

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 175 Session of
2005

INTRODUCED BY NAILOR, GEORGE, GEIST, BAKER, BALDWIN, BELFANTI,
BOYD, CALTAGIRONE, CORRIGAN, CRAHALLA, CREIGHTON, DeLUCA,
FAIRCHILD, FRANKEL, FREEMAN, GABIG, GINGRICH, GOODMAN,
GRUCELA, HARRIS, HENNESSEY, HERSHEY, HESS, HUTCHINSON,
M. KELLER, W. KELLER, LEACH, LEDERER, MACKERETH, MANN,
MARKOSEK, MARSICO, MELIO, R. MILLER, S. MILLER, O'NEILL,
PALLONE, PETRARCA, PICKETT, PYLE, READSHAW, REED, ROHRER,
RUBLEY, SAINATO, SATHER, SAYLOR, SCHRODER, STABACK,
T. STEVENSON, TANGRETTI, E. Z. TAYLOR, TIGUE, TRUE, WALKO,
WANSACZ, WASHINGTON, WATSON, WHEATLEY, WILT, WOJNAROSKI AND
JOSEPHS, FEBRUARY 1, 2005

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 1, 2005

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
2 "An act concerning elections, including general, municipal,
3 special and primary elections, the nomination of candidates,
4 primary and election expenses and election contests; creating
5 and defining membership of county boards of elections;
6 imposing duties upon the Secretary of the Commonwealth,
7 courts, county boards of elections, county commissioners;
8 imposing penalties for violation of the act, and codifying,
9 revising and consolidating the laws relating thereto; and
10 repealing certain acts and parts of acts relating to
11 elections," providing for persuasive polls.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 1621 of the act of June 3, 1937
15 (P.L.1333, No.320), known as the Pennsylvania Election Code, is
16 amended by adding a subsection to read:

17 Section 1621. Definitions.--As used in this article, the
18 following words have the following meanings:

1 * * *

2 (n) The words "persuasive poll" shall mean the canvassing of
3 persons, by means other than an established method of scientific
4 survey research techniques, by asking questions or offering
5 information concerning a candidate which is designed to provide
6 information that is negative or derogatory about the candidate
7 or officeholder, the purpose of which is to disseminate
8 misinformation, not to measure public opinion. The term does not
9 include a poll that is conducted only to measure the public's
10 opinion about or reaction to an issue, fact or theme but does
11 include any telemarketing technique used to canvass potential
12 voters, providing them with false information about a candidate
13 or officeholder under the pretense of measuring public opinion.

14 Section 2. The act is amended by adding a section to read:

15 Section 1638.1. Persuasive Polls.--

16 (a) If a person or organization requests or compensates a
17 person or business entity to:

18 (1) conduct or cause to be conducted a persuasive poll by
19 telephone concerning a candidate or officeholder; or

20 (2) produce automated or computerized messages by telephone
21 to conduct a persuasive poll concerning a candidate or
22 officeholder,

23 the caller shall at the beginning of the poll disclose the name
24 of the person or organization requesting or compensating the
25 caller for the poll.

26 (b) Telephone calls made under subsection (a) shall be
27 reported in accordance with section 1626. Any wilfully false,
28 fraudulent or misleading statement reported in violation of
29 section 1626 shall constitute the crime of perjury and be
30 punishable as such according to the laws of this Commonwealth.

1 (c) No telephone call used to conduct a persuasive poll
2 shall state or imply that the caller represents a nonexistent
3 person or organization.

4 (d) No telephone call used to conduct a persuasive poll
5 shall state or imply that the caller represents any person or
6 organization unless the person or organization so represented
7 has given specific approval in writing to make such
8 representation.

9 (e) No persuasive poll shall contain any wilfully false or
10 fraudulent statement or question.

11 Section 3. This act shall take effect in 60 days.