

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2696 Session of
2008

INTRODUCED BY MARSHALL, BEAR, CALTAGIRONE, CIVERA, CREIGHTON,
EVERETT, HALUSKA, HERSHEY, MAJOR, MOUL, NAILOR, M. O'BRIEN,
READSHAW, ROSS, STERN, SWANGER, J. TAYLOR, VULAKOVICH,
YOUNGBLOOD, FAIRCHILD, PHILLIPS, ROCK, HENNESSEY AND
McILVAINE SMITH, JULY 2, 2008

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JULY 2, 2008

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," in voting by qualified absentee electors, further
12 providing for applications for official absentee ballots;
13 providing for system of transmitting absentee ballots;
14 further providing for delivering or mailing ballots, for
15 voting by absentee electors and for canvassing of official
16 absentee ballots; and making an appropriation.

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

19 Section 1. Section 1302(b) and (c) of the act of June 3,
20 1937 (P.L.1333, No.320), known as the Pennsylvania Election
21 Code, amended February 19, 1998 (P.L.72, No.18) and December 9,
22 2002 (P.L.1246, No.150), are amended to read:

23 Section 1302. Applications for Official Absentee Ballots.--*

1 * *

2 (b) (1) The application shall contain the following
3 information: Home residence at the time of entrance into actual
4 military service or Federal employment, length of time a
5 citizen, length of residence in Pennsylvania, date of birth,
6 length of time a resident of voting district, voting district if
7 known, party choice in case of primary, name and, for a military
8 elector, his stateside military address, FPO or APO number and
9 serial number. Any elector other than a military elector shall
10 in addition specify the nature of his employment, the address to
11 which ballot is to be sent, relationship where necessary, and
12 such other information as may be determined and prescribed by
13 the Secretary of the Commonwealth.

14 (2) The application shall provide the elector the option to
15 have the application sent to him by facsimile method or
16 electronic method in lieu of being delivered by mail or other
17 form of delivery. An elector who desires to have his ballot
18 delivered by facsimile method or electronic method shall provide
19 in the application the complete facsimile number to which the
20 ballot should be sent, inclusive of international dialing codes
21 and other necessary information, or the complete electronic
22 address to which the application should be sent. When such
23 application is received by the Secretary of the Commonwealth it
24 shall be forwarded to the proper county board of election.

25 (c) The application of any qualified elector, as defined in
26 section 1301(a), (b), (c), (d), (e), (f), (g) and (h), for an
27 official absentee ballot in any primary or election may not be
28 made over the signature of any person, other than the qualified
29 elector or an adult member of his immediate family, as required
30 in the preceding subsection. A qualified absentee military or

1 overseas elector, as defined by the Uniformed and Overseas
2 Citizens Absentee Voting Act (Public Law 99-410, 100 Stat. 924),
3 may submit his application for an official absentee ballot by
4 facsimile method [if the original application is received prior
5 to the election by the county election office. The absentee
6 ballot of the qualified military or overseas elector shall not
7 be counted unless the elector's original application is received
8 prior to the election by the county election office. The
9 facsimile method shall not be acceptable for the official
10 absentee ballot.] or electronic method. An elector who requests
11 that his absentee ballot be provided by facsimile method or
12 electronic method shall provide information sufficient for the
13 ballot to be sent to the elector by such means.

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

15 Section 1304.1. System of Transmitting Absentee Ballots.

16 The Secretary of the Commonwealth shall establish a system of
17 transmitting absentee ballots to qualified electors defined in
18 section 1301(a), (b), (c), (d), (e), (f), (g) and (h), and to
19 persons who are subject to the Uniformed and Overseas Citizen
20 Absentee Voting Act of 1986 (P.L.99-410, 100 Stat. 924), by
21 facsimile method or other electronic method, as an alternative
22 to such electors submitting absentee ballots under the system
23 established under section 1302. The Secretary of the
24 Commonwealth shall transmit absentee ballots by either facsimile
25 method or by other electronic method if requested by the
26 elector. Official absentee ballots submitted by electors by
27 facsimile method or by other electronic method under the
28 provisions of this paragraph shall not be subject to the
29 provisions of section 1304 or 1305.

30 Section 3. Section 1305 of the act, amended July 11, 1980

1 (P.L.600, No.128), May 5, 1986 (P.L.150, No.47) and December 17,
2 1990 (P.L.681, No.169), is amended to read:

3 Section 1305. Delivering or Mailing Ballots.--

4 (a) The county board of elections upon receipt and approval
5 of an application filed by any elector qualified in accordance
6 with the provisions of section 1301, subsections (a) to (h),
7 inclusive, shall not later than fifty days prior to the day of
8 the primary or not later than seventy days prior to the day of
9 the election commence to deliver [or], mail or transmit by
10 facsimile method or electronic method to such elector who has
11 included with said application a statement that he or she is
12 unable to vote during the regular absentee balloting period by
13 reason of living or performing military service in an extremely
14 remote or isolated area of the world, and not later than forty-
15 five days prior to the day of the primary or election commence
16 to deliver [or], mail or transmit by facsimile method or
17 electronic method to all other such electors as provided for in
18 section 1301, subsections (a) to (h), inclusive, official
19 absentee ballots or special write-in absentee ballots as
20 prescribed by subsection (d) of section 1303 when official
21 absentee ballots are not yet printed; as additional applications
22 of such electors are received, the board shall deliver [or],
23 mail or transmit by facsimile method or electronic method
24 official absentee ballots or special write-in absentee ballots
25 when official absentee ballots are not yet printed to such
26 additional electors within forty-eight hours after approval of
27 their application. If the calling of a special election would
28 make it impossible to comply with the forty-five day delivery or
29 mailing requirement of this section, then the county board of
30 elections shall deliver, mail or transmit by facsimile method or

1 electronic method absentee ballots or special write-in absentee
2 ballots within five days of the county board's receipt of the
3 information necessary to prepare said ballots.

