

A.B. 223

ASSEMBLY BILL NO. 223—ASSEMBLYMEN KIRKPATRICK, PARKS,
ALLEN, CONKLIN, ATKINSON, BEERS, CHRISTENSEN,
CLABORN, DENIS, GANSERT, HORNE, MABEY, MCCLAIN,
MORTENSON, OCEGUERA, PARNELL, PIERCE, SEGERBLOM,
SETTELMAYER, SMITH, STEWART AND WOMACK

FEBRUARY 28, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Requires the licensing of voice stress examiners and
interns. (BDR 54-900)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the Private Investigator's Licensing Board;
requiring the licensing of voice stress examiners and
interns; requiring the appointment of a voice stress
examiner to the Board; providing a penalty; and providing
other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires private investigators, private patrolmen, process servers,
2 repossessioners, dog handlers, security consultants, polygraphic examiners and interns
3 to be licensed by the Private Investigator's Licensing Board. (NRS 648.060)
4 **Section 8** of this bill adds to the Board one additional member who is a licensed
5 voice stress examiner. **Section 9** of this bill requires voice stress examiners and
6 interns to be licensed by the Board. **Section 11** of this bill establishes the
7 requirements for licensing voice stress examiners and interns. **Section 16** of this bill
8 establishes requirements for instruments used to conduct a voice stress
9 examination.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 648 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *“Voice stress examination” means a procedure which:*

1. Visually, permanently and simultaneously detects, measures and displays changes in the frequency of the glottal tone of the voice of the person examined which can be permanently and simultaneously recorded; and

2. Is used by an examiner or intern to render his expert opinion as to the veracity of statements made by the person examined.

Sec. 3. *“Voice stress examiner” or “examiner” means a person who by virtue of his education, training and experience is capable of conducting a valid and reliable voice stress examination.*

Sec. 4. NRS 648.005 is hereby amended to read as follows:

648.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 648.006 to 648.016, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 648.0067 is hereby amended to read as follows:

648.0067 “Intern” means a person who is involved in the study of *voice stress examinations or* polygraphic examinations and their administration.

Sec. 6. NRS 648.017 is hereby amended to read as follows:

648.017 The purpose of licensing private investigators, private patrolmen, process servers, repossessioners, dog handlers, security consultants, ~~land~~ *voice stress examiners*, polygraphic examiners and interns is to protect the public safety and general welfare of the people of this State. Any license issued pursuant to this chapter is a privilege that may be revoked in accordance with disciplinary procedures set forth in this chapter and in regulations adopted by the Board pursuant thereto, and no holder of such a license acquires thereby any vested right.

Sec. 7. NRS 648.018 is hereby amended to read as follows:

648.018 Except as to *voice stress examiners*, polygraphic examiners and interns, this chapter does not apply:

1. To any detective or officer belonging to the law enforcement agencies of the State of Nevada or the United States, or of any county or city of the State of Nevada, while the detective or officer is engaged in the performance of his official duties.



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2. To special police officers appointed by the police department of any city, county, or city and county within the State of Nevada while the officer is engaged in the performance of his official duties.

3. To insurance adjusters and their associate adjusters licensed pursuant to the Nevada Insurance Adjusters Law who are not otherwise engaged in the business of private investigators.

4. To any private investigator, private patrolman, process server, dog handler or security consultant employed by an employer regularly in connection with the affairs of that employer if a bona fide employer-employee relationship exists, except as otherwise provided in NRS 648.060, 648.140 and 648.203.

5. To a reposessor employed exclusively by one employer regularly in connection with the affairs of that employer if a bona fide employer-employee relationship exists, except as otherwise provided in NRS 648.060, 648.140 and 648.203.

6. To a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

7. To a charitable philanthropic society or association incorporated under the laws of this State which is organized and maintained for the public good and not for private profit.

