

CHAPTER 59

(HB 410)

AN ACT relating to the Kentucky State Police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 16.010 is amended to read as follows:

As used in KRS *16.010 to 16.185 and Sections 12 to 15 of this Act*~~[16.030 to 16.170]~~, unless the context requires otherwise:

- (1) "Cabinet" means the Justice and Public Safety Cabinet;
- (2) "Secretary" means the secretary of justice and public safety;
- (3) "Commissioner" means the commissioner of the Department of Kentucky State Police;
- (4) "Officer" means any member of the Department of Kentucky State Police, *other than an individual employed as a Trooper R Class*, who possesses the powers of a peace officer;
- (5) "Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer;
- (6) "Board" means the Department of Kentucky State Police Personnel Board;
- (7) "Department" means the Department of Kentucky State Police;~~[-and]~~
- (8) "Continuous service" for participation in and eligibility for the promotional process for each rank *of officer commissioned under this chapter* means:
 - (a) For sergeant, service as a commissioned Kentucky State Police officer that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, or termination;
 - (b) For lieutenant, service in grade as a sergeant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with KRS 16.140;
 - (c) For captain, service in grade as lieutenant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with KRS 16.140; *and*
 - (9) *"Trooper R Class" means any retired Kentucky State Police officer commissioned under this chapter who has become reemployed with the department on a contractual basis pursuant to Sections 12 to 15 of this Act.*

➔Section 2. KRS 16.040 is amended to read as follows:

- (1) The department shall consist of the commissioner and the number of officers, *individuals employed as a Trooper R Class*, and civilians, and shall be organized in the manner as the commissioner from time to time determines.
- (2) All persons appointed as officers shall at the time of their appointment:
 - (a) Be not less than twenty-one (21) nor more than thirty-one (31) years of age;
 - (b) Be of good moral character, and in good health;
 - (c) Be citizens of the United States and residents of the Commonwealth; and
 - (d) Possess a minimum of sixty (60) hours of credit, or an associate degree, from an accredited college or university, or be a high school graduate with at least two (2) years' experience in the military or in law enforcement.
- (3) The commissioner shall prescribe minimum physical requirements for appointment as an officer of the department *and for individuals employed as Trooper R Class*, and shall conduct such tests and require such physical examinations as deemed necessary to determine the fitness and qualification of each applicant. All

other qualifications being equal, preference shall be given to veterans of the Armed Forces of the United States in time of war, who were honorably discharged.

- (4) The commissioner shall direct an investigation to be conducted in order to determine an applicant's suitability for employment as an officer. The contents of the investigation shall be subject to the Open Records Act, KRS 61.870 to 61.884 and KRS 61.991, except that the identity of any witness or informant involving information relative to this investigation shall remain confidential. The identity of any witness or informant shall be subject to the subpoena power of a court of competent jurisdiction.

➔Section 3. KRS 16.055 is amended to read as follows:

- (1) Promotions to sergeant within the department shall be on the following terms and conditions:
- (a) The applicant must have served six (6) years of continuous service as a commissioned State Police officer to be eligible for promotion to sergeant;
 - (b) Promotions shall be based on cumulative scores computed from ~~twenty-five~~~~{twenty}~~ percent (25%)~~{(20%)}~~ on personnel performance evaluation, ~~thirty~~~~{forty}~~ percent (30%)~~{(40%)}~~ on job simulation examination, and ~~forty-five~~~~{forty}~~ percent (45%)~~{(40%)}~~ on a written examination;
 - (c) The promotional list shall ~~be valid~~~~{continue in existence}~~ for one (1) year, shall consist of the numerical scores and rankings of each applicant, and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two (2) or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;
 - (d) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his or her staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken;
 - (e) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his or her numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%);
 - (f) The job simulation examination shall be evaluated by boards designated by the commissioner consisting of the commissioner or his or her designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky State Police of the rank equal to the position for which the applicant is competing;
 - (g) The designated job simulation examination boards will perform all evaluations under guidelines developed and approved by the commissioner; and
 - (h) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.
- (2) Promotions from sergeant to lieutenant within the department shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least one (1) year of continuous service in grade as sergeant.
- (3) Promotions from lieutenant to captain within the department shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain must have completed at least one (1) year of continuous service in grade as lieutenant.
- (4) The department will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.

