

1 AN ACT

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) 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.

David Newburn

President of the Senate

Tom Cuddeback

Speaker of the House

I certify that H.B. No. 1589 was passed by the House on April 29, 2005, by the following vote: Yeas 141, Nays 0, 2 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 1589 was passed by the Senate on May 25, 2005, by the following vote: Yeas 31, Nays 0.

Ratsy Spaw
Secretary of the Senate

APPROVED: 18 JUNE '05

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
9:15 AM O'CLOCK

JUN 18 2005
Roger Williams
Secretary of State