8. To an attorney at law in performing his duties as such.

9. To a collection agency unless engaged in business as a reposessor, licensed by the Commissioner of Financial Institutions, or an employee thereof while acting within the scope of his employment while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his assets and of property which the client has an interest in or lien upon.

10. To admitted insurers and agents and insurance brokers licensed by the State, performing duties in connection with insurance transacted by them.

11. To any bank organized pursuant to the laws of this State or to any national bank engaged in banking in this State.

12. To any person employed to administer a program of supervision for persons who are serving terms of residential confinement.

Sec. 8. NRS 648.020 is hereby amended to read as follows:

648.020 1. The Private Investigator's Licensing Board, consisting of the Attorney General or his deputy and ~~four~~ five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) One member who is a private investigator.

(b) One member who is a private patrolman.

(c) One member who is a polygraphic examiner.



(d) *One member who is a voice stress examiner.*

(e) One member who is a representative of the general public.
This member must not be:

(1) A licensee; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensee.

3. The Chairman of the Board is the Attorney General or a deputy attorney general designated by the Attorney General to act in that capacity.

4. Each member of the Board, except the Chairman, is entitled to receive:

(a) A salary of not more than \$80, as fixed by the Board, for each day or portion of a day during which he attends a meeting of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

6. The member who is a representative of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 9. NRS 648.060 is hereby amended to read as follows:

648.060 1. No person may:

(a) Engage in the business of private investigator, private patrolman, process server, reposessor, dog handler, security consultant, ~~or~~ *voice stress examiner*, polygraphic examiner or intern; or

(b) Advertise his business as such, irrespective of the name or title actually used,

↪ unless he is licensed pursuant to this chapter.

2. No person may be employed by a licensee unless the person holds a work card issued by the sheriff of the county in which the work is to be performed. The provisions of this subsection do not apply to a person licensed pursuant to this chapter.

3. A person licensed pursuant to this chapter may employ only another licensee, or a nonlicensed person who:

(a) Is at least 18 years of age.

(b) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

(c) Is of good moral character and temperate habits.



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(d) Has not been convicted of a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon.

Sec. 10. NRS 648.061 is hereby amended to read as follows:

648.061 1. A license as a *voice stress examiner*, polygraphic examiner or intern is not required under this chapter of a person who conducts *voice stress examinations or* polygraphic examinations solely in the performance of official duties for a federal, state, county or municipal law enforcement or investigative agency.

2. Persons who are exempt pursuant to subsection 1 shall comply with all other provisions of this chapter.

3. Persons who are exempt and who meet the requirements of this chapter for a license as a *voice stress examiner*, polygraphic examiner or intern may apply to the Board for certification of their qualifications for a license in the same manner as prescribed for licensing.

Sec. 11. NRS 648.110 is hereby amended to read as follows:

648.110 1. Before the Board grants any license, the applicant, including each director and officer of a corporate applicant, must:

(a) Be at least 21 years of age.

(b) Be a citizen of the United States or lawfully entitled to remain and work in the United States.

(c) Be of good moral character and temperate habits.

(d) Have no conviction of:

(1) A felony relating to the practice for which the applicant wishes to be licensed; or

(2) Any crime involving moral turpitude or the illegal use or possession of a dangerous weapon.

2. Each applicant, or the qualifying agent of a corporate applicant, must:

(a) If an applicant for a private investigator's license, have at least 5 years' experience as an investigator, or the equivalent thereof, as determined by the Board.

(b) If an applicant for a reposessor's license, have at least 5 years' experience as a reposessor, or the equivalent thereof, as determined by the Board.

(c) If an applicant for a private patrolman's license, have at least 5 years' experience as a private patrolman, or the equivalent thereof, as determined by the Board.

(d) If an applicant for a process server's license, have at least 2 years' experience as a process server, or the equivalent thereof, as determined by the Board.

(e) If an applicant for a dog handler's license, demonstrate to the satisfaction of the Board his ability to handle, supply and train watchdogs.



