

HB 2938 S

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2007



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 2938**

(By Delegates Boggs, M. Poling, Tucker, Martin,  
Stemple, Fragale, Paxton, Perry, Evans and D. Poling)



Passed March 10, 2007

In Effect Ninety Days from Passage

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**H. B. 2938**

(BY DELEGATES BOGGS, M. POLING, TUCKER, MARTIN,  
STEMPLE, FRAGALE, PAXTON, PERRY, EVANS AND D. POLING)

[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §30-29-1 and §30-29-5 of the Code of West Virginia, 1931, as amended, all relating to motor carrier inspectors and weight enforcement officers of the Public Service Commission; including motor carrier inspector and weight enforcement officers employed by the Public Service Commission in the definition of law-enforcement officer; and requiring certification as a law-enforcement officer of persons hired as motor carrier inspectors and weight enforcement officers after the first day of July, two thousand seven.

*Be it enacted by the Legislature of West Virginia:*

That §30-29-1 and §30-29-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**

**§30-29-1. Definitions.**

1 For the purposes of this article, unless a different  
2 meaning clearly appears in the context:

3 "Approved law-enforcement training academy" means  
4 any training facility which is approved and authorized to  
5 conduct law-enforcement training as provided in this article;

6 "Chief executive" means the Superintendent of the State  
7 Police; the chief conservation officer of the Division of  
8 Natural Resources; the sheriff of any West Virginia county;  
9 any administrative deputy appointed by the chief  
10 conservation officer of natural resources; or the chief of any  
11 West Virginia municipal law-enforcement agency;

12 "County" means the fifty-five major political  
13 subdivisions of the state;

14 "Exempt rank" means any noncommissioned or  
15 commissioned rank of sergeant or above;

16 "Governor's committee on crime, delinquency and  
17 correction" or "Governor's committee" means the Governor's  
18 committee on crime, delinquency and correction established  
19 as a state planning agency pursuant to section one, article  
20 nine, chapter fifteen of this code;

21 "Law-enforcement officer" means any duly authorized  
22 member of a law-enforcement agency who is authorized to  
23 maintain public peace and order, prevent and detect crime,  
24 make arrests and enforce the laws of the state or any county  
25 or municipality thereof, other than parking ordinances, and  
26 includes those persons employed as campus police officers at  
27 state institutions of higher education in accordance with the  
28 provisions of section five, article four, chapter eighteen-b of  
29 this code, and persons employed by the Public Service  
30 Commission as motor carrier inspectors and weight

31 enforcement officers charged with enforcing commercial  
32 motor vehicle safety and weight restriction laws although  
33 those institutions and agencies may not be considered  
34 law-enforcement agencies. The term also includes those  
35 persons employed as rangers by the Hatfield-McCoy regional  
36 recreation authority in accordance with the provisions of  
37 section six, article fourteen, chapter twenty of this code,  
38 although the authority may not be considered a  
39 law-enforcement agency: *Provided*, That the subject rangers  
40 shall pay the tuition and costs of training. As used in this  
41 article, the term "law-enforcement officer" does not apply to  
42 the chief executive of any West Virginia law-enforcement  
43 agency or any watchman or special conservation officer;

44 "Law-enforcement official" means the duly appointed  
45 chief administrator of a designated law-enforcement agency  
46 or a duly authorized designee;

47 "Municipality" means any incorporated town or city  
48 whose boundaries lie within the geographic boundaries of the  
49 state;

50 "Subcommittee" or "law-enforcement training  
51 subcommittee" means the subcommittee of the Governor's  
52 committee on crime, delinquency and correction created by  
53 section two of this article; and

54 "West Virginia law-enforcement agency" means any duly  
55 authorized state, county or municipal organization employing  
56 one or more persons whose responsibility is the enforcement  
57 of laws of the state or any county or municipality thereof:  
58 *Provided*, That neither the Hatfield-McCoy regional  
59 recreation authority, the Public Service Commission nor any  
60 state institution of higher education may be deemed a  
61 law-enforcement agency.

**§30-29-5. Certification requirements.**

1 (a) Except as provided in subsections (b) and (g) below,  
2 no person may be employed as a law-enforcement officer by  
3 any West Virginia law-enforcement agency or by any state

4 institution of higher education or by the Public Service  
5 Commission of West Virginia on or after the effective date of  
6 this article unless the person is certified, or is certifiable in  
7 one of the manners specified in subsections (c) through (e)  
8 below, by the Governor's committee as having met the  
9 minimum entry level law-enforcement qualification and  
10 training program requirements promulgated pursuant to this  
11 article: *Provided*, That the provisions of this section shall not  
12 apply to persons hired by the Public Service Commission as  
13 motor carrier inspectors and weight enforcement officers  
14 prior to the first day of July, two thousand seven.

