

(1) issue such rules and regulations as may be necessary or appropriate to carry out this chapter;

(2) cooperate with regional, State, local, and other agencies, and cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this chapter; and

(3) make investigations and inspections and require the keeping of records necessary or appropriate for the administration of this chapter.

**(b) Subpoena authority**

For the purpose of any hearing or investigation under this chapter, the Secretary shall have the authority contained in sections 49 and 50 of title 15.

(Pub. L. 100-347, § 5, June 27, 1988, 102 Stat. 647.)

**§ 2005. Enforcement provisions**

**(a) Civil penalties**

**(1) In general**

Subject to paragraph (2), any employer who violates any provision of this chapter may be assessed a civil penalty of not more than \$10,000.

**(2) Determination of amount**

In determining the amount of any penalty under paragraph (1), the Secretary shall take into account the previous record of the person in terms of compliance with this chapter and the gravity of the violation.

**(3) Collection**

Any civil penalty assessed under this subsection shall be collected in the same manner as is required by subsections (b) through (e) of section 1853 of this title with respect to civil penalties assessed under subsection (a) of such section.

**(b) Injunctive actions by Secretary**

The Secretary may bring an action under this section to restrain violations of this chapter. The Solicitor of Labor may appear for and represent the Secretary in any litigation brought under this chapter. In any action brought under this section, the district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or permanent restraining orders and injunctions to require compliance with this chapter, including such legal or equitable relief incident thereto as may be appropriate, including, but not limited to, employment, reinstatement, promotion, and the payment of lost wages and benefits.

**(c) Private civil actions**

**(1) Liability**

An employer who violates this chapter shall be liable to the employee or prospective employee affected by such violation. Such employer shall be liable for such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, promotion, and the payment of lost wages and benefits.

**(2) Court**

An action to recover the liability prescribed in paragraph (1) may be maintained against

the employer in any Federal or State court of competent jurisdiction by an employee or prospective employee for or on behalf of such employee, prospective employee, and other employees or prospective employees similarly situated. No such action may be commenced more than 3 years after the date of the alleged violation.

**(3) Costs**

The court, in its discretion, may allow the prevailing party (other than the United States) reasonable costs, including attorney's fees.

**(d) Waiver of rights prohibited**

The rights and procedures provided by this chapter may not be waived by contract or otherwise, unless such waiver is part of a written settlement agreed to and signed by the parties to the pending action or complaint under this chapter.

(Pub. L. 100-347, § 6, June 27, 1988, 102 Stat. 647.)

**§ 2006. Exemptions**

**(a) No application to governmental employers**

This chapter shall not apply with respect to the United States Government, any State or local government, or any political subdivision of a State or local government.

**(b) National defense and security exemption**

**(1) National defense**

Nothing in this chapter shall be construed to prohibit the administration, by the Federal Government, in the performance of any counterintelligence function, of any lie detector test to—

(A) any expert or consultant under contract to the Department of Defense or any employee of any contractor of such Department; or

(B) any expert or consultant under contract with the Department of Energy in connection with the atomic energy defense activities of such Department or any employee of any contractor of such Department in connection with such activities.

**(2) Security**

Nothing in this chapter shall be construed to prohibit the administration, by the Federal Government, in the performance of any intelligence or counterintelligence function, of any lie detector test to—

(A)(i) any individual employed by, assigned to, or detailed to, the National Security Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, or the Central Intelligence Agency,

(ii) any expert or consultant under contract to any such agency,

(iii) any employee of a contractor to any such agency,

(iv) any individual applying for a position in any such agency, or

(v) any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for any such agency; or

(B) any expert, or consultant (or employee of such expert or consultant) under contract