

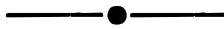
HB 2938 S

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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

FILED

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FOR

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.



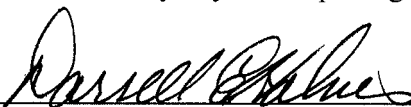
Chairman Senate Committee



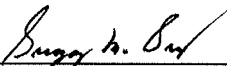
Chairman House Committee

Originating in the House.

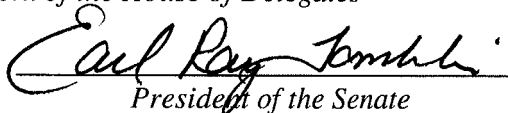
In effect ninety days from passage.



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 2nd
day of April, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 26 2007

Time 3:53 pm