

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 534

By Senators Fuller, Deeds, Hart, Helton, and Willis

[Introduced February 19, 2025; referred
to the Committee on the Workforce]

1 A BILL to amend and reenact §21-5-5c of the Code of West Virginia, 1931, as amended, relating to
2 deception examiners; and clarifying the qualifications required to be licensed as a Class I
3 and Class II psychophysiological detection of deception examiner.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-5c. License required for psychophysiological detection of deception examiners; qualifications; promulgation of rules governing administration of psychophysiological detection of deception examinations.

1 (a) No person, firm, or corporation shall administer a psychophysiological detection of
2 deception examination, lie detector, or other similar examination utilizing mechanical or electronic
3 measures of physiological reactions to evaluate truthfulness without holding a current valid license
4 to do so as issued by the Commissioner of Labor. No examination shall be administered by a
5 licensed corporation except by an officer or employee thereof who is also licensed.

6 (b) A person is qualified to receive a license as an examiner if he or she:

7 (1) Is at least 21 years of age;

8 (2) Is a citizen of the United States;

9 (3) Has not been convicted of a felony: *Provided*, That the commissioner shall apply §21-1-
10 6 of this code to determine if the prior criminal conviction bears a rational nexus to the license
11 being sought;

12 (4) Has not been released or discharged with other than honorable conditions from any of
13 the armed services of the United States or that of any other nation;

14 (5) Has passed an examination conducted by the Commissioner of Labor or under his or
15 her supervision to determine his or her competency to obtain a license to practice as an examiner;

16 (6) Has satisfactorily completed not less than six months of internship training; and

17 (7) Has met any other qualifications of education or training established by the
18 Commissioner of Labor in his or her sole discretion which qualifications are to be at least as

19 stringent as those recommended by the American Polygraph Association: Provided, That to
20 qualify for a Class I license an applicant does not have to hold a baccalaureate degree: *Provided,*
21 *however,* That to qualify for a Class II license an applicant does not have to hold an associate
22 degree.

23 (c) The Commissioner of Labor may designate and administer any test he or she considers
24 appropriate to those persons applying for a license to administer psychophysiological detection of
25 deception, lie detector, or similar examination. The test shall be designed to ensure that the
26 applicant is thoroughly familiar with the code of ethics of the American Polygraph Association and
27 has been trained in accordance with association rules. The test must also include a rigorous
28 examination of the applicant's knowledge of and familiarity with all aspects of operating
29 psychophysiological detection of deception equipment and administering psychophysiological
30 detection of deception examinations.

31 (d) The license to administer psychophysiological detection of deception, lie detector, or
32 similar examinations to any person shall be issued for a period of one year. It may be reissued from
33 year to year. The licenses to be issued are:

34 (1) "Class I license" which authorizes an individual to administer psychophysiological
35 detection of deception examinations for all purposes which are permissible under the provisions of
36 this article and other applicable laws and rules.

37 (2) "Class II license" which authorizes an individual who is a full-time employee of a law-
38 enforcement agency to administer psychophysiological detection of deception examinations to its
39 employees or prospective employees only.

40 (e) The Commissioner of Labor shall charge an annual fee to be established by legislative
41 rule. All fees paid pursuant to this section shall be paid to the Commissioner of Labor and
42 deposited in an appropriated special revenue account hereby created in the State Treasury to be
43 known as the Psychophysiological Examiners Fund and expended for the implementation and
44 enforcement of this section. Through June 30, 2019, amounts collected which are found from time

to time to exceed funds needed for the purposes set forth in this section may be utilized by the commissioner as needed to meet the division's funding obligations: *Provided*, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division's funding obligations. In addition to any other information required, an application for a license shall include the applicant's Social Security number.

(f) The Commissioner of Labor shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code governing the administration of psychophysiological detection of deception, lie detector, or similar examination to any person: *Provided*, That all applicable rules in effect on the effective date of §21-5-5a, §21-5-5b, §21-5-5c, and §21-5-5d of this code will remain in effect until amended, withdrawn, revoked, repealed, or replaced. The legislative rules shall include:

(1) The type and amount of training or schooling necessary for a person before which he or she may be licensed to administer or interpret a psychophysiological detection of deception, lie detector, or similar examination;

(2) Testing requirements, including the designation of the test to be administered to persons applying for licensure;

(3) Standards of accuracy which shall be met by machines or other devices to be used in psychophysiological detection of deception, lie detector, or similar examination;

(4) The conditions under which a psychophysiological detection of deception, lie detector, or similar examination may be administered;

(5) Fees for licenses, renewals of licenses, and other services provided by the commissioner;

(6) Any other qualifications or requirements, including continuing education, established by the commissioner for the issuance or renewal of licenses; and

(7) Any other purpose to carry out the requirements of §21-5-5a, §21-5-5b, §21-5-5c, and §21-5-5d of this code.

NOTE: The purpose of this bill is to clarify that to qualify for a Class I license an applicant does not have to hold a baccalaureate degree, and to qualify for a Class II license an applicant does not have to hold an associate degree.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.