

# Lies

**By Reg P. Wydeven  
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Christmas comes this week! I positively love Christmas – the songs, the lights, the tree, the decorations, the candy, the cookies, and especially the time with family and friends. Also, I love it because my kids act like angels. Getting put on Santa's "naughty" list is a far greater deterrent than no dessert for a week.

If the National Security Administration had half as good of surveillance as Santa, terrorism would be a thing of the past. He knows when you are sleeping. He knows when you're awake. He knows if you've been bad or good. He must use global satellites.

Santa would be the ultimate supervisor – he would know what employees were goofing off, who was stealing pencils, who was looking at X-rated websites, and who was taking candy bars from the snack box without putting money in.

To be as good a supervisor as Santa, employers would need cameras in every square inch of their worksites and they would need polygraph machines. Because of privacy laws, obviously employers can't have cameras everywhere. And because of the Employee Polygraph Protection Act of 1988, employers can't use lie detectors either.

The Act precludes employers from:

- Asking an employee or prospective hire to take any lie detector test;
- Using or inquiring about the results of any lie detector test of an employee or prospective hire; or
- Firing, disciplining, denying promotion or employment, or even threatening to do any of these things to an employee or prospective hire for refusing to take a test.

For purposes of the Act, a lie detection test includes a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator or any other similar device, whether mechanical or electrical, used to render a diagnostic opinion as to the honesty or dishonesty of an individual. The Act does not, however, specifically preclude employers from sneaking truth serum into the coffee.

Not all employers must abide by the Act. For example, federal, state and local governments are excluded, as are companies the government contracts with for national security intelligence or counterintelligence functions. In addition, polygraph (but no other lie detector tests) may be administered in the private sector:

- To prospective employees of armored car, security alarm, and security guard firms who protect facilities, materials or operations affecting health or safety, national security, or currency;
- To prospective employees of pharmaceutical companies that manufacture, distribute, or dispense controlled substances; and
- To employees reasonably suspected of being involved in a workplace incident that resulted in economic loss to the employer.

The Department of Labor enforces the Act through the Wage and Hour Division of the Employment Standards Administration. The Secretary of Labor can file injunctions against offenders and also fine them up to \$10,000. The Department also requires employers to post notices summarizing the protections of the Act in their places of work.

Apparently the elves have unionized and are demanding the Act be adopted in the North Pole. Merry Christmas and may God bless you and your loved ones this holiday season.