- (5) Officers promoted to rank of sergeant, lieutenant, or captain shall serve a probationary period for one (1) year of continuous service from the effective date of their promotions, and may be reverted to their previous rank with or without cause at any time during this period.
- (6) The provisions of KRS 16.140 to the contrary notwithstanding, all ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.
- (7) The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) nonsupervisory officers.
- (8) No officer of the department, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.
- (9) There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the department promotional system. All personnel actions are to be based solely on merit.

→Section 4. KRS 16.060 is amended to read as follows:

It shall be the duty of the commissioner,~~and~~ each officer of the department, **and each individual employed as a Trooper R Class** to detect and prevent crime, apprehend criminals, maintain law and order throughout the state, to collect, classify and maintain information useful for the detection of crime and the identification, apprehension and conviction of criminals and to enforce the criminal, as well as the motor vehicle and traffic laws of the Commonwealth. To this end the commissioner,~~and~~ each officer of the department, **and each individual employed as a Trooper R Class** is individually vested with the powers of a peace officer and shall have in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, constables and police officers in their respective jurisdictions, and shall possess all the immunities and matters of defense now available or hereafter made available to sheriffs, constables and police officers in any suit brought against them in consequence of acts done in the course of their employment. Any warrant of arrest may be executed by the commissioner,~~or~~ any officer of the department, **and each individual employed as a Trooper R Class**.

→Section 5. KRS 16.070 is amended to read as follows:

- (1) The commissioner is the head and chief executive officer of the department. He or she shall provide for himself or herself,~~and~~ each officer of the department, **and each individual employed as a Trooper R Class**, under the provisions of KRS 45A.045 to 45A.650, such uniforms, equipment, and facilities, including motor vehicles, necessary to the performance of their respective duties, but all uniforms, equipment, and facilities, including motor vehicles, shall remain the property of the Commonwealth. The commissioner may sell through the Finance and Administration Cabinet, under the provisions of KRS 45A.045 to 45A.650, such uniforms, equipment, and facilities, including motor vehicles, as become unfit for use, and all moneys received therefrom shall be paid into the State Treasury and credited to a revolving fund to be used by the department.
- (2) The commissioner shall keep an inventory and shall charge against each officer **and each individual employed as a Trooper R Class** the value of all property of the department issued to him or her, and if it is determined by the commissioner that any loss or destruction of property was due to the carelessness or neglect of an officer **or an individual employed as a Trooper R Class**, then the value of the property shall be deducted from the pay of the officer **or the individual employed as a Trooper R Class**.
- (3) By agreement with the commissioner of highways of the Commonwealth, the commissioner of the Department of Kentucky State Police may provide for the leasing of motor vehicles and accessories thereto, radio facilities and equipment, office equipment, and other property or facilities, upon such terms and conditions and for such compensation as said agreement may provide. The commissioner of highways and the commissioner of the Department of Kentucky State Police may further provide, by agreement, for the service and repair at any state garage of motor vehicles or accessories thereto which are owned, operated, or rented by the department, upon such terms and conditions and for such compensation as said agreement may provide. Subject to KRS Chapter 42, the department is authorized, by lease or purchase, to acquire, maintain, and operate motor vehicles, and the officers of said department, including the commissioner **and individuals employed as Trooper R Class**, are authorized and empowered to operate such motor vehicles in the course of their duties, and in carrying out the purposes, responsibilities, and functions provided for in KRS 16.010 to 16.170.

- (4) The commissioner shall establish local headquarters so as to best distribute the officers, ***individuals employed as Trooper R Class***, and employees of the department throughout the various sections of the Commonwealth where they will be most efficient in carrying out the provisions of ***KRS 16.010 to 16.185 and Sections 12 to 15 of this Act***~~[16.010 to 16.170]~~.

