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HOUSE BILL NO. 476

Offered January 13, 2010
Prefiled January 12, 2010

A BILL to amend and reenact §§ 54.1-1800 through 54.1-1805 of the Code of Virginia, relating to the regulation of polygraphs and other detection devices.

Patron—Carrico

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1800 through 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 *and the verification of truth* 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.

"Other detection device" or "device" means any mechanical or electronic instrument or device, other than a polygraph, used to test or question individuals for the purpose of detecting deception or verifying truthfulness.

"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~~ *a polygraph* 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. All persons who operate any other detection device shall be licensed pursuant to this chapter.

§ 54.1-1802. Regulations.

The Director shall promulgate regulations not inconsistent with the laws of Virginia necessary to carry out the provisions of this chapter and Chapter 1 (§ 54.1-100 et seq.). *Such regulations shall include, but not be limited to, the establishment of minimum qualifications for the operators of polygraphs and other detection devices.*

§ 54.1-1803. Approval of schools to teach courses of instruction.

The Director shall promulgate regulations for the approval of schools in which courses of instruction *for polygraph examiners and persons who operate other detection devices approved pursuant to § 54.1-1805* are taught.

§ 54.1-1804. Submission of fingerprints.

Each applicant for licensure as a polygraph examiner, ~~and~~ each polygraph examiner intern, *and each applicant for licensure to operate any other detection device* shall submit his fingerprints to the Department on a form provided by the Department.

§ 54.1-1805. Instrument to be used.

A. Each *polygraph* 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. 1. The use of any other detection device that does not meet the instrumentation requirements set forth in subsection A shall be approved by the Director. The Director shall approve such other detection device only when the data collected by such device is deemed to be reliable and valid in detecting deception or verifying truth, based upon the preponderance of available scientific evidence. The voluntary, written consent of any individual to be tested using a detection device approved pursuant to this subsection shall be obtained prior to the administration of any such test or questioning using the device.

2. Any such approved device shall be subject to regulations promulgated by the Director regarding its use in the Commonwealth.

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3. The Director shall establish standards of practice related to the use of any such other detection device approved pursuant to this subsection.