INTRODUCED BY LEACH, TEPLITZ, STACK, WASHINGTON, HUGHES, FERLO, COSTA, TARTAGLIONE, BLAKE, BREWSTER AND FARNESE, FEBRUARY 21, 2013

REFERRED TO STATE GOVERNMENT, FEBRUARY 21, 2013

AN ACT

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," in preliminary provisions, further providing for definitions; in the Secretary of the Commonwealth, further providing for requirements relating to voter identification; in preparation for and conduct of primaries and elections, further providing for manner of applying to vote, persons entitled to vote, voter's certificates, entries to be made in district register, numbered lists of voters and challenges; in voting by qualified absentee electors, further providing for applications for official absentee ballots, for approval of application for absentee ballot, for delivering or mailing ballots, for canvassing of official absentee ballots and for public records; in penalties, further providing for enforcement; and making a related repeal.

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

Section 1. Sections 102(z.5) and 206 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, added March 14, 2012 (P.L.195, No.18), are repealed:
Section 102. Definitions.--The following words, when used in this act, shall have the following meanings, unless otherwise clearly apparent from the context:

* * *

[(z.5) The words "proof of identification" shall mean:

(1) In the case of an elector who has a religious objection to being photographed, a valid-without-photo driver's license or a valid-without-photo identification card issued by the Department of Transportation.

(2) For an elector who appears to vote under section 1210, a document that:

(i) shows the name of the individual to whom the document was issued and the name substantially conforms to the name of the individual as it appears in the district register;

(ii) shows a photograph of the individual to whom the document was issued;

(iii) includes an expiration date and is not expired, except:

(A) for a document issued by the Department of Transportation which is not more than twelve (12) months past the expiration date; or

(B) in the case of a document from an agency of the Armed forces of the United States or their reserve components, including the Pennsylvania National Guard, establishing that the elector is a current member of or a veteran of the United States Armed Forces or National Guard which does not designate a specific date on which the document expires, but includes a designation that the expiration date is indefinite; and

(iv) was issued by one of the following:

(A) The United States Government.
(B) The Commonwealth of Pennsylvania.
(C) A municipality of this Commonwealth to an employee of that municipality.
(D) An accredited Pennsylvania public or private institution of higher learning.
(E) A Pennsylvania care facility.

(3) For a qualified absentee elector under section 1301:
(i) in the case of an elector who has been issued a current and valid driver's license, the elector's driver's license number;
(ii) in the case of an elector who has not been issued a current and valid driver's license, the last four digits of the elector's Social Security number;
(iii) in the case of an elector who has a religious objection to being photographed, a copy of a document that satisfies paragraph (1); or
(iv) in the case of an elector who has not been issued a current and valid driver's license or Social Security number, a copy of a document that satisfies paragraph (2).

Section 206. Requirements Relating to Voter Identification.--(a) The Secretary of the Commonwealth shall prepare and disseminate information to the public regarding the proof of identification requirements established under sections 1210 and 1302.

(b) Notwithstanding the provisions of 75 Pa.C.S. § 1510(b) (relating to issuance and content of driver's license) to the contrary, the Department of Transportation shall issue an identification card described in 75 Pa.C.S. § 1510(b) at no cost to any registered elector who has made application therefor and has included with the completed application a statement signed.
by the elector declaring under oath or affirmation that the
elector does not possess proof of identification as defined in
section 102(z.5)(2) and requires proof of identification for
voting purposes.
(c) The Secretary of the Commonwealth shall prepare the form
of the statement described in subsection (b) and shall
distribute the form to the counties and the Department of
Transportation. The Secretary of the Commonwealth, the Secretary
of Transportation and the county boards of election shall
disseminate information to the public regarding the availability
of identification cards under subsection (b).]
Section 2. Section 1210(a), (a.2), (a.3), (a.4)(1) and (5)
and (f) of the act, amended or added March 14, 2012 (P.L.195,
No.18), are amended and the section is amended by adding a
subsection to read:
Section 1210. Manner of Applying to Vote; Persons Entitled
to Vote; Voter's Certificates; Entries to Be Made in District
Register; Numbered Lists of Voters; Challenges.--(a) At every
primary and election each elector who appears to vote in that
election district for the first time and who desires to vote
shall first present to an election officer [proof of
identification] one of the following forms of photo
identification:
(1) a valid driver's license or identification card issued
by the Department of Transportation;
(2) a valid identification card issued by any other agency
of the Commonwealth;
(3) a valid identification card issued by the United States
Government;
(4) a valid United States passport;
(5) a valid student identification card;
(6) a valid employee identification card; or
(7) a valid armed forces of the United States identification card.