15 (b) Except as provided in subsection (g) below, a person  
16 who is not certified, or certifiable in one of the manners  
17 specified in subsections (c) through (e) below, may be  
18 conditionally employed as a law-enforcement officer until  
19 certified: *Provided*, That within ninety calendar days of the  
20 commencement of employment or the effective date of this  
21 article if the person is already employed on the effective date,  
22 he or she makes a written application to attend an approved  
23 law-enforcement training academy. The person's employer  
24 shall provide notice, in writing, of the ninety-day deadline to  
25 file a written application to the academy within thirty  
26 calendar days of that person's commencement of  
27 employment. The employer shall provide full disclosure as  
28 to the consequences of failing to file a timely written  
29 application. The academy shall notify the applicant in  
30 writing of the receipt of the application and of the tentative  
31 date of the applicant's enrollment. Any applicant who, as the  
32 result of extenuating circumstances acceptable to his or her  
33 law-enforcement official, is unable to attend the scheduled  
34 training program to which he or she was admitted may  
35 reapply and shall be admitted to the next regularly scheduled  
36 training program. An applicant who satisfactorily completes  
37 the program shall, within thirty days of completion, make  
38 written application to the Governor's committee requesting  
39 certification as having met the minimum entry level law-  
40 enforcement qualification and training program requirements.  
41 Upon determining that an applicant has met the requirements  
42 for certification, the Governor's committee shall forward to  
43 the applicant documentation of certification. An applicant

44 who fails to complete the training program to which he or she  
45 is first admitted, or was admitted upon reapplication, may not  
46 be certified by the Governor's committee: *Provided, however,*  
47 That an applicant who has completed the minimum training  
48 required by the Governor's committee may be certified as a  
49 law-enforcement officer, notwithstanding the applicant's  
50 failure to complete additional training hours required in the  
51 training program to which he or she originally applied.

52 (c) Any person who is employed as a law-enforcement  
53 officer on the effective date of this article and is a graduate of  
54 the West Virginia basic police training course, the West  
55 Virginia State Police cadet training program, or other  
56 approved law-enforcement training academy, is certifiable as  
57 having met the minimum entry level law-enforcement  
58 training program requirements and is exempt from the  
59 requirement of attending a law-enforcement training  
60 academy. To receive certification, the person shall make  
61 written application within ninety calendar days of the  
62 effective date of this article to the Governor's committee  
63 requesting certification. The Governor's committee shall  
64 review the applicant's relevant scholastic records and, upon  
65 determining that the applicant has met the requirements for  
66 certification, shall forward to the applicant documentation of  
67 certification.

68 (d) Any person who is employed as a law-enforcement  
69 officer on the effective date of this article and is not a  
70 graduate of the West Virginia basic police training course,  
71 the West Virginia State Police cadet training program, or  
72 other approved law-enforcement training academy, is  
73 certifiable as having met the minimum entry level law-  
74 enforcement training program requirements and is exempt  
75 from the requirement of attending a law-enforcement training  
76 academy if the person has been employed as a law-  
77 enforcement officer for a period of not less than five  
78 consecutive years immediately preceding the date of  
79 application for certification. To receive certification, the  
80 person shall make written application within ninety calendar  
81 days following the effective date of this article to the  
82 Governor's committee requesting certification. The

83 application shall include notarized statements as to the  
84 applicant's years of employment as a law-enforcement  
85 officer. The Governor's committee shall review the  
86 application and, upon determining that the applicant has met  
87 the requirements for certification, shall forward to the  
88 applicant documentation of certification.

89 (e) Any person who begins employment on or after the  
90 effective date of this article as a law-enforcement officer is  
91 certifiable as having met the minimum entry level law-  
92 enforcement training program requirements and is exempt  
93 from attending a law-enforcement training academy if the  
94 person has satisfactorily completed a course of instruction in  
95 law enforcement equivalent to or exceeding the minimum  
96 applicable law-enforcement training curricula promulgated  
97 by the Governor's committee. To receive certification, the  
98 person shall make written application within ninety calendar  
99 days following the commencement of employment to the  
100 Governor's committee requesting certification. The  
101 application shall include a notarized statement of the  
102 applicant's satisfactory completion of the course of  
103 instruction in law enforcement, a notarized transcript of the  
104 applicant's relevant scholastic records, and a notarized copy  
105 of the curriculum of the completed course of instruction. The  
106 Governor's committee shall review the application and, if it  
107 finds the applicant has met the requirements for certification  
108 shall forward to the applicant documentation of certification.

