

(1) Commerce

The term “commerce” has the meaning provided by section 203(b) of this title.

(2) Employer

The term “employer” includes any person acting directly or indirectly in the interest of an employer in relation to an employee or prospective employee.

(3) Lie detector

The term “lie detector” includes a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(4) Polygraph

The term “polygraph” means an instrument that—

(A) records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(B) is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(5) Secretary

The term “Secretary” means the Secretary of Labor.

(Pub. L. 100-347, § 2, June 27, 1988, 102 Stat. 646.)

EFFECTIVE DATE

Pub. L. 100-347, § 11, June 27, 1988, 102 Stat. 653, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this Act [enacting this chapter] shall become effective 6 months after the date of enactment of this Act [June 27, 1988].

“(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out this Act.”

SHORT TITLE

Pub. L. 100-347, § 1, June 27, 1988, 102 Stat. 646, provided that: “This Act [enacting this chapter] may be cited as the ‘Employee Polygraph Protection Act of 1988’.”

§ 2002. Prohibitions on lie detector use

Except as provided in sections 2006 and 2007 of this title, it shall be unlawful for any employer engaged in or affecting commerce or in the production of goods for commerce—

(1) directly or indirectly, to require, request, suggest, or cause any employee or prospective employee to take or submit to any lie detector test;

(2) to use, accept, refer to, or inquire concerning the results of any lie detector test of any employee or prospective employee;

(3) to discharge, discipline, discriminate against in any manner, or deny employment or promotion to, or threaten to take any such action against—

(A) any employee or prospective employee who refuses, declines, or fails to take or submit to any lie detector test, or

(B) any employee or prospective employee on the basis of the results of any lie detector test; or

(4) to discharge, discipline, discriminate against in any manner, or deny employment or promotion to, or threaten to take any such action against, any employee or prospective employee because—

(A) such employee or prospective employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter,

(B) such employee or prospective employee has testified or is about to testify in any such proceeding, or

(C) of the exercise by such employee or prospective employee, on behalf of such employee or another person, of any right afforded by this chapter.

(Pub. L. 100-347, § 3, June 27, 1988, 102 Stat. 646.)

§ 2003. Notice of protection

The Secretary shall prepare, have printed, and distribute a notice setting forth excerpts from, or summaries of, the pertinent provisions of this chapter. Each employer shall post and maintain such notice in conspicuous places on its premises where notices to employees and applicants to employment are customarily posted.

(Pub. L. 100-347, § 4, June 27, 1988, 102 Stat. 647.)

§ 2004. Authority of Secretary

(a) In general

The Secretary shall—

(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.