

Senate Bill 530

Sponsored by Senator GORDLY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits administration of polygraph examination to individual making initial application for employment with law enforcement agency or with county juvenile department.

A BILL FOR AN ACT

1
2 Relating to polygraph examinations; amending ORS 659.990 and 659A.300; and repealing ORS
3 659.840.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 659A.300 is amended to read:

6 659A.300. (1) **As used in this section:**

7 (a) **“Breath test” means a test to detect the presence of alcohol in the body through the**
8 **use of instrumentation or mechanical devices.**

9 (b) **“Genetic test” has the meaning given in ORS 192.531.**

10 (c) **“Polygraph examination” or “psychological stress test” means a test to detect de-**
11 **ception or to verify the truth of statements through the use of instrumentation or mechan-**
12 **ical devices.**

13 (d) **An individual is “under the influence of intoxicating liquor” when the individual’s**
14 **blood alcohol content exceeds the amount prescribed in a collective bargaining agreement**
15 **or the amount prescribed in the employer’s work rules if there is no applicable collective**
16 **bargaining provision.**

17 [(1)] (2) Except as provided in this section, it is an unlawful employment practice for any em-
18 ployer to subject, directly or indirectly, any employee or prospective employee to any
19 [breathalyzer] **breath** test, polygraph examination, psychological stress test, genetic test or brain-
20 wave test.

21 [(2) As used in this section:]

22 [(a) *“Breathalyzer test” means a test to detect the presence of alcohol in the body through the use*
23 *of instrumentation or mechanical devices.*]

24 [(b) *“Genetic test” has the meaning given in ORS 192.531.*]

25 [(c) *“Polygraph examination or psychological stress test” means a test to detect deception or to*
26 *verify the truth of statements through the use of instrumentation or mechanical devices.*]

27 [(d) *An individual is “under the influence of intoxicating liquor” when the individual’s blood al-*
28 *cohol content exceeds the amount prescribed in a collective bargaining agreement or the amount pre-*
29 *scribed in the employer’s work rules if there is no applicable collective bargaining provision.*]

30 (3) [Nothing in Subsection (1) of this section shall be construed to] **Subsection (2) of this section**
31 **does not** prohibit the administration of a polygraph examination to an individual, if the individual

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 consents to the examination, during the course of criminal or civil judicial proceedings in which the
 2 individual is a party or witness or during the course of a criminal investigation conducted by a law
 3 enforcement agency, as defined in ORS 181.010, a district attorney or the Attorney General.

4 **(4) Subsection (2) of this section does not prohibit the administration of a polygraph ex-**
 5 **amination to an individual making initial application for employment with any law enforce-**
 6 **ment agency or with a county juvenile department.**

7 [(4)] (5) [Nothing in subsection (1) of this section shall be construed to] **Subsection (2) of this**
 8 **section does not** prohibit the administration of a [breathalyzer] **breath** test to an individual if the
 9 individual consents to the test. If the employer has reasonable grounds to believe that the individual
 10 is under the influence of intoxicating liquor, the employer may require, as a condition for employ-
 11 ment or continuation of employment, the administration of a blood alcohol content test by a third
 12 party or a [breathalyzer] **breath** test. The employer [shall] **may** not require the employee to pay the
 13 cost of administering [any such] **the** test.

14 [(5)] (6) Subsection [(1)] (2) of this section does not prohibit the administration of a genetic test
 15 to an individual if the individual or the individual's representative grants informed consent in the
 16 manner provided by ORS 192.535, and the genetic test is administered solely to determine a bona
 17 fide occupational qualification.

18 **SECTION 2. ORS 659.840 is repealed.**

19 **SECTION 3.** ORS 659.990 is amended to read:

20 659.990. (1) Violation of ORS 659.815 is punishable, upon conviction, by a fine of not more than
 21 \$1,000 or imprisonment in the county jail for not more than one year, or both.

22 (2) Violation of ORS 659.805 by any officer or agent of a corporation or any other person is
 23 punishable, upon conviction, by a fine of not less than \$50 nor more than \$250, or by imprisonment
 24 in the county jail not less than 30 nor more than 90 days, or both.

25 (3) Violation of ORS 659.800 is punishable, upon conviction, by a fine of not less than \$10 nor
 26 more than \$200 or by imprisonment in the county jail for not less than one month nor more than
 27 six months.

28 (4) Violation of ORS 659.810 or 659.845 is punishable, upon conviction, by a fine of not more than
 29 \$100 or imprisonment in the county jail for not more than 60 days, or both.

30 (5) Any person who violates ORS 659.825, upon conviction, shall be required to make immediate
 31 restitution of delinquent payments to the fund or funds mentioned in ORS 659.825 and shall be
 32 punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than one
 33 year, or both.

34 [(6) Violation of ORS 659.840 is punishable, upon conviction, by a fine of not more than \$500 or
 35 by imprisonment in the county jail for not more than one year, or by both.]

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