

By: Driver

H.B. No. 1589

A BILL TO BE ENTITLED

AN ACT

relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.

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

SECTION 1. Section 411.007(c), Government Code, is amended to read as follows:

(c) An applicant for a position in the department must be a United States citizen. An applicant may not be questioned regarding the applicant's political affiliation or religious faith or beliefs. The department may not prohibit an officer or employee of the department, while off duty and out of uniform, from placing a bumper sticker endorsing political activities or a candidate for political office on a personal vehicle, placing a campaign sign in the person's private yard, making a political contribution, or wearing a badge endorsing political activities or a candidate. An officer commissioned by the department may not be suspended, terminated, or subjected to any form of discrimination by the department because of the refusal of the officer to take a polygraph examination. Section 411.0074 does not authorize the department to require an officer commissioned by the department to take a polygraph examination.

SECTION 2. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0074 to read as follows:

Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN

1 APPLICANTS. (a) This section does not apply to:

2 (1) an applicant who is currently a peace officer of  
3 the department commissioned by the department; or

4 (2) an applicant for a police communications operator  
5 position who is currently employed by the department in another  
6 police communications operator position.

7 (b) Before commissioning an applicant as a peace officer or  
8 employing an applicant for a police communications operator  
9 position, the department shall require the applicant to submit to  
10 the administration of a polygraph examination in accordance with  
11 rules adopted under Subsection (e).

12 (c) The polygraph examination required by this section may  
13 only be administered by a polygraph examiner licensed under Chapter  
14 1703, Occupations Code, who:

15 (1) is a peace officer commissioned by the department;  
16 or

17 (2) has a minimum of two years of experience  
18 conducting preemployment polygraph examinations for a law  
19 enforcement agency.

20 (d) The department and the polygraph examiner shall  
21 maintain the confidentiality of the results of a polygraph  
22 examination administered under this section, except that:

23 (1) the department and the polygraph examiner may  
24 disclose the results in accordance with Section 1703.306,  
25 Occupations Code; and

26 (2) notwithstanding Section 1703.306, Occupations  
27 Code, the department may disclose any admission of criminal conduct

1 made during the course of an examination to another appropriate  
2 governmental entity.

3 (e) The department shall adopt reasonable rules to specify  
4 the point in the hiring process at which the department shall  
5 require a polygraph examination to be administered under this  
6 section and the manner in which the examination shall be  
7 administered. Rules relating to the administration of a polygraph  
8 examination shall be adopted in accordance with the guidelines  
9 published by the American Polygraph Association or the American  
10 Association of Police Polygraphists.

11 (f) The department shall use the results of a polygraph  
12 examination under this section as a factor in determining whether  
13 to commission a peace officer or employ an applicant for the  
14 position of police communications operator.

15 SECTION 3. Section 411.0074, Government Code, as added by  
16 this Act, applies only to an applicant who submits an application  
17 for a position in the Department of Public Safety of the State of  
18 Texas on or after the effective date of this Act.

19 SECTION 4. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2005.