

# SENATE BILL No. 665

September 16, 2003, Introduced by Senators VAN WOERKOM, BIRKHOLZ and GARCIA  
and referred to the Committee on Judiciary.

A bill to regulate the sale, distribution, and use of truth verification technology in this state; to prescribe certain powers and duties of certain state agencies; to prohibit certain conduct involving truth verification technology; and to prescribe remedies and penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "truth verification technology act".

3       Sec. 3. As used in this act:

4       (a) "Board" means the technology board.

5       (b) "Department" means the department of consumer and  
6 industry services.

7       (c) "Truth verification technology" means any instrument or  
8 device designed or intended to be used to detect deception or  
9 verify truthfulness or to assist in reporting deception or

1 verifying truthfulness.

2       Sec. 5. (1) There is created within the department a  
3 technology board consisting of 7 residents of the state to be  
4 appointed by the governor with the advice and consent of the  
5 senate. Appointed members shall be not less than 18 years of age  
6 and qualified in their respective fields. Of the members first  
7 appointed, 2 members shall have a term of 2 years, 2 members  
8 shall have a term of 3 years, and 3 members shall have a term of  
9 4 years. Appointed members of the board shall include all of the  
10 following:

11       (a) Four individuals required to be licensed under this act  
12 who have been actively engaged in the truth verification  
13 technology profession for at least 3 out of the 5 years  
14 immediately preceding the date of appointment and become licensed  
15 under this act within 1 year after the effective date of this  
16 act.

17       (b) Three members of the general public.

18       (2) Except for the initial members, a member of the board  
19 shall be appointed for a term of 2 years. A vacancy shall be  
20 filled for the unexpired portion of the term. A member of the  
21 board may be removed from office by the governor in accordance  
22 with section 10 of article V of the state constitution of 1963.  
23 A member of the board who has a pecuniary interest in a matter  
24 shall disclose that interest before the board takes action in the  
25 matter, which disclosure shall be made a matter of record in the  
26 board's official proceedings. Each member of the board shall  
27 receive per diem compensation and actual expenses incurred by the

1 member in the performance of his or her duties as a member of the  
2 board.

3 (3) Annually, the legislature shall fix the per diem  
4 compensation of a member of the board. Travel or other expenses  
5 incurred by a member of a board in the performance of an official  
6 function shall be payable by the department pursuant to the  
7 standardized travel regulations of the department of management  
8 and budget. A member of the board shall not serve more than 2  
9 consecutive terms.

10 (4) The board shall hold an organizational meeting within  
11 60 days after the effective date of this act. At the first  
12 meeting of each calendar year, the board shall elect from its  
13 membership a chairperson, vice-chairperson, and secretary.

14 (5) The board shall hold regular quarterly meetings. Special  
15 meetings may be held at the call of the chairperson or 3 members  
16 of the board. Written notice of a special meeting shall be  
17 mailed to each member not less than 12 days before the date of  
18 the meeting.

19 (6) Four members of the board shall constitute a quorum for  
20 the transaction of business. An approval, decision, or ruling of  
21 the board shall not become effective unless approved by 4 board  
22 members.

23 (7) The board may request a person to appear before the board  
24 to advise the board regarding the implementation of this act.

25 (8) The business which the board performs shall be conducted  
26 at a public meeting of the board held in compliance with the open  
27 meetings act, 1976 PA 267, MCL 15.261 to 15.275, and public

1 notice of the time, date, and place of the meeting shall be given  
2 in the manner required by that act.

3 (9) A writing prepared, owned, used, in the possession of, or  
4 retained by the board in the performance of an official function  
5 shall be made available to the public in compliance with the  
6 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

7 Sec. 7. (1) The board shall do all of the following:

8 (a) Evaluate truth verification technology and determine its  
9 approval for use, sale, and distribution in this state.

10 (b) Evaluate applicants for a license to operate truth  
11 verification technology in this state and make determinations as  
12 to contested cases involving denials, suspensions, and  
13 revocations of licenses as well as other license sanctions.

14 (2) The department shall process and grant licenses under  
15 this act and otherwise regulate the use of truth verification  
16 technology in this state.

17 Sec. 9. (1) The department shall issue a license to an  
18 individual to operate truth verification technology in this state  
19 if all of the following circumstances exist:

20 (a) The individual is 18 years of age or older.