➔Section 6. KRS 16.080 is amended to read as follows:

- (1) The commissioner shall promulgate administrative regulations for the enlistment, training, discipline, and conduct of officers of the department ***and individuals employed as Trooper R Class***, and ~~the commissioner~~~~he or she~~ may promulgate administrative regulations for the governing and operation of the department as appear to him or her reasonably necessary to carry out the provisions of KRS 16.010 to 16.170.
- (2) The commissioner may require any officer, ***individual employed as a Trooper R Class***, or civilian who receives or disburses public funds in the course of his or her duties to file a bond, conditioned that he or she will honestly, correctly, and according to law, receive, disburse, and account for all public moneys coming into his or her hands. The commissioner,~~and~~ each officer, ***and each individual employed as a Trooper R Class***, shall execute a bond to the Commonwealth of Kentucky in the sum of not less than two thousand dollars (\$2,000), conditioned upon the faithful discharge of his or her duties. The premium on the bonds shall be paid by the department. The commissioner,~~and~~ each officer of the department, ***and each individual employed as a Trooper R Class*** shall, before entering upon the discharge of their official duties, take the constitutional oath of office.
- (3) Subject to the provisions of KRS 56.440 to 56.550, the commissioner, with the approval of the Governor and the secretary of the Finance and Administration Cabinet, may acquire real estate or interests therein, by purchase, lease, or otherwise, necessary for the purposes of the department, and, with like approval, provide for the acquisition or construction of necessary buildings and other permanent structures and facilities. Title to any real estate acquired shall be taken in the name of the Commonwealth.

➔Section 7. KRS 16.100 is amended to read as follows:

- (1) The commissioner may approve vouchers in payment of expenses, including travel, lodging and meals incurred by officers, ***individuals employed as Trooper R Class***, and civilians of the department in the discharge of their duties, and such vouchers shall be audited and paid out of the department's appropriation in the manner required by law.
- (2) The commissioner may, with the approval of the secretary of the Finance and Administration Cabinet, approve payment of a per diem allowance for officers of the department ***and individuals employed as Trooper R Class***, payable in a fixed sum for each day the officer ***or individual employed as a Trooper R Class*** is on duty. The per diem allowance herein provided shall not be payable when the officer ***or the individual employed as a Trooper R Class*** is on travel status as provided by subsection (1) of this section.

➔Section 8. KRS 16.110 is amended to read as follows:

No fee for the performance of an act in line of duty, and no reward offered for the apprehension and conviction of any person or for the recovery of any property may be accepted by any officer, ***individual employed as a Trooper R Class***, or employee of the department, but any fee or reward to which such officer, ***individual employed as a Trooper R Class***, or civilian would be entitled, apart from the foregoing provision, shall be paid into the State Treasury and credited to a revolving fund, to be used by the department.

➔Section 9. KRS 16.140 is amended to read as follows:

- (1) With the exceptions specified in this section, KRS 16.150,~~and KRS~~ 16.160, ***and Sections 12 to 15 of this Act***, no officer of the department shall be removed, suspended, reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, or violation of law or of any administrative regulation promulgated by the commissioner. Any person may prefer charges in writing against any officer ***or individual employed as a Trooper R Class***, which shall be filed in the Office of Internal Affairs, which shall be designated by the commissioner as the recipient of charges and shall be administratively responsible for the maintenance of good order within the department through the collection and investigation of charges and the retention of their dispositions. The charges shall be signed by the person making the same, and shall set out with clarity and distinction each and every charge. The commissioner, whenever probable cause appears, shall prefer charges against any officer whom he believes to have been guilty of conduct justifying his removal or punishment, in the interest of public order. Within five (5) days after the filing of charges, the Office of Internal Affairs shall

deliver a copy thereof, personally, by certified mail, return receipt requested to the officer offending. Within five (5) days after the receipt thereof, the officer may demand public hearing, or may admit the truth of the charges in whole or in part. If the officer admits the truthfulness of the charges, the commissioner shall remove, suspend, reduce in rank or pay the officer so offending, in proportion to the seriousness of the charges.