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(f) If an applicant for a license as ~~an~~ *a polygraphic* intern, have:

(1) Received:

(I) A baccalaureate degree from an accredited college or university and have at least 1 year's experience in investigation or polygraphic examination satisfactory to the Board;

(II) An associate degree from an accredited college or university and have at least 3 years' experience; or

(III) A high school diploma or its equivalent and have at least 5 years' experience; and

(2) Satisfactorily completed a basic course of instruction in polygraphic techniques satisfactory to the Board.

(g) If an applicant for a license as a polygraphic examiner:

(1) Meet the requirements contained in paragraph (f);

(2) Have actively conducted polygraphic examinations for at least 2 years;

(3) Have completed successfully at least 250 polygraphic examinations, including at least 100 examinations concerning specific inquiries as distinguished from general examinations for the purpose of screening;

(4) Have completed successfully at least 50 polygraphic examinations, including 10 examinations concerning specific inquiries, during the 12 months immediately ~~before~~ *preceding* the date of his application; and

(5) Have completed successfully at least 24 hours of advanced polygraphic training acceptable to the Board during the 2 years immediately ~~before~~ *preceding* the date of his application.

(h) *If an applicant for a license as an intern in voice stress examination, have satisfactorily completed a basic course of instruction in voice stress analysis satisfactory to the Board.*

(i) *If an applicant for a license as a voice stress examiner:*

(1) Have satisfactorily completed a basic course of instruction in voice stress analysis satisfactory to the Board;

(2) Have actively conducted voice stress examinations for at least 1 year;

(3) Have completed successfully at least 25 voice stress examinations, including 10 examinations concerning specific inquiries, during the 12 months immediately preceding the date of his application; and

(4) Have completed successfully at least 24 hours of advanced training in voice stress analysis acceptable to the Board during the 2 years immediately preceding the date of his application.

(j) Meet other requirements as determined by the Board.



3. The Board, when satisfied from recommendations and investigation that the applicant is of good character, competency and integrity, may issue and deliver a license to the applicant entitling him to conduct the business for which he is licensed, for the period which ends on July 1 next following the date of issuance.

4. For the purposes of ~~[this section.]~~ *paragraphs (a) to (h), inclusive, and (j) of subsection 2*, 1 year of experience consists of 2,000 hours of experience.

Sec. 12. NRS 648.115 is hereby amended to read as follows:

648.115 The Board may issue a license to any person who is licensed as a *voice stress examiner or* polygraphic examiner in another state if:

1. The requirements for the license in that jurisdiction at the time the license was issued are deemed by the Board to be equivalent to the requirements for a license in this State;

2. The jurisdiction extends the same privileges to a person licensed in this State; and

3. The person submits the application and undergoes the investigation required for licensing.

Sec. 13. NRS 648.140 is hereby amended to read as follows:

648.140 1. Any license obtained pursuant to the provisions of this chapter gives the licensee or any bona fide employee of the licensee authority to engage in the type of business for which he is licensed in any county or city in the State of Nevada. A county or city shall not enact ordinances regulating persons licensed pursuant to this chapter, except:

(a) Ordinances regulating the employer-employee relationship of licensees and their unlicensed employees; and

(b) General business regulations designed to raise revenue or assure compliance with building codes and ordinances or regulations concerning zoning and safety from fire.

2. Except for *voice stress examiners*, polygraphic examiners and interns, a licensee may employ, in connection with his business, as many unlicensed persons as may be necessary, but at all times every licensee is accountable for the good conduct of every person employed by him in connection with his business. Each licensee shall furnish the Board with the information requested by it concerning all unlicensed employees, except clerical personnel, and shall notify the Board within 10 days after ~~[such]~~ *those* employees begin or terminate their employment.

3. The Board may by regulation require that a licensee pay registration fees for each of his unlicensed employees, except clerical employees, and impose such terms and conditions in connection with those fees as it deems appropriate. The registration fee must not exceed \$10 for each unlicensed employee.



