

By: Driver

H.B. No. 1589

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the administration of polygraph examinations to certain  
3 applicants for positions in the Department of Public Safety.

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

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

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

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

24 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) The department shall require each applicant for a peace  
8 officer or police communications operator position in the  
9 department to submit to the administration of a polygraph  
10 examination.

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

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

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

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

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

25 (2) notwithstanding Section 1703.306, Occupations  
26 Code, the department may disclose any admission of criminal conduct  
27 made during the course of an examination to another appropriate

1 governmental entity.

2 (e) The department shall adopt reasonable rules for the  
3 administration of a polygraph examination under this section in  
4 accordance with the guidelines published by the American Polygraph  
5 Association or the American Association of Police Polygraphists.

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

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

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

COMMITTEE AMENDMENT NO. 1

Amend H.B. No. 1589 as follows:

(1) On page 2, strike lines 7-10 and substitute the following:

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

(2) On page 3, strike lines 2-5 and substitute the following:

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

79R9669 KEG-F

Jackson