- (2) If the charges are denied and the officer demands a hearing within the time above specified, he shall make his demand known to the commissioner in writing. After demand for hearing has been made, the commissioner within twenty (20) days from the date thereof shall arrange for a public hearing before a trial board to be constituted in the manner provided in this section. The officer defendant shall be given not less than twenty (20) days' notice of the time, place, and hour of the hearing.
- (3) Upon the hearing, all charges shall be considered traversed and put in issue, and the trial shall be confined and limited to the issues presented by the written charges. The trial board hearing the charges may summon and compel the attendance of witnesses at all hearings or sittings, by subpoena issued by the commissioner and served upon any witness by any sheriff or other person authorized by law to serve process. If any person fails to comply with any lawful order of the department or with process, or if any witness refuses to testify concerning any matter in which he may lawfully be interrogated, any Circuit Judge, upon application of the trial board, or the commissioner, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or a refusal to testify in that court.
- (4) The officer defendant shall have the right to subpoena in his behalf any witnesses he may desire, upon furnishing their names to the trial board or to the commissioner. The officer shall likewise have the right to appear in person and by counsel.
- (5) All charges against the officer defendant, together with all proceedings before the trial board, shall be transcribed and reduced to writing and a permanent record kept thereof.
- (6) In any instance where the commissioner has probable cause to believe that an officer has been guilty of conduct justifying his removal or punishment, he may immediately suspend the officer from duty, or from both pay and duty, pending trial, and the officer shall not be again placed on duty or allowed pay thereafter until a determination of the charges under this section.
- (7) The trial board, after hearing the charges, shall fix the punishment of any officer found guilty of any one (1) or more charges, by reprimand or suspension for any length of time not to exceed six (6) months, or by reducing the grade if the officer's classification warrants same, or by combining any two (2) or more of the punishments, or by reducing the monthly salary of the officer by not more than twenty percent (20%) for not more than six (6) months, or by removing or dismissing from the service of the department any officer so found guilty.
- (8) For the purpose of hearing charges against any officer, as set forth in this section, there is created a trial board, which shall consist of the commissioner and of a panel of ten (10) officers of the department appointed by the commissioner. The commissioner shall designate from the panel not less than three (3) nor more than seven (7) members thereof to hear charges against any officer in the manner and under the procedure above set forth. The commissioner may promulgate reasonable administrative regulations governing the procedure before the trial board, which do not conflict with this section. The panel or trial board shall be a continuing body, and the officers designated shall serve thereon in addition to their other duties and without any increase in compensation, except they may be reimbursed for meals, lodging, and traveling expenses incurred while in the performance of their official duties as members of the board. Any officer defendant may for cause challenge the right of any member of the board in the trial of any action against him, and if the remaining members of the board find that the challenge is justifiable, the member of the board shall be excused from hearing the charges, and another member substituted in lieu thereof.
- (9) No officer is entitled to a hearing as provided in this section, unless his suspension is for more than twenty (20) days, or his pay reduced more than ten percent (10%); but if the officer receives more than twenty (20) days' suspension or reduction in salary of more than ten percent (10%) within a period of one (1) year, he shall have the right to such hearing in the manner above provided.
- (10) Any civilian employee may be discharged, suspended, or reduced in pay at any time by the commissioner, pursuant to KRS Chapter 18A.
- (11) Any officer appointed to the department shall be considered on probation for a period of one (1) year from and after the date of his appointment, and during that period may be discharged or suspended or reduced in rank or pay, with or without cause, by the commissioner. The rights conferred upon an officer for a hearing, as

provided in this section, shall not accrue until the officer has been employed by the department for a period of one (1) year or more.

➔Section 10. KRS 16.185 is amended to read as follows:

- (1) Any officer *or individual employed as a Trooper R Class* who is sued for any act or omission in the line of duty and who has a judgment for monetary damages rendered against him or her in his or her individual capacity, and who personally suffers actual financial loss, unreimbursed from any source, by the enforcement and satisfaction of the judgment, including any costs or attorney fees awarded pursuant thereto, shall be indemnified by the Commonwealth, from funds appropriated to the Finance and Administration Cabinet for the payment of judgments, to the extent of his or her actual financial loss.
- (2) The indemnification shall be contingent upon an express determination by the commissioner that the act or omission which resulted in liability was within the scope and course of the officer's *or the individual employed as a Trooper R Class's* employment and occurred during the performance of duty and was committed or omitted in the good faith belief that the act or omission was lawful and proper.
- (3) If the officer seeking indemnification is the commissioner, the determination referred to in subsection (2) of this section shall be made by the Governor.
- (4) The indemnification shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise available to the officer *or individual employed as a Trooper R Class* and shall not constitute a waiver of any privilege, immunity, or matter of defense, including the sovereign immunity of the Commonwealth.
- (5) The indemnification shall not be the subject of comment, directly or indirectly, before any jury hearing any cause of action in which an officer *or individual employed as a Trooper R Class* is a party, and any comment before the jury shall result in an immediate mistrial.

