WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2938

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

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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.

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

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

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

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

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

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

"Law-enforcement officer" means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests and enforce the laws of the state or any county or municipality thereof, other than parking ordinances, and includes those persons employed as campus police officers at state institutions of higher education in accordance with the provisions of section five, article four, chapter eighteen-b of this code, and persons employed by the Public Service Commission as motor carrier inspectors and weight
enforcement officers charged with enforcing commercial
motor vehicle safety and weight restriction laws although
those institutions and agencies may not be considered
law-enforcement agencies. The term also includes those
persons employed as rangers by the Hatfield-McCoy regional
recreation authority in accordance with the provisions of
section six, article fourteen, chapter twenty of this code,
although the authority may not be considered a
law-enforcement agency: Provided, That the subject rangers
shall pay the tuition and costs of training. As used in this
article, the term "law-enforcement officer" does not apply to
the chief executive of any West Virginia law-enforcement
agency or any watchman or special conservation officer;

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

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

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

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

§30-29-5. Certification requirements.

(a) Except as provided in subsections (b) and (g) below,
no person may be employed as a law-enforcement officer by
any West Virginia law-enforcement agency or by any state
institution of higher education or by the Public Service Commission of West Virginia on or after the effective date of this article unless the person is certified, or is certifiable in one of the manners specified in subsections (c) through (e) below, by the Governor's committee as having met the minimum entry level law-enforcement qualification and training program requirements promulgated pursuant to this article: Provided, That the provisions of this section shall not apply to persons hired by the Public Service Commission as motor carrier inspectors and weight enforcement officers prior to the first day of July, two thousand seven.

(b) Except as provided in subsection (g) below, a person who is not certified, or certifiable in one of the manners specified in subsections (c) through (e) below, may be conditionally employed as a law-enforcement officer until certified: Provided, That within ninety calendar days of the commencement of employment or the effective date of this article if the person is already employed on the effective date, he or she makes a written application to attend an approved law-enforcement training academy. The person's employer shall provide notice, in writing, of the ninety-day deadline to file a written application to the academy within thirty calendar days of that person's commencement of employment. The employer shall provide full disclosure as to the consequences of failing to file a timely written application. The academy shall notify the applicant in writing of the receipt of the application and of the tentative date of the applicant's enrollment. Any applicant who, as the result of extenuating circumstances acceptable to his or her law-enforcement official, is unable to attend the scheduled training program to which he or she was admitted may reapply and shall be admitted to the next regularly scheduled training program. An applicant who satisfactorily completes the program shall, within thirty days of completion, make written application to the Governor's committee requesting certification as having met the minimum entry level law-enforcement qualification and training program requirements. Upon determining that an applicant has met the requirements for certification, the Governor's committee shall forward to the applicant documentation of certification. An applicant
who fails to complete the training program to which he or she
is first admitted, or was admitted upon reapplication, may not
be certified by the Governor's committee: Provided, however,
That an applicant who has completed the minimum training
required by the Governor's committee may be certified as a
law-enforcement officer, notwithstanding the applicant's
failure to complete additional training hours required in the
training program to which he or she originally applied.

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

(d) Any person who is employed as a law-enforcement
officer on the effective date of this article and is not a
graduate of the West Virginia basic police training course,
the West Virginia State Police cadet training program, or
other approved law-enforcement training academy, is
certifiable as having met the minimum entry level law-
enforcement training program requirements and is exempt
from the requirement of attending a law-enforcement training
academy if the person has been employed as a law-
enforcement officer for a period of not less than five
consecutive years immediately preceding the date of
application for certification. To receive certification, the
person shall make written application within ninety calendar
days following the effective date of this article to the
Governor's committee requesting certification. The
application shall include notarized statements as to the applicant's years of employment as a law-enforcement officer. The Governor's committee shall review the application and, upon determining that the applicant has met the requirements for certification, shall forward to the applicant documentation of certification.

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

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

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

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

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

(j) Any person terminated from employment for not filing
an application to the law-enforcement training academy
within ninety days after commencing employment as a law-
enforcement officer may appeal the termination to the
Governor’s committee for reconsideration on an individual
basis.
(k) Beginning the first day of July, two thousand two, until the thirtieth day of June, two thousand three, any applicant who has been conditionally employed as a law-enforcement officer who failed to submit a timely application pursuant to the provisions of this section, may be conditionally employed as a law-enforcement officer and may resubmit an application pursuant to subsection (b) of this section to an approved law-enforcement training academy. If the applicant is accepted, the employer shall pay compensation to the employee for attendance at the law-enforcement training academy at the rate provided in section eight of this article.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

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

Governor