

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2545**

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest  
2 of the line and insert “amending ORS 703.310; and prescribing an effective  
3 date.”.

4 Delete lines 4 through 31 and delete page 2 and insert:

5 **“SECTION 1. As used in sections 1 to 12 of this 2017 Act:**

6 **“(1)(a) ‘Deception detection examination’ means an instrument or**  
7 **mechanical device used to question or test an individual for the pur-**  
8 **pose of detecting deception or verifying the truth of statements made**  
9 **by the individual.**

10 **“(b) ‘Deception detection examination’ includes an ocular motor**  
11 **deception detection examination.**

12 **“(c) ‘Deception detection examination’ does not include a polygraph**  
13 **examination.**

14 **“(2) ‘Deception detection examination administrator’ means a per-**  
15 **son licensed under section 2 or 3 of this 2017 Act.**

16 **“(3) ‘Ocular motor deception detection examination’ means a test,**  
17 **conducted using a software application, that records the cognitive re-**  
18 **sponses, eye behavior, memory recall and other physiological charac-**  
19 **teristics of the person to whom the examination is given to determine**  
20 **whether the person is truthful or engaged in deception.**

21 **“SECTION 2. (1) The Department of Public Safety Standards and**

1 **Training may issue a deception detection examination administrator**  
2 **license to an applicant who:**

3 **“(a) Is at least 18 years of age;**

4 **“(b) Is a citizen of the United States;**

5 **“(c) Has not demonstrated, in the preceding 10 years, a course of**  
6 **behavior that indicates a high degree of probability that the applicant**  
7 **will be unlikely to perform the duties of a deception detection exam-**  
8 **ination administrator in a manner that would serve the interests of**  
9 **the public;**

10 **“(d) If previously convicted of a criminal offense, provides infor-**  
11 **mation, as required by the department, regarding the circumstances**  
12 **of the conviction;**

13 **“(e)(A) Holds a bachelor’s degree; or**

14 **“(B) Holds a high school diploma or General Educational Develop-**  
15 **ment (GED) certificate and has at least five years of active investi-**  
16 **gative experience;**

17 **“(f) Has satisfactorily completed at least 200 deception detection**  
18 **examinations and has:**

19 **“(A) Graduated from a deception detection examination course that**  
20 **is approved by the department and that conforms to any minimum**  
21 **training standards approved by the Board on Public Safety Standards**  
22 **and Training; or**

23 **“(B) At least five years of relevant work experience, as determined**  
24 **by the department, with a governmental agency of this state;**

25 **“(g) Has passed an examination conducted by the department to**  
26 **determine, consistent with any standards adopted by the board, com-**  
27 **petency to practice as a deception detection examination administra-**  
28 **tor; and**

29 **“(h) Pays a fee established by the board by rule.**

30 **“(2) An applicant meets the requirements of subsection (1) of this**

1 section if the applicant provides to the department documentation of  
2 military experience or training that the department determines is  
3 substantially equivalent to the education and experience required by  
4 subsection (1) of this section.

5 “(3)(a) For the purpose of requesting a state or nationwide criminal  
6 records check under ORS 181A.195, the department shall require an  
7 applicant to be fingerprinted as part of the licensing procedure.

8 “(b) Notwithstanding ORS 181A.195 (5) and (6), the Department of  
9 State Police shall maintain in the department’s files fingerprint cards  
10 submitted to the department for the purposes of conducting a state  
11 or nationwide criminal background check under ORS 181A.195 on an  
12 applicant for a license under this section.

13 “(4) If the Department of Public Safety Standards and Training re-  
14 fuses to issue a license based on an applicant’s failure to meet the  
15 requirements of subsection (1)(c) of this section, the department shall  
16 prepare a concise, specific written statement of the facts supporting  
17 the department’s decision and shall provide a copy of the statement  
18 to the applicant.

19 “SECTION 3. The Department of Public Safety Standards and  
20 Training may issue a deception detection examination administrator  
21 license by reciprocity to a person who:

22 “(1) Is at least 18 years of age;

23 “(2) Is a citizen of the United States;

24 “(3) Is authorized to administer a deception detection examination  
25 in another state or territory;

26 “(4) Is in good standing in the other state or territory from which  
27 the person holds authorization; and

28 “(5) Pays a fee established by the Board on Public Safety Standards  
29 and Training by rule.

30 “SECTION 4. (1) A license issued under section 2 or 3 of this 2017

1 Act is valid for one year.

2 “(2) The Department of Public Safety Standards and Training may  
3 renew a license issued under section 2 or 3 of this 2017 Act, unless the  
4 department has previously suspended or revoked the license, if the  
5 deception detection examination administrator:

6 “(a) Pays a fee established by the Board on Public Safety Standards  
7 and Training by rule; and

8 “(b) Complies with the requirements in section 2 (1)(a) to (f) of this  
9 2017 Act for issuance of initial licensure.

10 “(3) If a license is expired for more than two years, the applicant  
11 for renewal shall retake and pass the examination required under  
12 section 2 (1)(g) of this 2017 Act before the department may renew the  
13 license. This subsection does not apply to a person whose license ex-  
14 pired while the person was employed by a federal agency or while the  
15 person was on active duty as a member of the Armed Forces of the  
16 United States or as a member of the National Guard of this state.

17 “SECTION 5. A person may not administer a deception detection  
18 examination, or assume any titles, words or abbreviations, including  
19 the title or designation ‘deception detection examination administra-  
20 tor,’ that indicate the person is authorized to administer a deception  
21 detection examination unless the person holds a license issued under  
22 section 2 or 3 of this 2017 Act.

23 “SECTION 6. (1) A deception detection examination administrator  
24 shall display prominently the license issued under section 2 or 3 of this  
25 2017 Act in the place of business or employment of the deception de-  
26 tection examination administrator.

