report to the general assembly on or before December 1 of each year that details the nature and scope of enforcement activities that ensure the safe and lawful movement and operation of commercial motor vehicles and vehicles transporting loads conducted by members of the state patrol assigned to such enforcement activities in the previous year. The report shall include a comparison of commercial and noncommercial motor vehicle enforcement activities conducted by such members of the state

patrol.

Sec. 3. Section 80B.6, subsection 1, paragraph k, Code 2023, is amended to read as follows:

k. A member of ~~the office of motor vehicle enforcement of~~ the department of transportation involved with the enforcement activities set forth in section 321.477.

Sec. 4. Section 97B.42B, Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. *a.* Commencing July 1, 2023, a person who is a designated peace officer in the department of transportation under section 321.477, Code 2023, as of June 30, 2023, who has fewer than ten years of membership service, and who is transferred to the department of public safety pursuant to this Act, shall be a member of the Iowa department of public safety peace officers' retirement, accident, and disability system established in chapter 97A.

b. Commencing July 1, 2023, a person who is a designated peace officer in the department of transportation under section 321.477, Code 2023, as of June 30, 2023, who has ten or more years of membership service, and who is transferred to the department of public safety pursuant to this Act, shall remain a member of the Iowa public employees' retirement system.

Sec. 5. Section 97B.49B, subsection 1, paragraph e, subparagraph (5), Code 2023, is amended to read as follows:

(5) (a) An employee of the state department of transportation who is designated as a *"peace officer"* by resolution under section 321.477, but only if the employee retires on or after July 1, 1990. For purposes of this subparagraph, service as a traffic weight officer employed by the highway commission prior to the creation of the state department of transportation or as a peace officer employed by the Iowa state commerce commission prior to the creation of the state department of transportation shall be included in computing the employee's years of membership service.

(b) An employee of the department of public safety described

in section 97B.42B, subsection 4A, paragraph "b".

Sec. 6. Section 152C.5B, subsection 1, paragraph b, subparagraph (5), Code 2023, is amended by striking the subparagraph.

Sec. 7. Section 157.4A, subsection 1, paragraph b, subparagraph (5), Code 2023, is amended by striking the subparagraph.

Sec. 8. Section 307.12, subsection 1, paragraph n, Code 2023, is amended by striking the paragraph.

Sec. 9. Section 307.48, Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 3. An employee of the office of motor vehicle enforcement of the department of transportation on June 30, 2023, who is transferred to the department of public safety pursuant to this Act, retains all rights to longevity pay.

Sec. 10. Section 321.2, subsection 2, Code 2023, is amended to read as follows:

2. The division of state patrol of the department of public safety shall enforce the provisions of this chapter relating to traffic on the public highways of the state, including those relating to the safe and legal operation of passenger cars, motorcycles, motor trucks, ~~and~~ buses, and other commercial motor vehicles, and to see that proper safety rules are observed.

Sec. 11. Section 321.266, subsection 4, Code 2023, is amended to read as follows:

4. Notwithstanding section 455B.386, a carrier transporting hazardous material upon a public highway in this state, in the case of an accident involving the transportation of the hazardous material, shall immediately notify the police radio broadcasting system established pursuant to section 693.1 or shall notify a peace officer of the county or city in which the accident occurs. When a local law enforcement agency is informed of the accident, the agency shall notify the state patrol ~~and the state department of transportation office of~~

~~motor vehicle enforcement~~. A person who violates a provision of this subsection is guilty of a serious misdemeanor.

Sec. 12. Section 321.449, subsection 1, paragraphs a and b, Code 2023, are amended to read as follows:

a. A person shall not operate a commercial vehicle on the highways of this state except in compliance with rules adopted by the department of public safety, in consultation with the department of transportation, under chapter 17A. The rules shall be consistent with the federal motor carrier safety regulations promulgated under United States Code, Tit. 49, and found in 49 C.F.R. pts. 385, 390 — 399 and adopted under chapter 17A.

b. The department of public safety, in consultation with the department of transportation, shall also adopt rules concerning hours of service for drivers of vehicles operated for hire and designed to transport seven or more persons, including the driver. The rules shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and that are regulated by local authorities pursuant to section 321.236.

