

1 **H. B. 3096**

2
3 (By Delegates D. Poling and Ellem)
4 [Introduced February 10, 2011; referred to the
5 Committee on the Judiciary.]
6
7
8
9

10 A BILL to amend and reenact §30-29-5 of the Code of West Virginia,
11 1931, as amended, relating to law-enforcement training and
12 certification; consequences for failure to be certified.

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

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

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

17 **§30-29-5. Certification requirements.**

18 (a) Except as provided in subsections (b) and (g) below, no
19 person may be employed as a law-enforcement officer by any West
20 Virginia law-enforcement agency or by any state institution of
21 higher education or by the Public Service Commission of West
22 Virginia on or after the effective date of this article unless the
23 person is certified, or is certifiable in one of the manners
24 specified in subsections (c) through (e) below, by the Governor's
25 committee as having met the minimum entry level law-enforcement
26 qualification and training program requirements promulgated

1 pursuant to this article: *Provided*, That the provisions of this
2 section shall not apply to persons hired by the Public Service
3 Commission as motor carrier inspectors and weight enforcement
4 officers prior to July 1, 2007.

5 (b) Except as provided in subsection (g) below, a person who
6 is not certified, or certifiable in one of the manners specified in
7 subsections (c) through (e) below, may be conditionally employed as
8 a law-enforcement officer until certified: *Provided*, That within
9 ninety calendar days of the commencement of employment or the
10 effective date of this article if the person is already employed on
11 the effective date, he or she makes a written application to attend
12 an approved law-enforcement training academy. The person's
13 employer shall provide notice, in writing, of the ninety-day
14 deadline to file a written application to the academy within thirty
15 calendar days of that person's commencement of employment. The
16 employer shall provide full disclosure as to the consequences of
17 failing to file a timely written application. The academy shall
18 notify the applicant in writing of the receipt of the application
19 and of the tentative date of the applicant's enrollment. Any
20 applicant who, as the result of extenuating circumstances
21 acceptable to his or her law-enforcement official, is unable to
22 attend the scheduled training program to which he or she was
23 admitted may reapply and shall be admitted to the next regularly
24 scheduled training program. An applicant who satisfactorily
25 completes the program shall, within thirty days of completion, make
26 written application to the Governor's committee requesting

1 certification as having met the minimum entry level law-
2 enforcement qualification and training program requirements. Upon
3 determining that an applicant has met the requirements for
4 certification, the Governor's committee shall forward to the
5 applicant documentation of certification. An applicant who fails
6 to complete the training program to which he or she is first
7 admitted, or was admitted upon reapplication, may not be certified
8 by the Governor's committee: *Provided, however,* That an applicant
9 who has completed the minimum training required by the Governor's
10 committee may be certified as a law-enforcement officer,
11 notwithstanding the applicant's failure to complete additional
12 training hours required in the training program to which he or she
13 originally applied.

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

1 documentation of certification.

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

21 (e) Any person who begins employment on or after the effective
22 date of this article as a law-enforcement officer is certifiable as
23 having met the minimum entry level law-enforcement training program
24 requirements and is exempt from attending a law-enforcement
25 training academy if the person has satisfactorily completed a
26 course of instruction in law enforcement equivalent to or exceeding

1 the minimum applicable law-enforcement training curricula
2 promulgated by the Governor's committee. To receive certification,
3 the person shall make written application within ninety calendar
4 days following the commencement of employment to the Governor's
5 committee requesting certification. The application shall include
6 a notarized statement of the applicant's satisfactory completion of
7 the course of instruction in law enforcement, a notarized
8 transcript of the applicant's relevant scholastic records, and a
9 notarized copy of the curriculum of the completed course of
10 instruction. The Governor's committee shall review the application
11 and, if it finds the applicant has met the requirements for
12 certification shall forward to the applicant documentation of
13 certification.

14 (f) Except as provided in subdivisions (1) through (3) below,
15 any person who is employed as a law-enforcement officer on or after
16 the effective date of this article and fails to be certified shall
17 be automatically terminated and no further emoluments shall be paid
18 to such officer by his or her employer. Any person terminated
19 shall be entitled to reapply, as a private citizen, to the
20 subcommittee for training and certification, and upon being
21 certified may again be employed as a law-enforcement officer in
22 this state: *Provided*, That if a person is terminated under this
23 subsection because an application was not timely filed to the
24 academy, and the person's employer failed to provide notice or
25 disclosure to that person as set forth in subsection (b) of this
26 section, the employer shall pay the full cost of attending the

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

3 (1) Any person who is employed as a law-enforcement officer on
4 or after the effective date of this article and fails to be
5 certified as a result of hardship and/or circumstance beyond his or
6 her control may apply to the director of a training academy for
7 reentry to the next available academy.

8 (2) Any person who is employed as a law-enforcement officer on
9 or after the effective date of this article and fails to be
10 certified as a result of voluntary separation from an academy
11 program shall be automatically terminated and no further emoluments
12 may be paid to such officer by his or her employer. Any person
13 terminated as a result of voluntary separation from an academy
14 program may not be conditionally employed as a law-enforcement
15 officer for a period of two years from the date of voluntary
16 separation.

17 (3) Any person who is employed as a law-enforcement officer on
18 or after the effective date of this article and fails to be
19 certified as a result of dismissal from an academy program shall be
20 automatically terminated and no further emoluments may be paid to
21 such officer by his or her employer. Any person terminated as a
22 result of dismissal from an academy program may not be
23 conditionally employed as a law-enforcement officer for a period of
24 five years from the date of dismissal and receiving approval from
25 the subcommittee.

26 (g) Nothing in this article may be construed as prohibiting

1 any governing body, Civil Service Commission or chief executive of
2 any West Virginia law-enforcement agency from requiring their law-
3 enforcement officers to meet qualifications and satisfactorily
4 complete a course of law-enforcement instruction which exceeds the
5 minimum entry level law-enforcement qualification and training
6 curricula promulgated by the Governor's committee.

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

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

26 (j) Any person terminated from employment for not filing an

1 application to the law-enforcement training academy within ninety
2 days after commencing employment as a law-enforcement officer may
3 appeal the termination to the Governor's committee for
4 reconsideration on an individual basis.

5 (k) Beginning July 1, 2002, until June 30, 2003, any applicant
6 who has been conditionally employed as a law-enforcement officer
7 who failed to submit a timely application pursuant to the
8 provisions of this section, may be conditionally employed as a law-
9 enforcement officer and may resubmit an application pursuant to
10 subsection (b) of this section to an approved law-enforcement
11 training academy. If the applicant is accepted, the employer shall
12 pay compensation to the employee for attendance at the law-
13 enforcement training academy at the rate provided in section eight
14 of this article.

NOTE: The purpose of this bill is to institute new rules for hiring and firing of law-enforcement officers that leave a training academy.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.