4. Each licensee shall report quarterly , on forms provided by the Board , the name of each unlicensed employee employed by him at the time of the report and the name of each unlicensed employee who has left his employ since the date of the last quarterly report. The report required by this subsection is in addition to the reports required by subsection 2.

Sec. 14. NRS 648.155 is hereby amended to read as follows:

648.155 In addition to the causes specified in NRS 648.150, the Board may discipline an intern , *voice stress examiner* or polygraphic examiner if he has:

1. Demonstrated incompetence or a physical or emotional disability which prevents him from properly functioning as an intern , *voice stress examiner* or polygraphic examiner;

2. Willfully made a false report of the results of a *voice stress examination* or polygraphic examination; or

3. Accepted a fee contingent upon the outcome of a *voice stress examination* or polygraphic examination.

Sec. 15. NRS 648.183 is hereby amended to read as follows:

648.183 In any matter involving the well-being, employment or liability of a person, another person shall not consider or accept into evidence an opinion resulting from a *voice stress examination* or polygraphic examination unless the examination:

1. Meets the minimum standards established by this chapter; and

2. Was administered by a person who holds a valid license as a *voice stress examiner*, polygraphic examiner or intern or is qualified as a *voice stress examiner*, polygraphic examiner or intern and exempt from the requirement of licensing.

Sec. 16. NRS 648.185 is hereby amended to read as follows:

648.185 1. Each instrument used to conduct a *voice stress examination* or polygraphic examination must be of a type approved by the Board.

2. The Board shall approve instruments *used to conduct:*

(a) *A polygraphic examination* which:

~~(a)~~ (1) Are of commercial manufacture;

~~(b)~~ (2) Visually, permanently and simultaneously record on a moving graph, physiological effects, including cardiovascular activity, respiratory activity and changes in skin resistance, as well as any other activity which the Board deems relevant to the purposes of a polygraphic examination; and

~~(c)~~ (3) Meet the minimum standards of accuracy and reliability adopted by the Board.

~~[2.—Nothing in this chapter restricts]~~

(b) *A voice stress examination* which:

(1) *Are of a commercial manufacture;*



(2) *Visually, permanently and simultaneously detect, measure and display changes in the frequency of the glottal tone of the voice of the person examined which can be permanently and simultaneously recorded; and*

(3) *Meet the minimum standards of accuracy and reliability adopted by the Board.*

3. This section does not restrict the development of instruments or electronic or mechanical devices to record physiological events for the purpose of forming an opinion concerning the veracity of a statement made by the person examined.

~~B-1~~ **4.** The Board may grant conditional approval to instruments for use in research.

Sec. 17. NRS 648.187 is hereby amended to read as follows:

648.187 Except in the case of an investigation of its own affairs conducted by a law enforcement agency, an examiner or intern shall, before beginning a *voice stress examination or* polygraphic examination, inform the person examined that he has the right to refuse to answer any questions if his answer would tend to incriminate or degrade him.

Sec. 18. NRS 648.189 is hereby amended to read as follows:

648.189 A *voice stress examination or* polygraphic examination must not be conducted:

1. Unless the person examined is advised of the purpose of the examination.

2. Unless the person examined consents to it in writing.

3. For the purpose of interfering with or preventing lawful activities of organized labor.

4. If the person examined is less than 18 years of age, unless the written consent of a parent or legal guardian has been obtained after the parent or guardian has been informed of the nature of the examination and the matters to be covered.

5. To circumvent or in defiance of the law.

Sec. 19. NRS 648.191 is hereby amended to read as follows:

648.191 In conducting a *voice stress examination or* polygraphic examination, an examiner or intern shall use only standard and widely accepted techniques based on comparison of the reaction to relevant questions and to questions asked as a control or techniques based on comparison of peaks of tension. All questions used during the examination must be reviewed with the person examined before being used. Minor modification of technique, not affecting its integrity, may be used when necessary or appropriate for the issue under investigation.