Sec. 13. Section 321.449, subsection 4, paragraph c, Code 2023, is amended to read as follows:

c. A driver or a driver-salesperson for a private carrier, who is not for hire and who is engaged exclusively in intrastate commerce, may drive twelve hours, be on duty sixteen hours in a twenty-four-hour period, and be on duty seventy hours in seven consecutive days or eighty hours in eight consecutive days. A *"driver-salesperson"* means as defined in 49 C.F.R. §395.2, as adopted by the department of public safety by rule.

Sec. 14. Section 321.449, subsection 8, Code 2023, is amended to read as follows:

8. In the course of enforcing the motor carrier safety rules adopted by the department of public safety under chapter 17A, the ~~department's~~ department of public safety's peace

officers are authorized, at reasonable times and places and with reasonable notice, to enter a motor carrier's place of business for the purpose of performing a motor carrier safety audit or compliance review. Nothing in this subsection by itself permits the seizure of the property of a motor carrier. Any audit or review shall be conducted in compliance with the federal motor carrier safety regulations in 49 C.F.R. pts. 105 — 185, 382, 383, 385, and 390 — 399. A peace officer of the department of public safety is authorized to inspect and copy motor carrier records required by 49 C.F.R. pts. 105 — 185, 382, 383, 385, and 390 — 399.

Sec. 15. Section 321.449B, subsection 1, Code 2023, is amended to read as follows:

1. *a.* A person subject to rules adopted by the department of public safety pursuant to section 321.449 shall not operate a commercial motor vehicle while engaged in texting as prohibited by 49 C.F.R. §392.80, except in an emergency or as otherwise permitted under 49 C.F.R. §392.80.

b. A person subject to rules adopted by the department of public safety pursuant to section 321.449 shall not operate a commercial motor vehicle while using a hand-held mobile telephone as prohibited by 49 C.F.R. §392.82, except in an emergency or as otherwise permitted under 49 C.F.R. §392.82.

Sec. 16. Section 321.450, subsection 1, Code 2023, is amended to read as follows:

1. A person shall not transport or have transported or shipped within this state any hazardous material except in compliance with rules adopted by the department of public safety under chapter 17A. The rules shall be consistent with the federal hazardous materials regulations adopted under United States Code, Tit. 49, and found in 49 C.F.R. pts. 107, 171 to 173, 177, 178, and 180.

Sec. 17. Section 321.463, subsection 5, paragraph b, Code 2023, is amended to read as follows:

b. Notwithstanding any provision of law to the contrary,

a motor vehicle described in paragraph "*a*" equipped with an auxiliary power or idle reduction technology unit that reduces fuel use and emissions during engine idling may exceed any applicable maximum gross weight limit under this chapter by five hundred fifty pounds or the weight of the auxiliary power or idle reduction technology unit, whichever is less. This paragraph "*b*" ~~shall~~ does not apply unless the operator of the vehicle provides to the department of public safety a written certification of the weight of the auxiliary power or idle reduction technology unit, demonstrates or certifies to the department of public safety that the idle reduction technology unit is fully functional at all times, and carries with the operator the written certification of the weight of the auxiliary power or idle reduction technology unit in the vehicle at all times to present to law enforcement in the event the vehicle is suspected of violating any applicable weight restrictions.

Sec. 18. Section 321.476, subsection 1, Code 2023, is amended to read as follows:

1. ~~*a. Authority is hereby given to the*~~ A member of the state patrol of the department ~~to stop~~ of public safety is authorized to do any of the following:

a. Stop any motor vehicle or trailer on the highways for the purposes of weighing and inspection, to weigh and inspect the same and to enforce the provisions of the motor vehicle laws relating to the registration, size, weight, and load of motor vehicles and trailers.

b. ~~Authority is also hereby granted to subject to weighing and inspection,~~ Weigh and inspect vehicles which have moved from a highway onto private property under circumstances which indicate that the load of the vehicle, if any, is substantially the same as the load which the vehicle carried before moving onto the private property.