The election officer shall examine the [proof of] identification presented by the elector and sign an affidavit stating that this has been done.

(a.1) Where the elector does not have a photo identification as provided for in subsection (a), the elector shall present for examination one of the following forms of identification that shows the name and address of the elector:

(1) nonphoto identification issued by the Commonwealth, or any agency of the Commonwealth;
(2) nonphoto identification issued by the United States Government, or agency of the United States Government;
(3) a firearm permit;
(4) a current utility bill;
(5) a current bank statement;
(6) a paycheck;
(7) a government check.

The election officer shall examine the identification presented by the elector and sign an affidavit stating that this has been done.

(a.2) [If any of the following apply, the elector shall be permitted to cast a provisional ballot in accordance with subsection (a.4):

(1) The elector is unable to produce proof of identification:
(1) on the grounds that the elector is indigent and unable to obtain proof of identification without the payment of a fee;
or

(ii) on any other grounds.

(2) The elector's proof of identification is challenged by the judge of elections. If the elector is unable to produce identification or the elector's identification is challenged by the judge of elections, the elector shall be permitted to cast a provisional ballot in accordance with subsection (a.4).

(a.3) (1) All electors, including any elector that shows proof of identification pursuant to subsection (a), shall subsequently sign a voter's certificate in blue, black or blue-black ink with a fountain pen or ball point pen, and, unless he is a State or Federal employe who has registered under any registration act without declaring his residence by street and number, he shall insert his address therein, and hand the same to the election officer in charge of the district register.

(2) Such election officer shall thereupon announce the elector's name so that it may be heard by all members of the election board and by all watchers present in the polling place and shall compare the elector's signature on his voter's certificate with his signature in the district register. If, upon such comparison, the signature upon the voter's certificate appears to be genuine, the elector who has signed the certificate shall, if otherwise qualified, be permitted to vote: Provided, That if the signature on the voter's certificate, as compared with the signature as recorded in the district register, shall not be deemed authentic by any of the election officers, such elector shall not be denied the right to vote for that reason, but shall be considered challenged as to identity and required to make the affidavit and produce the evidence as provided in subsection (d) of this section.
(3) When an elector has been found entitled to vote, the
election officer who examined his voter's certificate and
compared his signature shall sign his name or initials on the
voter's certificate, shall, if the elector's signature is not
readily legible, print such elector's name over his signature,
and the number of the stub of the ballot issued to him or his
number in the order of admission to the voting machines, and at
primaries a letter or abbreviation designating the party in
whose primary he votes shall also be entered by one of the
election officers or clerks.

(4) As each voter is found to be qualified and votes, the
election officer in charge of the district register shall write
or stamp the date of the election or primary, the number of the
stub of the ballot issued to him or his number in the order of
admission to the voting machines, and at primaries a letter or
abbreviation designating the party in whose primary he votes,
and shall sign his name or initials in the proper space on the
registration card of such voter contained in the district
register.

(5) As each voter votes, his name in the order of voting
shall be recorded in two (2) numbered lists of voters provided
for that purpose, with the addition of a note of each voter's
party enrollment after his name at primaries.

(a.4) (1) At all elections an individual who claims to be
properly registered and eligible to vote at the election
district but whose name does not appear on the district register
and whose registration cannot be determined by the inspectors of
election or the county election board shall be permitted to cast
a provisional ballot. Individuals who [appear to vote] are
voting for the first time at the election district shall be
required to produce [proof of] identification pursuant to subsection (a) or (a.1) and if unable to do so shall be
permitted to cast a provisional ballot. An individual presenting a judicial order to vote shall be permitted to cast a
provisional ballot.

