

Requested by Representative BARKER

**PROPOSED AMENDMENTS TO
HOUSE BILL 2545**

1 On page 1 of the printed bill, line 2, after “ORS” insert “659.840,
2 659A.300,”.

3 After line 16, insert:

4 **“SECTION 2.** ORS 659.840 is amended to read:

5 “659.840. (1) [No] **A** person, or agent or representative of [*such*] **the** per-
6 son, [*shall*] **may not** require, as a condition for employment or continuation
7 of employment, any person or employee to take a breathalyzer test, **decep-**
8 **tion detection examination, as defined in section 1 of this 2017 Act,**
9 polygraph test or any other form of a so-called lie detector test.

10 **“(2)** However, nothing in this section shall be construed to prohibit the
11 administration of a breathalyzer test to an individual if the individual con-
12 sents to the test. If the employer has reasonable grounds to believe that the
13 individual is under the influence of intoxicating liquor, the employer may
14 require, as a condition for employment or continuation of employment, the
15 administration of a blood alcohol content test by a third party or a
16 breathalyzer test. The employer [*shall*] **may not** require the employee to pay
17 the cost of administering [*any such*] **a blood alcohol content test or**
18 **breathalyzer** test.

19 **“[(2)] (3)** For the purposes of this section, an individual is ‘under the in-
20 fluence of intoxicating liquor’ when the individual’s blood alcohol content
21 exceeds the amount prescribed in a collective bargaining agreement or the

1 amount prescribed in the employer's work rules if there is no applicable
2 collective bargaining provision.

3 **“SECTION 3.** ORS 659A.300 is amended to read:

4 “659A.300. (1) Except as provided in this section, it is an unlawful em-
5 ployment practice for any employer to subject, directly or indirectly, any
6 employee or prospective employee to any breathalyzer test, **deception de-**
7 **tection examination**, polygraph examination, psychological stress test, ge-
8 netic test or brain-wave test.

9 “(2) As used in this section:

10 “(a) ‘Breathalyzer test’ means a test to detect the presence of alcohol in
11 the body through the use of instrumentation or mechanical devices.

12 **“(b) ‘Deception detection examination’ has the meaning given that**
13 **term in section 1 of this 2017 Act.**

14 “[*b*] (c) ‘Genetic test’ has the meaning given in ORS 192.531.

15 “[*c*] (d) ‘Polygraph examination or psychological stress test’ means a
16 test to detect deception or to verify the truth of statements through the use
17 of instrumentation or mechanical devices.

18 “[*d*] (e) An individual is ‘under the influence of intoxicating liquor’
19 when the individual’s blood alcohol content exceeds the amount prescribed
20 in a collective bargaining agreement or the amount prescribed in the
21 employer’s work rules if there is no applicable collective bargaining pro-
22 vision.

23 “(3) Nothing in subsection (1) of this section shall be construed to pro-
24 hibit the administration of a polygraph examination to an individual, if the
25 individual consents to the examination, during the course of criminal or civil
26 judicial proceedings in which the individual is a party or witness or during
27 the course of a criminal investigation conducted by a law enforcement
28 agency, as defined in ORS 181A.010, a district attorney or the Attorney
29 General.

30 “(4) Nothing in subsection (1) of this section shall be construed to pro-

1 hibit the administration of a breathalyzer test to an individual if the indi-
2 vidual consents to the test. If the employer has reasonable grounds to believe
3 that the individual is under the influence of intoxicating liquor, the employer
4 may require, as a condition for employment or continuation of employment,
5 the administration of a blood alcohol content test by a third party or a
6 breathalyzer test. The employer [*shall*] **may** not require the employee to pay
7 the cost of administering [*any such*] **a blood alcohol content test or**
8 **breathalyzer** test.

9 “(5) Subsection (1) of this section does not prohibit the administration of
10 a genetic test to an individual if the individual or the individual’s represen-
11 tative grants informed consent in the manner provided by ORS 192.535, and
12 the genetic test is administered solely to determine a bona fide occupational
13 qualification.”.

14 In line 17, delete “2” and insert “4”.

15 In line 30, delete “3” and insert “5”.

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