

H. B. 3096

(BY DELEGATES D. POLING AND ELLEM)

[Introduced February 10, 2011; referred to the
Committee on the Judiciary.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§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
6 of 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 July 1, 2007.

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,*

47 *however*, That an applicant who has completed the minimum
48 training required by the Governor's committee may be
49 certified as a law-enforcement officer, notwithstanding the
50 applicant's failure to complete additional training hours
51 required in the training program to which he or she originally
52 applied.

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

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

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

110 (f) Except as provided in subdivisions (1) through (3)
111 below, any person who is employed as a law-enforcement

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

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

131 (2) Any person who is employed as a law-enforcement
132 officer on or after the effective date of this article and fails to
133 be certified as a result of voluntary separation from an

134 academy program shall be automatically terminated and no
135 further emoluments may be paid to such officer by his or her
136 employer. Any person terminated as a result of voluntary
137 separation from an academy program may not be
138 conditionally employed as a law-enforcement officer for a
139 period of two years from the date of voluntary separation.

140 (3) Any person who is employed as a law-enforcement
141 officer on or after the effective date of this article and fails to
142 be certified as a result of dismissal from an academy program
143 shall be automatically terminated and no further emoluments
144 may be paid to such officer by his or her employer. Any
145 person terminated as a result of dismissal from an academy
146 program may not be conditionally employed as a law-
147 enforcement officer for a period of five years from the date
148 of dismissal and receiving approval from the subcommittee.

149 (g) Nothing in this article may be construed as
150 prohibiting any governing body, Civil Service Commission
151 or chief executive of any West Virginia law-enforcement
152 agency from requiring their law-enforcement officers to meet
153 qualifications and satisfactorily complete a course of law-
154 enforcement instruction which exceeds the minimum entry
155 level law-enforcement qualification and training curricula
156 promulgated by the Governor's committee.

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

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

178 (j) Any person terminated from employment for not filing
179 an application to the law-enforcement training academy
180 within ninety days after commencing employment as a law-
181 enforcement officer may appeal the termination to the
182 Governor's committee for reconsideration on an individual
183 basis.

184 (k) Beginning July 1, 2002, until June 30, 2003, any
185 applicant who has been conditionally employed as a law-
186 enforcement officer who failed to submit a timely application
187 pursuant to the provisions of this section, may be
188 conditionally employed as a law-enforcement officer and
189 may resubmit an application pursuant to subsection (b) of
190 this section to an approved law-enforcement training
191 academy. If the applicant is accepted, the employer shall pay
192 compensation to the employee for attendance at the law-
193 enforcement training academy at the rate provided in section
194 eight 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.