

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1099 Session of
1993

INTRODUCED BY PESCI, ROBINSON, VEON, FREEMAN, CARONE, HUGHES,
JOSEPHS, KUKOVICH, LEVDANSKY, DeWEESE, GORDNER, MARKOSEK,
GIGLIOTTI, MELIO, VAN HORNE, BELFANTI, PISTELLA, SANTONI,
HANNA, TRELLO, LAUGHLIN, SAURMAN, STURLA, SURRA, ROONEY,
FAJT, STETLER, CAWLEY, RAYMOND, KASUNIC, KAISER, HERMAN,
HALUSKA, STEELMAN, ROEBUCK, ROBERTS, FLICK, TANGRETTI AND
DRUCE, MARCH 30, 1993

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 30, 1993

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," further providing for absentee ballots.

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

14 Section 1. Sections 1302.1, 1302.2, 1306(a) and 1308(a) of
15 the act of June 3, 1937 (P.L.1333, No.320), known as the
16 Pennsylvania Election Code, amended December 11, 1968 (P.L.1183,
17 No.375), are amended to read:

18 Section 1302.1. Date of Application for Absentee Ballot.--

19 (a) Applications for absentee ballots unless otherwise

20 specified shall be received in the office of the county board of

1 elections not earlier than fifty (50) days before the primary or
2 election and not later than five o'clock P.M. of the first
3 Tuesday prior to the day of any primary or election: Provided,
4 however, That in the event any elector otherwise qualified who
5 is so physically disabled or ill on or before the first Tuesday
6 prior to any primary or election that he is unable to file his
7 application or who becomes physically disabled or ill after the
8 first Tuesday prior to any primary or election and is unable to
9 appear at his polling place or any elector otherwise qualified
10 who because of the conduct of his business, duties or occupation
11 will necessarily be absent from the State or county of his
12 residence on the day of the primary or election, which fact was
13 not and could not reasonably be known to said elector on or
14 before the first Tuesday prior to any primary or election, shall
15 be entitled to an absentee ballot at any time prior to five
16 o'clock P.M. [on the first Friday preceding any] of the day
17 before a primary or election upon execution of an Emergency
18 Application in such form prescribed by the Secretary of the
19 Commonwealth.

20 (b) In the case of an elector who is physically disabled or
21 ill on or before the first Tuesday prior to a primary or
22 election or becomes physically disabled or ill after the first
23 Tuesday prior to a primary or election, such Emergency
24 Application shall contain a supporting affidavit from his
25 attending physician stating that due to physical disability or
26 illness said elector was unable to apply for an absentee ballot
27 on or before the first Tuesday prior to the primary or election
28 or became physically disabled or ill after that period.

29 (c) In the case of an elector who is necessarily absent
30 because of the conduct of his business, duties or occupation

1 under the unforeseen circumstances specified in this subsection,
2 such Emergency Application shall contain a supporting affidavit
3 from such elector stating that because of the conduct of his
4 business, duties or occupation said elector will necessarily be
5 absent from the State or county of his residence on the day of
6 the primary or election which fact was not and could not
7 reasonably be known to said elector on or before the first
8 Tuesday prior to the primary or election.

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

11 (a) The county board of elections, upon receipt of any
12 application filed by a qualified elector not required to be
13 registered under preceding section 1301, shall ascertain from
14 the information on such application, district register or from
15 any other source that such applicant possesses all the
16 qualifications of a qualified elector other than being
17 registered or enrolled. If the board is satisfied that the
18 applicant is qualified to receive an official absentee ballot,
19 the application shall be marked approved such approval decision
20 shall be final and binding except that challenges may be made
21 only on the ground that the applicant did not possess
22 qualifications of an absentee elector. Such challenges must be
23 made to the county board of elections prior to 5:00 o'clock P.
24 M. [on the first Friday prior to the] of the day before the
25 primary or election. When so approved, the county board of
26 elections shall cause the applicant's name and residence (and at
27 a primary, the party enrollment) to be inserted in the Military,
28 Veterans and Emergency Civilians Absentee Voters File as
29 provided in section 1302.3, subsection (b): Providing, however,
30 That no application of any qualified elector in military service

1 shall be rejected for failure to include on his application any
2 information if such information may be ascertained within a
3 reasonable time by the county board of elections.

4 (b) The county board of elections, upon receipt of any
5 application filed by a qualified elector who is entitled, under
6 the provisions of the Permanent Registration Law as now or
7 hereinafter enacted by the General Assembly, to absentee
8 registration prior to or concurrently with the time of voting as
9 provided under preceding section 1301, shall ascertain from the
10 information on such application or from any other source that
11 such applicant possesses all the qualifications of a qualified
12 elector. If the board is satisfied that the applicant is
13 entitled, under the provisions of the Permanent Registration Law
14 as now or hereinafter enacted by the General Assembly, to
15 absentee registration prior to or concurrently with the time of
16 voting and that the applicant is qualified to receive an
17 official absentee ballot, the application shall be marked
18 "approved." Such approval decision shall be final and binding
19 except that challenges may be made only on the ground that the
20 applicant did not possess the qualifications of an absentee
21 elector prior to or concurrently with the time of voting. Such
22 challenges must be made to the county board of elections prior
23 to 5:00 o'clock P. M. [on the first Friday prior to the] of the
24 day before the primary or election. When so approved, the county
25 board of elections shall cause the applicant's name and
26 residence (and at a primary, the party enrollment) to be
27 inserted in the Military, Veterans and Emergency Civilian
28 Absentee Voters File as provided in section 1302.3 subsection
29 (b).