4 (b) The county board of elections upon receipt and approval
5 of an application filed by any elector qualified in accordance
6 with the provisions of section 1301, subsections (i) to (l),
7 inclusive, shall commence to deliver [or], mail or transmit by
8 facsimile method or electronic method official absentee ballots
9 on the second Tuesday prior to the primary or election. As
10 additional applications are received and approved, the board
11 shall deliver [or], mail or transmit by facsimile method or
12 electronic method official absentee ballots to such additional
13 electors within forty-eight hours.

14 (c) Absentee ballots transmitted to electors under the
15 provisions of this section shall be transmitted by facsimile
16 method or electronic method by the county board of elections if
17 so directed by the elector as provided in section 1302(c).

18 Section 4. Section 1306(a) of the act, amended November 9,
19 2006 (P.L.1330, No.137), is amended to read:

20 Section 1306. Voting by Absentee Electors.--(a) Except as
21 provided in paragraphs (1), (1.1), (2) and (3), at any time
22 after receiving an official absentee ballot, but on or before
23 five o'clock P.M. on the Friday prior to the primary or
24 election, the elector shall, in secret, proceed to mark the
25 ballot only in black lead pencil, indelible pencil or blue,
26 black or blue-black ink, in fountain pen or ball point pen, and
27 then fold the ballot, enclose and securely seal the same in the
28 envelope on which is printed, stamped or endorsed "Official
29 Absentee Ballot."

30 (1) Any elector who submits an Emergency Application and

1 receives an absentee ballot in accordance with section
2 1302.1(a.2) or (c) shall mark the ballot on or before eight
3 o'clock P.M. on the day of the primary or election. This
4 envelope shall then be placed in the second one, on which is
5 printed the form of declaration of the elector, and the address
6 of the elector's county board of election and the local election
7 district of the elector. The elector shall then fill out, date
8 and sign the declaration printed on such envelope. Such envelope
9 shall then be securely sealed and the elector shall send same by
10 mail, postage prepaid, except where franked, or deliver it in
11 person to said county board of election.

12 (1.1) (i) Any qualified elector defined in section 1301(a),
13 (b), (c), (d), (e), (f), (g) and (h) or persons who are subject
14 to the Uniformed and Overseas Citizen Absentee Voting Act of
15 1986 (P.L.99-410, 100 Stat. 924) may return an absentee ballot
16 by facsimile method or electronic method. The Secretary of the
17 Commonwealth shall provide for a system of receiving the
18 absentee ballots prescribed in this section by facsimile method
19 or electronic method and transmitting such ballots to the
20 respective county boards of elections. All such ballots must be
21 received by the secretary or the respective county boards of
22 election no later than eight o'clock P.M. on the day of the
23 primary or general election.

24 (ii) Nothing in this paragraph shall excuse an absentee
25 elector defined under the provisions of section 1301(e), (f),
26 (g) and (h) from the requirements of subsection (2) of this
27 section.

28 (2) Any elector, spouse of the elector or dependent of the
29 elector, qualified in accordance with the provisions of section
30 1301, subsections (e), (f), (g) and (h) to vote by absentee

1 ballot as herein provided, shall be required to include on the
2 form of declaration a supporting declaration in form prescribed
3 by the Secretary of the Commonwealth, to be signed by the head
4 of the department or chief of division or bureau in which the
5 elector is employed, setting forth the identity of the elector,
6 spouse of the elector or dependent of the elector.

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

17(Mark)

18

19 (Date)

20

21 (Signature of Witness)

22

23 (Complete Address of Witness)

24 * * *

25 Section 5. Section 1308(g)(1) of the act, added May 12, 2006
26 (P.L.178, No.45), is amended to read:

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

28 *

29 (g) (1) [An] Except as otherwise provided in section
30 1306(a)(1.1), an absentee ballot cast by any absentee elector as

1 defined in section 1301(a), (b), (c), (d), (e), (f), (g) and (h)
2 which is received in the office of the county board of elections
3 after five o'clock P.M. on the Friday immediately preceding the
4 election and no later than five o'clock P.M. on the seventh day
5 following an election shall be canvassed in accordance with this
6 subsection if the absentee ballot is postmarked no later than
7 the day immediately preceding the election.

8 * * *

9 Section 6. The sum of \$250,000 is hereby appropriated from
10 the General Fund to the Department of State to provide for the
11 expenses of the department, and for the department to distribute
12 to county boards of election who need Commonwealth assistance to
13 implement the provisions of this act.

14 Section 7. This act shall take effect in 60 days.