21 (b) The individual is a citizen of the United States.

22 (c) The individual was not convicted of committing a felony  
23 within 5 years immediately preceding the date of application or  
24 incarcerated for or on probation or parole for committing a  
25 felony within 5 years immediately preceding the date of  
26 application.

27 (d) The individual meets the educational, practical

1 experience, and skill requirements determined appropriate by the  
2 board.

3 (e) The individual pays the licensing fee authorized under  
4 subsection (3).

5 (2) A license issued under this section is valid for 1 year.  
6 The department may reissue the license to a qualified applicant  
7 upon application and payment of the fee authorized under  
8 subsection (3).

9 (3) The department may charge a fee to issue or renew a  
10 license under this section. The fee shall not exceed the actual  
11 and reasonable costs of the department in issuing or renewing the  
12 license.

13 (4) As used in this section, "felony" means a violation of a  
14 law of this state, the United States, another state, or a local  
15 unit of government of this state or another state that is either  
16 of the following:

17 (a) A crime punishable by imprisonment for more than 1 year.

18 (b) A crime specifically designated to be a felony.

19 Sec. 11. (1) The department may deny, suspend, or revoke a  
20 license under this act if the department determines that any of  
21 the following circumstances exist:

22 (a) The individual does not meet the requirements for  
23 licensure under this act.

24 (b) The individual is convicted of any crime.

25 (c) The individual violates this act or any rule promulgated  
26 under this act.

27 (2) The department shall provide the individual with notice

1 and an opportunity to be heard before denying, suspending, or  
2 revoking a license under this section in compliance with the  
3 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
4 24.328.

5       Sec. 13. An individual whose license is suspended or  
6 revoked under this act shall immediately, upon notification of  
7 that suspension or revocation, surrender that license to the  
8 department. An individual who violates this section is  
9 responsible for a state civil infraction and may be fined not  
10 more than \$100.00 for each 7-day period in which the license is  
11 not surrendered as required under this subsection.

12       Sec. 15. (1) An individual shall not use, attempt to use,  
13 or offer to use truth verification technology to detect  
14 deception, verify truthfulness, or assist in providing a  
15 diagnosis regarding deception or truthfulness unless he or she is  
16 licensed under this act. This section does not prevent a person  
17 from using lie detectors, deceptographs, forensic polygraphs,  
18 emotional stress meters, or similar related devices or  
19 instruments if the person is licensed to use 1 or more of those  
20 instruments under the forensic polygraph examiners act, 1972 PA  
21 295, MCL 338.1701 to 338.1729.

22       (2) An individual who violates this section is guilty of a  
23 crime as follows:

24       (a) Except as provided in subdivision (b), the individual is  
25 guilty of a misdemeanor punishable by imprisonment for not more  
26 than 93 days or a fine of not more than \$500.00, or both.

27       (b) If the individual has previously been convicted of

1 violating this act or a substantially similar law of the United  
2 States, another state, or a political subdivision of this or  
3 another state, the individual is guilty of a misdemeanor  
4 punishable by imprisonment for not more than 1 year or a fine of  
5 not more than \$1,000.00, or both.

6       Sec. 17. (1) An individual shall not use, sell for use in  
7 this state, offer to sell for use in this state, or distribute  
8 for use in this state any device or instrument that uses truth  
9 verification technology unless that device or instrument has been  
10 approved by the board for use in this state.

11       (2) An individual who violates this section is guilty of a  
12 crime as follows:

13       (a) Except as provided in subdivision (b), the individual is  
14 guilty of a misdemeanor punishable by imprisonment for not more  
15 than 93 days or a fine of not more than \$1,000.00, or both.

16       (b) If the individual has previously been convicted of  
17 violating this act or a substantially similar law of the United  
18 States, another state, or a political subdivision of this or  
19 another state, the individual is guilty of a misdemeanor  
20 punishable by imprisonment for not more than 1 year or a fine of  
21 not more than \$5,000.00, or both.

22       Sec. 19. The department may promulgate rules to administer  
23 and implement this act in compliance with the administrative  
24 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

25       Enacting section 1. This act takes effect September 1,  
26 2004.

27       Enacting section 2. This act does not take effect unless

1 Senate Bill No. 666

2 of the 92nd Legislature is enacted into law.