1 **Sec. 20.** NRS 648.193 is hereby amended to read as follows:

2 648.193 During a *voice stress examination or* polygraphic
3 examination, the examiner or intern shall not make inquiries into the
4 religion, political affiliations, affiliations with labor organizations or
5 sexual activities of the person examined unless his religion or those
6 affiliations or activities are germane to the issue under investigation
7 and the inquiries are made at the request of the person examined.

8 **Sec. 21.** NRS 648.195 is hereby amended to read as follows:

9 648.195 1. An examiner or intern shall not render a written or
10 oral opinion based upon his analysis of *voice stress charts or*
11 polygraphic charts without administering two or more charts with
12 the same questions on at least two of the charts.

13 2. An examiner or intern shall not render an opinion based
14 upon analysis of *voice stress charts or* polygraphic charts without
15 affording the person examined an opportunity to explain any
16 physiological effects recorded on those charts which indicate
17 deception on the part of the person examined.

18 3. The opinion of an examiner or intern with regard to a *voice*
19 *stress examination or* polygraphic examination may refer only to
20 truth or deception on the part of the person examined. An examiner
21 or intern may not give an opinion as to the guilt or innocence of the
22 person examined. An examiner or intern may indicate the person's
23 knowledge of elements of an act as shown by analysis of *voice*
24 *stress charts or* polygraphic charts obtained during the conduct of
25 examinations which measure peaks of tension.

26 4. An examiner or intern shall advise the person examined of
27 his opinion concerning the person's veracity within a reasonable
28 time after the examination.

29 **Sec. 22.** NRS 648.197 is hereby amended to read as follows:

30 648.197 1. Each examiner or intern shall maintain a
31 chronological log of all *voice stress examinations or* polygraphic
32 examinations which he administers. The log must include the date of
33 each examination, the name of the person examined, and an
34 identifying case or file number.

35 2. All *voice stress charts and* polygraphic charts must be
36 identified with the name of the person examined, the date of the
37 examination, an identifying case or file number , and the signature
38 ~~[or initials]~~ of the examiner or intern.

39 3. The records of a *voice stress examination or* polygraphic
40 examination, including the written consent of the person examined,
41 the questions asked, notes and charts obtained during the
42 examination, must be maintained in a manner which protects their
43 confidentiality by the examiner or intern or his employer, for a
44 period of not less than 3 years.



1 4. Except when ordered to do so by a court of competent
2 jurisdiction, or as otherwise provided by law, a person who
3 possesses the results of a *voice stress examination or* polygraphic
4 examination or information obtained during a *voice stress*
5 *examination or* polygraphic examination shall not release the
6 results or the information obtained without the written consent of
7 the person examined.

8 **Sec. 23.** NRS 648.199 is hereby amended to read as follows:

9 648.199 ~~[Am]~~

10 *1. A polygraphic* examiner or intern may make charts and
11 other records of ~~[am]~~ *a polygraphic* examination available to another
12 polygraphic examiner or intern or group of polygraphic examiners
13 or interns, including the Board and its representatives, for the
14 purpose of consultation or review under conditions which ensure the
15 confidentiality of the *polygraphic* examination and its results.

16 *2. A voice stress examiner or intern may make charts and*
17 *other records of a voice stress examination available to another*
18 *voice stress examiner or intern or group of voice stress examiners*
19 *or interns, including the Board and its representatives, for the*
20 *purpose of consultation or review under conditions which ensure*
21 *the confidentiality of the voice stress examination and its results.*

22 **Sec. 24.** The Governor shall appoint to the Private
23 Investigator's Licensing Board the additional member who is a
24 voice stress examiner required by paragraph (d) of subsection 2 of
25 NRS 648.020, as amended by section 8 of this act, to a term that
26 expires on October 31, 2010.