* * *

(5) (i) Except as provided in subclause (ii), if it is determined that the individual was registered and entitled to vote at the election district where the ballot was cast, the county board of elections shall compare the signature on the provisional ballot envelope with the signature on the elector's registration form and, if the signatures are determined to be genuine, shall count the ballot if the county board of elections confirms that the individual did not cast any other ballot, including an absentee ballot, in the election.

(ii) A provisional ballot shall not be counted if:

(A) either the provisional ballot envelope under clause (3) or the affidavit under clause (2) is not signed by the individual;

(B) the signature required under clause (3) and the signature required under clause (2) are either not genuine or are not executed by the same individual; or

(C) a provisional ballot envelope does not contain a secrecy envelope;

[(D) in the case of a provisional ballot that was cast under subsection (a.2)(1)(i), within six calendar days following the election the elector fails to appear before the county board of elections to execute an affirmation or the county board of elections does not receive an electronic, facsimile or paper copy of an affirmation affirming, under penalty of perjury, that]
the elector is the same individual who personally appeared
before the district election board on the day of the election
and cast a provisional ballot and that the elector is indigent
and unable to obtain proof of identification without the payment
of a fee; or
(E) in the case of a provisional ballot that was cast under
subsection (a.2)(1)(ii), within six calendar days following the
election, the elector fails to appear before the county board of
elections to present proof of identification and execute an
affirmation or the county board of elections does not receive an
electronic, facsimile or paper copy of the proof of
identification and an affirmation affirming, under penalty of
perjury, that the elector is the same individual who personally
appeared before the district election board on the day of the
election and cast a provisional ballot.]

(iii) One authorized representative of each candidate in an
election and one representative from each party shall be
permitted to remain in the room in which deliberation or
determination of subclause (ii) is being made.

*f* *f*

[(f) As used in this section, "care facility" means any of
the following:
(1) A long-term care nursing facility as defined in section
802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the
"Health Care Facilities Act."
(2) An assisted living residence or a personal care home as
defined in section 1001 of the act of June 13, 1967 (P.L.31,
No.21), known as the "Public Welfare Code."]
1309 of the act, amended or added March 14, 2012 (P.L.195, No.18), are amended to read:

Section 1302. Applications for Official Absentee Ballots.--*
* *
(e) Any qualified bedridden or hospitalized veteran absent from the municipality of his residence and unable to attend his polling place because of such illness or physical disability, regardless of whether he is registered or enrolled, may apply at any time before any primary or election for an official absentee ballot on any official county board of election form addressed to the Secretary of the Commonwealth of Pennsylvania or the county board of elections of the county in which his voting residence is located.

The application shall contain the following information:
Residence at the time of becoming bedridden or hospitalized, length of time a citizen, length of residence in Pennsylvania, date of birth, length of time a resident in voting district, voting district if known, party choice in case of primary, name and address of present residence or hospital at which hospitalized. When such application is received by the Secretary of the Commonwealth, it shall be forwarded to the proper county board of elections.

The application for an official absentee ballot for any primary or election shall be made on information supplied over the signature of the bedridden or hospitalized veteran as required in the preceding subsection. Any qualified registered elector, including a spouse or dependent referred to in subsection (l) of section 1301, who expects to be or is absent from the municipality of his residence because his duties, occupation or business require him to be elsewhere on the day of
any primary or election and any qualified registered elector who is unable to attend his polling place on the day of any primary or election because of illness or physical disability and any qualified registered bedridden or hospitalized veteran in the county of residence, or in the case of a county employe who cannot vote due to duties on election day relating to the conduct of the election, or in the case of a person who will not attend a polling place because of the observance of a religious holiday, may apply to the county board of elections of the county in which his voting residence is located for an Official Absentee Ballot. Such application shall be made upon an official application form supplied by the county board of elections. Such official application form shall be determined and prescribed by the Secretary of the Commonwealth of Pennsylvania.