Sec. 19. Section 321.477, Code 2023, is amended to read as follows:

321.477 Employees as peace officers — maximum age.

1. The department may designate by resolution certain of its employees upon each of whom there is conferred the authority of a peace officer to ~~enforce all laws of the state including but not limited to the rules and regulations of the department~~ investigate and enforce all of the following:

a. Laws relating to motor vehicle records, documents, credentials, procedures, and revenues, including but not limited to crimes and abuse of authority associated with fraud, identity theft, vehicle titles and registration, dealer licenses, and authorized vehicle recycler licenses.

b. Laws relating to motor vehicle fraud including but not limited to the state and federal odometer laws, including as provided in sections 307.37 and 321.71.

2. Employees designated as peace officers pursuant to this section shall have the same powers conferred by law on peace officers for the ~~enforcement of all laws of this state~~ use of force in emergent circumstances and the apprehension of violators.

~~2. Employees designated as peace officers pursuant to this section who are assigned to the supervision of the highways of this state shall spend the preponderance of their time conducting enforcement activities that assure the safe and lawful movement and operation of commercial motor vehicles and vehicles transporting loads, including but not limited to the enforcement of motor vehicle laws relating to the operating authority, registration, size, weight, and load of motor vehicles and trailers, and registration of a motor carrier's interstate transportation service with the department.~~

3. Employees designated as peace officers pursuant to this section shall not exercise the ~~general~~ powers of a peace officer set forth in this section within the limits of any city, except as follows:

a. When so ordered by the direction of the governor.

b. When request is made by the mayor of any city, with the

approval of the director.

c. When request is made by the sheriff or county attorney of any county, with the approval of the director.

d. While in the pursuit of law violators or in investigating law violations.

e. While making any inspection provided by this chapter, or any additional inspection ordered by the director.

~~*f. When engaged in the investigation and enforcement of laws relating to narcotic, counterfeit, stimulant, and depressant drugs.*~~

4. The limitations specified in subsection 3 shall in no way be construed as a limitation on the ~~power~~ ability of employees designated as peace officers pursuant to this section ~~when a public offense is being committed in their presence~~ to use force in defense of life or property.

~~5. The department shall submit a report to the general assembly on or before December 1 of each year that details the nature and scope of enforcement activities conducted in the previous fiscal year by employees designated as peace officers pursuant to this section who are assigned to the supervision of the highways of this state. The report shall include a comparison of commercial and noncommercial motor vehicle enforcement activities conducted by such employees.~~

~~6.~~ 5. The maximum age for a person employed as a peace officer pursuant to this section is sixty-five years of age.

Sec. 20. Section 321.481, Code 2023, is amended to read as follows:

321.481 No impairment of other authority.

Nothing in sections 321.476 through ~~321.480~~ 321.479 shall be so construed as to limit or impair the authority or duties of other peace officers in the enforcement of the motor vehicle laws or any portion thereof.

Sec. 21. Section 325A.10, Code 2023, is amended to read as follows:

325A.10 Rules for operation.

The department of public safety, in consultation with the department of transportation, shall adopt rules pursuant to chapter 17A as necessary to govern and control the operation, maintenance, and inspection of vehicles covered by this chapter upon the highways.

Sec. 22. Section 602.8108, subsection 8, Code 2023, is amended to read as follows:

8. The state court administrator shall allocate all of the fines and fees attributable to commercial vehicle violation citations issued by ~~motor vehicle division~~ personnel of the ~~state~~ department of ~~transportation~~ public safety to the treasurer of state for deposit in the road use tax fund.

Sec. 23. REPEAL. 2017 Iowa Acts, chapter 149, section 4, as amended by 2018 Iowa Acts, chapter 1170, section 3, 2019 Iowa Acts, chapter 7, section 1, and 2022 Iowa Acts, chapter 1082, section 1, is repealed.

Sec. 24. REPEAL. Sections 321.480 and 327B.2, Code 2023, are repealed.

Sec. 25. TRANSFERS.

1. There is transferred from the department of transportation's asset forfeiture fund to the department of public safety's asset forfeiture fund the amount of unencumbered or unobligated moneys remaining in the department of transportation's asset forfeiture fund.

