

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

House Bill 4262

BY DELEGATES STEELE AND FOSTER

[Originating in the Committee on Government

Organization; February 9, 2022]

1 A BILL to repeal §21-5-5c of the Code of West Virginia, 1931, as amended, and to amend and
2 reenact §21-5-5d of said code; all relating to licensure for polygraph examiners, removing
3 state licensure requirements for polygraph examiners; and updating criminal penalties
4 associated with removing state licensure.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

**§21-5-5c. License required for psychophysiological detection of deception examiners;
qualifications; promulgation of rules governing administration of
psychophysiological detection of deception examinations.**

1 [Repealed.]

§21-5-5d. Penalties; cause of action.

1 ~~(a) It shall be a misdemeanor to administer or interpret a psychophysiological detection of~~
2 ~~deception, lie detector or similar examination utilizing mechanical or electronic measures of~~
3 ~~physiological reactions to evaluate truthfulness without having received a valid and current license~~
4 ~~to do so as issued by the commissioner of labor or in violation of any rule or regulation~~
5 ~~promulgated by the commissioner under section five c of this article. Any person convicted of~~
6 ~~violating section five c shall be fined not more than \$500.~~

7 ~~(b_a) Any person who violates §21-5-5b of this article code is guilty of a misdemeanor and,~~
8 upon conviction thereof, shall be fined not more than \$500.

9 ~~(b_b) Any employee or prospective employee has a right to sue an employer or prospective~~
10 ~~employer for a violation of the provisions of §21-5-5b of this article code. If successful, the~~
11 ~~employee or prospective employee shall recover threefold the damages sustained by him or her,~~
12 ~~together with reasonable attorneys' fees, filing fees, and reasonable costs of the action.~~
13 ~~Reasonable costs of the action may include, but shall not be limited to, the expenses of discovery~~
14 ~~and document reproduction. Damages may include, but shall not be limited to, back pay for the~~
15 ~~period during which the employee did not work or was denied a job.~~