109 (f) Any person who is employed as a law-enforcement  
110 officer on or after the effective date of this article and fails to  
111 be certified shall be automatically terminated and no further  
112 emoluments shall be paid to such officer by his or her  
113 employer. Any person terminated shall be entitled to  
114 reapply, as a private citizen, to the subcommittee for training  
115 and certification, and upon being certified may again be  
116 employed as a law-enforcement officer in this state:  
117 *Provided*, That if a person is terminated under this subsection  
118 because an application was not timely filed to the academy,  
119 and the person's employer failed to provide notice or  
120 disclosure to that person as set forth in subsection (b) of this  
121 section, the employer shall pay the full cost of attending the

122 academy if the person's application to the subcommittee as  
123 a private citizen is subsequently approved.

124 (g) Nothing in this article may be construed as  
125 prohibiting any governing body, civil service commission or  
126 chief executive of any West Virginia law-enforcement  
127 agency from requiring their law-enforcement officers to meet  
128 qualifications and satisfactorily complete a course of law-  
129 enforcement instruction which exceeds the minimum entry  
130 level law-enforcement qualification and training curricula  
131 promulgated by the Governor's committee.

132 (h) The requirement of this section for qualification,  
133 training and certification of law-enforcement officers shall  
134 not be mandatory during the two years next succeeding the  
135 effective date of this article for the law-enforcement officers  
136 of a law-enforcement agency which employs a civil service  
137 system for its law-enforcement personnel, nor shall such  
138 provisions be mandatory during the five years next  
139 succeeding the effective date of this article for law-  
140 enforcement officers of a law-enforcement agency which  
141 does not employ a civil service system for its  
142 law-enforcement personnel: *Provided*, That such  
143 requirements shall be mandatory for all such law-  
144 enforcement officers until their law-enforcement officials  
145 apply for their exemption by submitting a written plan to the  
146 Governor's committee which will reasonably assure  
147 compliance of all law-enforcement officers of their agencies  
148 within the applicable two or five-year period of exemption.

149 (i) Any person aggrieved by a decision of the Governor's  
150 committee made pursuant to this article may contest such  
151 decision in accordance with the provisions of article five,  
152 chapter twenty-nine-a of this code.

153 (j) Any person terminated from employment for not filing  
154 an application to the law-enforcement training academy  
155 within ninety days after commencing employment as a law-  
156 enforcement officer may appeal the termination to the  
157 Governor's committee for reconsideration on an individual  
158 basis.

159 (k) Beginning the first day of July, two thousand two,  
160 until the thirtieth day of June, two thousand three, any  
161 applicant who has been conditionally employed as a law-  
162 enforcement officer who failed to submit a timely application  
163 pursuant to the provisions of this section, may be  
164 conditionally employed as a law-enforcement officer and  
165 may resubmit an application pursuant to subsection (b) of this  
166 section to an approved law-enforcement training academy.  
167 If the applicant is accepted, the employer shall pay  
168 compensation to the employee for attendance at the law-  
169 enforcement training academy at the rate provided in section  
170 eight of this article.

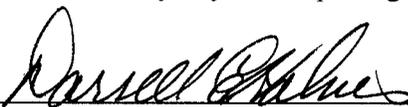
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

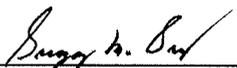
  
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Chairman Senate Committee

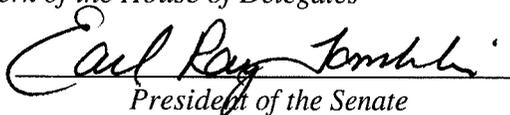
  
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Originating in the House.

In effect ninety days from passage.

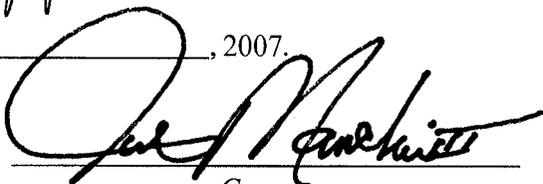
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 2nd  
day of April, 2007.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 26 2007

Time 3:53 pm