➔Section 11. KRS 16.170 is amended to read as follows:

No officer of the department *or individual employed as a Trooper R Class* shall, directly or indirectly, give, solicit or receive, or be in any manner concerned in giving, soliciting or receiving, any assessment, subscription or contribution for any political party or political purpose whatever. No officer *or individual employed as a Trooper R Class* shall, orally or by letter, solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or purpose whatever from any person holding a position in the department. No officer of the department *or individual employed as a Trooper R Class* shall take any part in political management or affairs or in political campaigns further than to cast his vote and to express privately his opinion. Violation of the provisions hereof shall be grounds for removal.

➔SECTION 12. KRS CHAPTER 16A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

There is created within the Department of Kentucky State Police the position of Trooper R Class that shall be utilized by the commissioner to retain retired officers commissioned under KRS Chapter 16 on a contractual basis to supplement the ranks of the Kentucky State Police.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

An individual employed as a Trooper R Class under the provisions of Sections 12 to 15 of this Act shall:

- (1) *Be a retired officer who prior to retirement was commissioned as an officer under KRS Chapter 16;*
- (2) *Be a retired member of the State Police Retirement System established by KRS 16.505 to 16.652 who retired with at least twenty (20) years of service credit;*
- (3) *Upon appointment to Trooper R Class, have been separated from the service of the Department of Kentucky State Police for a period no less than one (1) month nor greater than sixty (60) months following the individual's effective retirement date from the State Police Retirement System;*
- (4) *Have retired willingly with no administrative charges against the officer pending under Section 9 of this Act; and*
- (5) *Have retired with no pre-existing agreement between the employee and the department prior to the employee's retirement for the employee to return to work with the department.*

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

The appointment, salary, benefits, and number of individuals employed as a Trooper R Class shall be as follows:

- (1) *The commissioner may appoint Trooper R Class employees. Trooper R Class employees shall serve on a contractual basis for a term of one (1) year and the contract may be renewed annually, by agreement of the parties, for no more than four (4) additional one (1) year terms.*
- (2) *The compensation for Trooper R Class employees shall be established by administrative regulation promulgated pursuant to KRS Chapter 13A.*
- (3)
 - (a) *All appointments of individuals employed as Trooper R Class shall be based upon agency need as determined by the commissioner.*
 - (b) *Work stations for individuals employed as Trooper R Class shall be determined by agency need with consideration given to the applicant's stated preference.*
 - (c) *Merit of individuals employed as Trooper R Class shall be determined by the applicant's work performance history.*
 - (d) *Fitness of individuals employed as Trooper R Class shall be determined by the applicant's ability to adhere to the agency standards set by the commissioner under KRS Chapter 16.*
- (4) *The number of individuals employed as Trooper R Class by the department shall not:*
 - (a) *Exceed one hundred (100); or*
 - (b) *Be counted in the total employee cap for the department.*
- (5) *All individuals employed as Troopers R Class shall be assigned the job duties of trooper and shall not be placed in any supervisory positions or special work assignments.*
- (6) *Notwithstanding any provision of KRS 16.505 to 16.652, KRS 18A.005 to 18A.228, and KRS 61.510 to 61.705 to the contrary:*
 - (a) *Individuals employed as Trooper R Class shall continue to receive all retirement and health insurance benefits provided by the systems administered by Kentucky Retirement Systems to which they were entitled upon retiring from the department as a commissioned officer under KRS Chapter 16;*
 - (b) *Individuals employed as Trooper R Class shall not be eligible to receive health insurance coverage or benefits through the department and shall not be eligible to participate in the State Police Retirement System; and*
 - (c) *The department shall not pay health insurance contributions to the state health insurance plan for individuals employed as Troopers R Class.*
- (7) *Individuals employed as Trooper R Class shall be employed on a contractual basis and shall be provided due process pursuant to Section 9 of this Act for any disciplinary action imposed by the commissioner. A decision by the commissioner to not renew a contract shall not be considered a disciplinary action for purposes of this section.*
- (8) *The provisions of this section shall not eliminate or reduce any requirements under KRS 61.637 for the department to pay employer contributions to the retirement systems or to reimburse the retirement systems for the cost of retiree health, on any individual employed as a Trooper R class.*

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

- (1) *All individuals employed as Trooper R Class shall adhere to the agency standards of conduct and policy.*
- (2) *Any person may proffer charges against an individual employed as a Trooper R Class by submitting a written complaint, signed by the complainant, with the Office of Internal Affairs within the department.*

Signed by the Governor March 20, 2009.