2. a. The Iowa public employees' retirement system shall perform a trustee-to-trustee lump sum transfer to the Iowa department of public safety peace officers' retirement, accident, and disability system. The transfer shall include an amount consisting of the accumulated contributions by members transferred to the peace officers' retirement, accident, and disability system pursuant to this Act and every transferred member's share of the accumulated employer contributions as defined in section 97B.53. The transfer shall not be deemed to be a termination of a member's plan and an affected member shall not be entitled to a distribution of the moneys as a

result of the member's transfer.

b. Upon completion of the transfer, the Iowa department of public safety peace officers' retirement, accident, and disability system shall engage an actuary to determine the actuarial cost of the remaining transfer. For purposes of this paragraph, "the actuarial cost of the remaining transfer" is an amount determined by the peace officers' retirement, accident, and disability system in accordance with actuarial tables which reflects the actuarial cost necessary to fund the increased retirement allowances less the amount transferred by the Iowa public employees' retirement system.

c. Once the transfer is completed, the transferred members shall forfeit all rights, including service credit and benefits, under chapter 97B; shall be treated as members under chapter 97A; and shall be vested in a benefit under chapter 97A that shall not be less than the benefit to which the member was entitled under chapter 97B at the time of the transfer.

Sec. 26. TRANSITION — RULES.

1. a. Effective July 1, 2023, peace officers of the department of public safety shall assume the duties, powers, and responsibilities of peace officers designated by the department of transportation under section 321.477, Code 2023, who are assigned to the supervision of the highways of this state. On or before July 1, 2023, the department of transportation and the department of public safety, in consultation with the department of administrative services, shall identify and transfer affected positions and incumbent peace officer and civilian employees from the department of transportation to the department of public safety. Former peace officer employees of the department of transportation who are covered by a collective bargaining agreement and who are reassigned shall be placed in an existing department of public safety peace officer classification within the state police officers council bargaining unit, without loss of seniority or loss of pay accrued while serving as a peace

officer. Any peace officer so reassigned shall be entitled to all rights, privileges, and benefits of the peace officer's new classification, including longevity pay pursuant to section 80.6 as calculated based upon years of service in a peace officer position, within the state police officers council bargaining unit as of the effective date of the employee's reassignment.

b. The department of public safety shall honor a final offer of employment made by the department of transportation to a person who has not accepted the offer by July 1, 2023, if the employment offer is to fill a position that will be transitioned to the department of public safety under this Act. Such persons shall be assigned to the state patrol upon completion of the department of public safety academy training, and are entitled to all rights, privileges, and benefits of similarly reassigned positions and transitioned incumbent peace officer employees from the department of transportation.

2. On or before July 1, 2023, the department of transportation shall provide all appropriate documentation and data required for motor carrier safety assistance program activities, including but not limited to those relating to the reimbursement of expenses, for reporting purposes to the department of public safety, and any other documentation and data required by the department of public safety to comply with federal law or for purposes of the transition provided for in this Act.

3. On or before July 1, 2023, the department of transportation shall cooperate with the department of public safety to ensure the department of public safety is aware of the rules the department of transportation adopted relating to administering and enforcing commercial motor vehicle violations. The department of public safety shall inform the administrative code editor of the applicable rules that need to be transferred. Any such rule adopted by the department of transportation shall continue in full force and effect until

the rule is transferred to the department of public safety.

Sec. 27. REPORT TO GENERAL ASSEMBLY. The department of public safety, in consultation with the department of transportation, shall submit a report to the general assembly on or before December 1, 2023, regarding the transfer of peace officers from the department of transportation to the department of public safety in accordance with this Act. The report shall include but is not limited to the actual expenditures already made and the anticipated remaining expenditures to be made by both departments to complete the transition, the moneys transferred from the department of transportation's asset forfeiture fund to the department of public safety's asset forfeiture fund, the moneys transferred from the Iowa public employees' retirement system to the Iowa department of public safety peace officers' retirement, accident, and disability system, and any equipment costs incurred by either department prior to the reporting date.

Sec. 28. EFFECTIVE DATE. The following, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act repealing 2017 Iowa Acts, chapter 149, section 4.

2. The section of this Act setting forth transition provisions.