THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1091 Session of 2007

INTRODUCED BY NAILOR, BENNINGHOFF, STABACK, GEORGE, BASTIAN,
    BELFANTI, BOYD, CREIGHTON, CURRY, DeLUCA, DePASQUALE,
    FABRIZIO, FAIRCHILD, FLECK, FREEMAN, GABIG, GEIST, GOODMAN,
    GRUCELA, HALUSKA, HARHAI, HARPER, HENNESSEY, HERSHEY, HESS,
    HORNAMAN, HUTCHINSON, JOSEPHS, KAUFFMAN, M. KELLER, KOTIK,
    LEACH, LEVDANSKY, MACKERETH, MAHONEY, MARSICO, MILLARD,
    MUNDY, MURT, NICKOL, O'NEILL, PAYTON, PHILLIPS, PICKETT,
    READSHAW, REED, ROAE, RUBLEY, SCAVELLO, SCHRODER, SIPTROTH,
    STAIRS, TANGRETTI, J. TAYLOR, THOMAS, TRUE, VEREB, VITALI,
    WANSACZ AND WATSON, APRIL 18, 2007

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 18, 2007

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.