(1) The application of any qualified registered elector, including spouse or dependent referred to in subsection (l) of section 1301, who expects to be or is absent from the municipality of his residence because his duties, occupation or business require him to be elsewhere on the day of any primary or election, or in the case of a county employe who cannot vote due to duties on election day relating to the conduct of the election, or in the case of a person who will not attend a polling place because of the observance of a religious holiday, shall be signed by the applicant and shall include the surname and given name or names of the applicant, [proof of identification,] his occupation, date of birth, length of time a resident in voting district, voting district if known, place of residence, post office address to which ballot is to be mailed, the reason for his absence, and such other information as shall make clear to the county board of elections the applicant's
right to an official absentee ballot.

(2) The application of any qualified registered elector who is unable to attend his polling place on the day of any primary or election because of illness or physical disability and the application of any qualified registered bedridden or hospitalized veteran in the county of residence shall be signed by the applicant and shall include surname and given name or names of the applicant, [proof of identification,] his occupation, date of birth, residence at the time of becoming bedridden or hospitalized, length of time a resident in voting district, voting district if known, place of residence, post office address to which ballot is to be mailed, and such other information as shall make clear to the county board of elections the applicant's right to an official ballot. In addition, the application of such electors shall include a declaration stating the nature of their disability or illness, and the name, office address and office telephone number of their attending physician: Provided, however, That in the event any elector entitled to an absentee ballot under this subsection be unable to sign his application because of illness or physical disability, he shall be excused from signing upon making a statement which shall be witnessed by one adult person in substantially the following form: I hereby state that I am unable to sign my application for an absentee ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or have received assistance in making my mark in lieu of my signature.

........................................... .............................(Mark)
........................................... .............................(Date)

20130SB0543PN0507 - 12 -
(e.2) Notwithstanding the other provisions of this act any qualified elector who expects to be or is absent from the municipality of his residence because his duties, occupation or business require him to be elsewhere on the day of any election or a county employe who cannot vote due to duties on election day relating to the conduct of the election or a person who will not attend a polling place because of the observance of a religious holiday may make an application for an absentee ballot by mail by sending a letter to the county board of elections in the county in which his voting residence is located. The letter shall be signed by the applicant and contain his name[,] and place of residence [and proof of identification].

*(j)* Notwithstanding the provisions of this section requiring proof of identification, a qualified absentee elector shall not be required to provide proof of identification if the elector is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99-410, 100 Stat. 924) or by an alternative ballot under the Voting Accessibility for the Elderly and Handicapped Act (Public Law 98-435, 98 Stat. 1678).]

Section 1302.2. Approval of Application for Absentee Ballot.--

*(c)* The county board of elections, upon receipt of any application of a qualified elector required to be registered under the provisions of preceding section 1301, shall determine the qualifications of such applicant by [verifying the proof of
identification and comparing the information set forth on such application with the information contained on the applicant's permanent registration card. If the board is satisfied that the applicant is qualified to receive an official absentee ballot, the application shall be marked "approved." Such approval decision shall be final and binding, except that challenges may be made only on the ground that the applicant did not possess the qualifications of an absentee elector. Such challenges must be made to the county board of elections prior to 5:00 o'clock P. M. on the first Friday prior to the election. When so approved, the registration commission shall cause an absentee voter's temporary registration card to be inserted in the district register on top of and along with the permanent registration card. The absentee voter's temporary registration card shall be in the color and form prescribed in subsection (e) of this section:

Provided, however, That the duties of the county boards of elections and the registration commissions with respect to the insertion of the absentee voter's temporary registration card of any elector from the district register as set forth in section 1302.2 shall include only such applications and emergency applications as are received on or before the first Tuesday prior to the primary or election. In all cases where applications are received after the first Tuesday prior to the primary or election and before five o'clock P. M. on the first Friday prior to the primary or election, the county board of elections shall determine the qualifications of such applicant by [verifying the proof of identification and] comparing the information set forth on such application with the information contained on the applicant's duplicate registration card on file.
in the General Register (also referred to as the Master File) in
the office of the Registration Commission and shall cause the
name and residence (and at primaries, the party enrollment) to
be inserted in the Military, Veterans and Emergency Civilian
Absentee Voters File as provided in section 1302.3, subsection
(b). In addition, the local district boards of elections shall,
upon canvassing the official absentee ballots under section
1308, examine the voting check list of the election district of
said elector's residence and satisfy itself that such elector
did not cast any ballot other than the one properly issued to
him under his absentee ballot application. In all cases where
the examination of the local district board of elections
discloses that an elector did vote a ballot other than the one
properly issued to him under the absentee ballot application,
the local district board of elections shall thereupon cancel
said absentee ballot and said elector shall be subject to the
penalties as hereinafter set forth.

(d) In the event that any application for an official
absentee ballot is not approved by the county board of
elections, the elector shall be notified immediately to that
effect with a statement by the county board of the reasons for
the disapproval. (For those applicants whose proof of
identification was not provided with the application or could
not be verified by the board, the board shall send notice to the
elector with the absentee ballot requiring the elector to
provide proof of identification with the absentee ballot or the
ballot will not be counted.)

* * *

[(f) Notwithstanding the provisions of this section, a
qualified absentee elector shall not be required to provide
proof of identification if the elector is entitled to vote by
absentee ballot under the Uniformed and Overseas Citizens
Absentee Voting Act (Public Law 99-410, 100 Stat. 924) or by an
alternative ballot under the Voting Accessibility for the
Elderly and Handicapped Act (Public Law 98-435, 98 Stat. 1678).]

Section 1305. Delivering or Mailing Ballots.--

* * *

(b) The county board of elections upon receipt and approval
of an application filed by any elector qualified in accordance
with the provisions of section 1301, subsections (i) to (l),
inclusive, shall commence to deliver or mail official absentee
ballots on the second Tuesday prior to the primary or election.
[For those applicants whose proof of identification was not
provided with the application or could not be verified by the
board, the board shall send the notice required under section
1302.2(d) with the absentee ballot.] As additional applications
are received and approved, the board shall deliver or mail
official absentee ballots to such additional electors within
forty-eight hours.

[(c) Notwithstanding the provisions of this section, a
qualified absentee elector shall not be required to provide
proof of identification if the elector is entitled to vote by
absentee ballot under the Uniformed and Overseas Citizens
Absentee Voting Act (Public Law 99-410, 100 Stat. 924) or by an
alternative ballot under the Voting Accessibility for the
Elderly and Handicapped Act (Public Law 98-435, 98 Stat. 1678).]

Section 1308. Canvassing of Official Absentee Ballots.--* *

* *

(g) * * *

(2) The county board of elections shall meet on the eighth
day following the election to canvass the absentee ballots received under this subsection [and subsection (h)(2)]. One authorized representative of each candidate in an election and one representative from each political party shall be permitted to remain in the room in which the absentee ballots are canvassed. Representatives shall be permitted to challenge any absentee elector in accordance with the provisions of paragraph (3).

(3) When the county board meets to canvass absentee ballots under paragraph (2), the board shall examine the declaration on the envelope of each ballot not set aside under subsection (d) and shall compare the information thereon with that contained in the "Registered Absentee Voters File," the absentee voters' list and/or the "Military Veterans and Emergency Civilians Absentee Voters File," whichever is applicable. If the county board [has verified the proof of identification as required under this act,] is satisfied that the declaration is sufficient and the information contained in the "Registered Absentee Voters File," the absentee voters' list and/or the "Military Veterans and Emergency Civilians Absentee Voters File" verifies his right to vote, the county board shall announce the name of the elector and shall give any candidate representative or party representative present an opportunity to challenge any absentee elector upon the ground or grounds: (i) that the absentee elector is not a qualified elector; or (ii) that the absentee elector was within the municipality of his residence on the day of the primary or election during the period the polls were open, except where he was in the military service or except in the case where his ballot was obtained for the reason that he was unable to appear personally at the polling place because of
(h) For those absentee ballots for which proof of identification has not been received or could not be verified:

(1) If the proof of identification is received and verified by the county board of elections prior to the distribution of the absentee ballots to the local election districts, then the county shall distribute the absentee ballots for which proof of identification is received and verified, along with the other absentee ballots, to the absentee voter's respective election district. If the county board of elections does not receive or is not able to verify the proof of identification for an elector prior to the absentee ballots' being sent to the appropriate local election districts, the county board shall keep the absentee ballot and follow the procedures set forth in paragraph (2) or (3), whichever is applicable.

(2) If the proof of identification is received and verified after the absentee ballots have been distributed to the appropriate local election districts, but prior to the sixth calendar day following the election, then the county board of
elections shall canvass the absentee ballots under this subsection in accordance with subsection (g)(2), unless the elector appeared to vote at the proper polling place for the purpose of casting a ballot, then the absentee ballot cast by that elector shall be declared void.

(3) If an elector fails to provide proof of identification that can be verified by the county board of elections by the sixth calendar day following the election, then the absentee ballot shall not be counted.

(i) Notwithstanding the provisions of this section, a qualified absentee elector shall not be required to provide proof of identification if the elector is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99-410, 100 Stat. 924) or by an alternative ballot under the Voting Accessibility for the Elderly and Handicapped Act (Public Law 98-435, 98 Stat. 1678).

Section 1309. Public Records.--All official absentee ballots, files, applications for such ballots and envelopes on which the executed declarations appear, and all information and lists are hereby designated and declared to be public records and shall be safely kept for a period of two years, except that no [proof of identification shall be made public, nor shall] information concerning a military elector shall be made public which is expressly forbidden by the Department of Defense because of military security.

Section 4. Section 1854 of the act, added March 14, 2012 (P.L.195, No.18), is repealed:

[Section 1854. Enforcement.--(a) The Attorney General shall have prosecutorial jurisdiction over all violations committed under this act.]
(b) The district attorney of any county in which a violation
has occurred shall have concurrent powers and responsibilities
with the Attorney General over violations committed under this
act.]

Section 5. Repeals are as follows:

(1) The General Assembly declares that the repeal under
paragraph (2) is necessary to effectuate the amendment or
addition of the following provisions of the act:

(i) Section 102(z.5).

(ii) Section 206.

(iii) Section 1210(a), (a.1), (a.2), (a.3), (a.4)(1
and (5) and (f).

(iv) Section 1302(e), (e.2) and (j).

(v) Section 1302.2(c), (d) and (f).

(vi) Section 1305(b) and (c).

(vii) Section 1308(g)(2) and (3), (h) and (i).

(viii) Section 1309.

(ix) Section 1854.

(2) Section 10 of the act of March 14, 2012 (P.L.195,
No.18), entitled, "An act amending the act of June 3, 1937
(P.L.1333, No.320), entitled 'An act concerning elections,
including general, municipal, special and primary elections,
the nomination of candidates, primary and election expenses
and election contests; creating and defining membership of
county boards of elections; imposing duties upon the
Secretary of the Commonwealth, courts, county boards of
elections, county commissioners; imposing penalties for
violation of the act, and codifying, revising and
consolidating the laws relating thereto; and repealing
certain acts and parts of acts relating to elections,' in
20130SB0543PN0507 - 20 -
preliminary provisions, defining 'proof of identification';
in the Secretary of the Commonwealth, providing for
requirements relating to voter identification; in preparation
for and conduct of primaries and elections, further providing
for manner of applying to vote, persons entitled to vote,
voter's certificates, entries to be made in district
register, numbered lists of voters and challenges; in voting
by qualified absentee electors, further providing for
applications for official absentee ballots, for approval of
application for absentee ballot, for delivering or mailing
ballots, for canvassing of official absentee ballots and for
public records; and providing for enforcement and for a
special procedure at certain elections," is repealed.
Section 6. This act shall take effect immediately.