

83R5603 BEF-F

By: Carona

S.B. No. 562

A BILL TO BE ENTITLED
AN ACT

relating to the license qualifications and continuing education requirements for polygraph examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1703.003(3), Occupations Code, is amended to read as follows:

(3) "Instrument" means a device used to test a subject to detect deception or verify the truth of a statement including by recording visually, permanently, and simultaneously a subject's cardiovascular and respiratory patterns. The term includes a lie detector, polygraph, deceptograph, or any other similar or related device used to detect deception or verify the truth of a statement.

SECTION 2. Section 1703.201(a), Occupations Code, is amended to read as follows:

(a) A person may not use or offer to use, for compensation or for a law enforcement purpose, an instrument, including a polygraph, to detect deception or verify the truth of a statement unless the person is licensed under this chapter.

SECTION 3. Section 1703.203(a), Occupations Code, is amended to read as follows:

(a) A person is qualified for a polygraph examiner license if the person:

(1) has not been convicted of an offense that directly relates to the duties and responsibilities of a polygraph examiner;

(2) either:

(A) holds a baccalaureate degree from a college or university accredited by an organization designated by the department that the department determines has accreditation standards ensuring a high level of student scholarship; or

(B) has active investigative experience during the five years preceding the date of application;

(3) has completed an acceptable [either:
[~~(A) is a graduate of a department approved~~]
polygraph examiner [~~examiners~~] course of study taught by a school recognized by the department and has satisfactorily completed at least six months of a polygraph examiner internship; [or
[~~(B) - - has satisfactorily completed at least 12 months of a polygraph examiner internship;~~] and

(4) has passed an examination conducted by, under the supervision of, or approved by the department to determine the person's competency for a license.

SECTION 4. Section 1703.207, Occupations Code, is amended to read as follows:

Sec. 1703.207. WAIVER OF LICENSE REQUIREMENTS FOR APPLICANT WITH OUT-OF-STATE LICENSE OR OTHER RECOGNIZED EDUCATION OR EXPERIENCE. The executive director may waive any license requirement for an applicant who:

(1) holds a license from another state that has license requirements substantially equivalent to those of this state;

(2) has verified service, training, or experience in using an instrument to detect deception or verify the truth of a statement while serving in the military;

(3) has verified service, training, or experience in using an instrument to detect deception or verify the truth of a

statement while employed by the federal government; or
(4) has a combination of education and experience the
executive director determines to be substantially equivalent to
that required under Section 1703.203.

SECTION 5. Section 1703.255, Occupations Code, is amended to read as follows:

Sec. 1703.255. CONTINUING EDUCATION. (a) The department may recognize, prepare, or implement continuing education programs for polygraph examiners [~~and trainees~~].

(b) Participation in a continuing education program is mandatory [~~voluntary~~].

(c) The commission by rule shall provide continuing education requirements for license holders.

SECTION 6. Section 1703.305, Occupations Code, is amended to read as follows:

Sec. 1703.305. INSTRUMENTS AND MINIMUM INSTRUMENTATION REQUIREMENTS. (a) An instrument used by a polygraph examiner, in addition to recording visually, permanently, and simultaneously a subject's cardiovascular and respiratory patterns, may also record patterns of other physiological changes. Except as provided by Subsection (c), the commission may adopt rules to identify other instruments and instrumentation requirements that are acceptable for use in this state.

(b) A polygraph examiner who uses an instrument that does not comply with the instrumentation requirements of Subsection (a) or commission rule is subject to penalties and may be enjoined in the manner provided by this chapter.

(c) A person may not, for compensation or for a law enforcement purpose, use a voice stress analyzer or similar device to detect deception or verify the truth of a statement.

SECTION 7. Not later than January 1, 2014, the Texas Commission of Licensing and Regulation shall adopt rules necessary to implement the changes in law made by this Act.

SECTION 8. (a) Section 1703.203(a), Occupations Code, as amended by this Act, applies only to an initial license application that is submitted to the Texas Department of Licensing and Regulation on or after March 1, 2014. An initial license application that is submitted before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

(b) Section 1703.207, Occupations Code, as amended by this Act, applies only to an initial license application that is submitted to the Texas Department of Licensing and Regulation on or after January 1, 2014. An initial license application that is submitted before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

(c) Section 1703.255, Occupations Code, as amended by this Act, and the rules adopted under Section 1703.255(c), Occupations Code, as added by this Act, apply only to the renewal of a license that expires on or after December 1, 2014. The renewal of a license that expires before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 2013.