30 (c) The county board of elections, upon receipt of any

1 application of a qualified elector required to be registered
2 under the provisions of preceding section 1301, shall determine
3 the qualifications of such applicant by comparing the
4 information set forth on such application with the information
5 contained on the applicant's permanent registration card. If the
6 board is satisfied that the applicant is qualified to receive an
7 official absentee ballot, the application shall be marked
8 "approved." Such approval decision shall be final and binding,
9 except that challenges may be made only on the ground that the
10 applicant did not possess the qualifications of an absentee
11 elector. Such challenges must be made to the county board of
12 elections prior to 5:00 o'clock P. M. [on the first Friday prior
13 to the] of the day before the primary or election. When so
14 approved, the registration commission shall cause an absentee
15 voter's temporary registration card to be inserted in the
16 district register on top of and along with the permanent
17 registration card. The absentee voter's temporary registration
18 card shall be in the color and form prescribed in subsection (e)
19 of this section:

20 Provided, however, That the duties of the county boards of
21 elections and the registration commissions with respect to the
22 insertion of the absentee voter's temporary registration card of
23 any elector from the district register as set forth in section
24 1302.2 shall include only such applications and emergency
25 applications as are received on or before the first Tuesday
26 prior to the primary or election. In all cases where
27 applications are received after the first Tuesday prior to the
28 primary or election and before five o'clock P. M. [on the first
29 Friday prior to] of the day before the primary or election, the
30 county board of elections shall determine the qualifications of

1 such applicant by comparing the information set forth on such
2 application with the information contained on the applicant's
3 duplicate registration card on file in the General Register
4 (also referred to as the Master File) in the office of the
5 Registration Commission and shall cause the name and residence
6 (and at primaries, the party enrollment) to be inserted in the
7 Military, Veterans and Emergency Civilian Absentee Voters File
8 as provided in section 1302.3, subsection (b). In addition, the
9 local district boards of elections shall, upon canvassing the
10 official absentee ballots under section 1308, examine the voting
11 check list of the election district of said elector's residence
12 and satisfy itself that such elector did not cast any ballot
13 other than the one properly issued to him under his absentee
14 ballot application. In all cases where the examination of the
15 local district board of elections discloses that an elector did
16 vote a ballot other than the one properly issued to him under
17 the absentee ballot application, the local district board of
18 elections shall thereupon cancel said absentee ballot and said
19 elector shall be subject to the penalties as hereinafter set
20 forth.

21 (d) In the event that any application for an official
22 absentee ballot is not approved by the county board of
23 elections, the elector shall be notified immediately to that
24 effect with a statement by the county board of the reasons for
25 the disapproval.

26 (e) The absentee voter's temporary registration card shall
27 be in duplicate and the same size as the permanent registration
28 card, in a different and contrasting color to the permanent
29 registration card and shall contain the absentee voter's name
30 and address and shall conspicuously contain the words "Absentee

1 Voter." Such card shall also contain the affidavit required by
2 subsection (b) of section 1306.

3 Section 1306. Voting by Absentee Electors.--(a) At any time
4 after receiving an official absentee ballot, but on or before
5 five o'clock P. M. [on the Friday prior to] of the day before
6 the primary or election, the elector shall, in secret, proceed
7 to mark the ballot only in black lead pencil, indelible pencil
8 or blue, black or blue-black ink, in fountain pen or ball point
9 pen, and then fold the ballot, enclose and securely seal the
10 same in the envelope on which is printed, stamped or endorsed
11 "Official Absentee Ballot." This envelope shall then be placed
12 in the second one, on which is printed the form of declaration
13 of the elector, and the address of the elector's county board of
14 election and the local election district of the elector. The
15 elector shall then fill out, date and sign the declaration
16 printed on such envelope. Such envelope shall then be securely
17 sealed and the elector shall send same by mail, postage prepaid,
18 except where franked, or deliver it in person to said county
19 board of election:

20 Provided, however, That any elector, spouse of the elector or
21 dependent of the elector, qualified in accordance with the
22 provisions of section 1301, subsections (e), (f), (g) and (h) to
23 vote by absentee ballot as herein provided, shall be required to
24 include on the form of declaration a supporting declaration in
25 form prescribed by the Secretary of the Commonwealth, to be
26 signed by the head of the department or chief of division or
27 bureau in which the elector is employed, setting forth the
28 identity of the elector, spouse of the elector or dependent of
29 the elector:

30 Provided further, That any elector who has filed his

1 application in accordance with section 1302 subsection (e) (2),
2 and is unable to sign his declaration because of illness or
3 physical disability, shall be excused from signing upon making a
4 declaration which shall be witnessed by one adult person in
5 substantially the following form: I hereby declare that I am
6 unable to sign my declaration for voting my absentee ballot
7 without assistance because I am unable to write by reason of my
8 illness or physical disability. I have made or received
9 assistance in making my mark in lieu of my signature.

10(Mark)

11

12 (Date)

13

14 (Signature of Witness)

15

16 (Complete Address of Witness)

17 * * *

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

19 (a) The county boards of election, upon receipt of official
20 absentee ballots in such envelopes, shall safely keep the same
21 in sealed or locked containers until they distribute same to the
22 appropriate local election districts in a manner prescribed by
23 the Secretary of the Commonwealth.

24 The county board of elections shall then distribute the
25 absentee ballots, unopened, to the absentee voter's respective
26 election district concurrently with the distribution of the
27 other election supplies. Absentee ballots shall be canvassed
28 immediately and continuously without interruption until
29 completed after the close of the polls on the day of the
30 election in each election district. The results of the canvass

1 of the absentee ballots shall then be included in and returned
2 to the county board with the returns of that district. No
3 absentee ballot shall be counted which is received in the office
4 of the county board of election later than five o'clock P. M.
5 [on the Friday immediately preceding the] of the day before a
6 primary or November election.

7 * * *

8 Section 2. This act shall take effect in 60 days.