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SENATE BILL NO. 1296

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws
on January 29, 2003)

(Patron Prior to Substitute—Senator Blevins)

A BILL to amend and reenact §§ 54.1-1800, 54.1-1801 and 54.1-1805 of the Code of Virginia, relating to the Department of Professional and Occupational Regulation; polygraph examiners.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1800, 54.1-1801 and 54.1-1805 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-1800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Course of instruction" means a formal course of instruction in the detection of deception in an institution approved by the Director.

"Department" means the Department of Professional and Occupational Regulation.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Law-enforcement officer" means any full-time employee of a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth.

"Person" means any natural person, partnership, association, corporation or trust.

"Polygraph" means any mechanical or electronic instrument or device used to test or question individuals for the purpose of determining truthfulness.

"Polygraph examiner" or "examiner" means any person who uses any device or instrument to test or question individuals for the purpose of determining truthfulness.

"Polygraph examiner intern" means any person engaged in the study of polygraphy and the administration of polygraph examinations under the personal supervision and control of a polygraph examiner.

§ 54.1-1801. Licenses.

A. All polygraph examiners shall be licensed pursuant to this chapter.

B. *It shall be unlawful for any person, except a law-enforcement officer acting in accordance with subsection B of § 54.1-1805, to operate any instrument or device to detect deception or verify the truth of statements that does not meet the minimum instrumentation requirements of subsection A of § 54.1-1805 or to use any title or make any representation tending to indicate that such person is qualified to detect deception or verify the truth of statements through the use of such instrument or device. Nothing in this section shall be construed to prohibit the lawful use of biometric identification software equipment or devices.*

§ 54.1-1805. Instrument to be used; exception.

A. Each examiner shall use an instrument ~~which~~ that records permanently and simultaneously the subject's cardiovascular and respiratory patterns as minimum standards, but such an instrument may record additional physiological changes pertinent to the determination of truthfulness

B. *The use of any other instrument or device to detect deception or to verify truth of statements that does not meet the minimum instrument requirements provided in subsection A shall be prohibited except that such other instrument or device may be used by law-enforcement officers who are certified by the manufacturer to operate such instrument or device.*