27 “(2) A deception detection examination administrator shall notify  
28 the Department of Public Safety Standards and Training in writing of  
29 any change in the principal place of business of the deception de-  
30 tection examination administrator not later than 30 days after the date

1 of the change.

2 “(3) The department shall suspend a deception detection examina-  
3 tion administrator’s license for failure to comply with this section.

4 **“SECTION 7. In accordance with ORS chapter 183, the Department**  
5 **of Public Safety Standards and Training may deny, suspend or revoke**  
6 **a deception detection examination administrator license if the**  
7 **licensee:**

8 “(1) Failed to inform a person to whom a deception detection ex-  
9 amination is administered as to the nature of the deception detection  
10 examination or failed to advise the person, or representative of the  
11 person, of the results of the deception detection examination;

12 “(2) Failed to inform the person to whom the deception detection  
13 examination is administered that the deception detection examination  
14 is voluntary;

15 “(3) Made a material misstatement in application for a license or  
16 renewal of a license under section 2 or 3 of this 2017 Act;

17 “(4) Willfully disregarded or violated a provision of sections 1 to 12  
18 of this 2017 Act or a rule adopted under sections 1 to 12 of this 2017  
19 Act;

20 “(5) Made a willful misrepresentation or used false or misleading  
21 advertising in the course of business under sections 1 to 12 of this 2017  
22 Act;

23 “(6) Demonstrates inability or incompetency to carry out the duties  
24 of a deception detection examination administrator;

25 “(7) Allows a license granted to the person under section 2 or 3 of  
26 this 2017 Act to be used by another person;

27 “(8) Wilfully aids or abets a violation of sections 1 to 12 of this 2017  
28 Act or of a rule adopted under sections 1 to 12 of this 2017 Act; or

29 “(9) Fails, within a reasonable time, to provide information re-  
30 quested by the department after the department receives a complaint

1 **alleging that the person has violated a provision of sections 1 to 12 of**  
2 **this 2017 Act or a rule adopted under sections 1 to 12 of this 2017 Act.**

3 **“SECTION 8. (1) Upon written notification of the suspension or re-**  
4 **vocation of a license issued under section 2 or 3 of this 2017 Act, a**  
5 **deception detection examination administrator shall immediately sur-**  
6 **render the license to the Department of Public Safety Standards and**  
7 **Training.**

8 **“(2) The department may restore a license surrendered under this**  
9 **section as the department determines appropriate.**

10 **“SECTION 9. All moneys collected by the Department of Public**  
11 **Safety Standards and Training under sections 1 to 12 of this 2017 Act**  
12 **shall be deposited into the Police Standards and Training Account.**

13 **“SECTION 10. The Board on Public Safety Standards and Training**  
14 **may adopt rules necessary to carry out the provisions of sections 1 to**  
15 **12 of this 2017 Act.**

16 **“SECTION 11. A violation of a provision of sections 1 to 12 of this**  
17 **2017 Act, or a rule adopted under sections 1 to 12 of this 2017 Act, is**  
18 **a Class A misdemeanor.**

19 **“SECTION 12. (1) A person commits a Class A misdemeanor if the**  
20 **person knowingly falsifies the fingerprints, photographs or other data**  
21 **pertinent to an application for a deception detection examination ad-**  
22 **ministrator license.**

23 **“(2) A person commits a Class B misdemeanor if the person know-**  
24 **ingly practices as a deception detection examination administrator**  
25 **without a license.**

26 **“SECTION 13. ORS 703.310 is amended to read:**

27 **“703.310. (1) All instruments or mechanical devices that are used by**  
28 **polygraph examiners to test or question an individual for the purpose of de-**  
29 **tecting deception or of verifying the truth of statements made by the indi-**  
30 **vidual shall record visually, permanently and simultaneously the**

1 cardiovascular pattern, the respiratory pattern and the galvanic skin re-  
2 sponse of the individual. The patterns of other physiological changes of the  
3 individual also may be recorded.

4 “(2) Except as otherwise provided in ORS 703.335 **and sections 1 to 12**  
5 **of this 2017 Act**, a person may not use any instrument or mechanical device  
6 to test or question an individual for the purpose of detecting deception or  
7 verifying the truth of statements made by the individual that does not com-  
8 ply with the minimum requirements for the instrument or device under sub-  
9 section (1) of this section. The Department of Public Safety Standards and  
10 Training, in consultation with the Board on Public Safety Standards and  
11 Training, may, in the name of the State of Oregon, initiate and maintain  
12 appropriate judicial proceedings, in the manner provided by law for such  
13 proceedings, to enjoin the use by a polygraph examiner of any instrumenta-  
14 tion or mechanical device that does not comply with the minimum require-  
15 ments specified in subsection (1) of this section.

16 **“SECTION 14. (1) Sections 1 to 12 of this 2017 Act and the amend-**  
17 **ments to ORS 703.310 by section 13 of this 2017 Act become operative**  
18 **on January 1, 2018.**

19 **“(2) The Board on Public Safety Standards and Training and the**  
20 **Department of Public Safety Standards and Training may take any**  
21 **action before the operative date specified in subsection (1) of this sec-**  
22 **tion that is necessary to enable the board and the department to ex-**  
23 **ercise, on or after the operative date specified in subsection (1) of this**  
24 **section, all of the duties, functions and powers conferred on the board**  
25 **and the department by sections 1 to 12 of this 2017 Act and the**  
26 **amendments to ORS 703.310 by section 13 of this 2017 Act.**

27 **“SECTION 15. This 2017 Act takes effect on the 91st day after the**  
28 **date on which the 2017 regular session of the Seventy-ninth Legislative**  
29 **Assembly adjourns sine die.”**

30