

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 743

Session of
1979

INTRODUCED BY NOYE, GAMBLE, J. L. WRIGHT, JR., STAIRS,
GIAMMARCO, NOVAK, BROWN, ALDEN, ZORD, MRKONIC, HELFRICK,
FREIND, BOWSER, DURHAM, SALVATORE AND STEIGHNER,
MARCH 19, 1979

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 19, 1979

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 for
12 certain physically disabled or ill electors and making
13 related changes in absentee ballot procedure necessitated
14 nearby.

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

17 Section 1. Sections 1302.1, 1302.2 and 1302.3, act of June
18 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election
19 Code," amended December 11, 1968 (P.L.1183, No.375), are amended
20 to read:

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

22 Applications for absentee ballots unless otherwise specified
23 shall be received in the office of the county board of elections

1 not earlier than fifty (50) days before the primary or election
2 and not later than five o'clock P.M. of the first Tuesday prior
3 to the day of any primary or election: Provided, however, That
4 in the event any elector otherwise qualified who is so
5 physically disabled or ill on or before the first Tuesday prior
6 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 primary or
17 election upon execution of an Emergency Application in such form
18 prescribed by the Secretary of the Commonwealth: Provided
19 further, however, That any qualified elector who becomes
20 physically disabled or ill after the first Tuesday prior to any
21 primary or election and is unable to appear at his polling place
22 shall be entitled to an absentee ballot at any time prior to
23 five o'clock P.M. on the first Monday immediately preceding any
24 primary or election upon execution of an Emergency Application
25 in such form prescribed by the Secretary of the Commonwealth.

26 In the case of an elector who is physically disabled or ill
27 on or before the first Tuesday prior to a primary or election or
28 becomes physically disabled or ill after the first Tuesday prior
29 to a primary or election, such Emergency Application shall
30 contain a supporting affidavit from his attending physician

1 stating that due to physical disability or illness said elector
2 was unable to apply for an absentee ballot on or before the
3 first Tuesday prior to the primary or election or became
4 physically disabled or ill after that period.

5 In the case of an elector who is necessarily absent because
6 of the conduct of his business, duties or occupation under the
7 unforeseen circumstances specified in this subsection, such
8 Emergency Application shall contain a supporting affidavit from
9 such elector stating that because of the conduct of his
10 business, duties or occupation said elector will necessarily be
11 absent from the State or county of his residence on the day of
12 the primary or election which fact was not and could not
13 reasonably be known to said elector on or before the first
14 Tuesday prior to the primary or election.

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

17 (a) The county board of elections, upon receipt of any
18 application filed by a qualified elector not required to be
19 registered under preceding section 1301, shall ascertain from
20 the information on such application, district register or from
21 any other source that such applicant possesses all the
22 qualifications of a qualified elector other than being
23 registered or enrolled. If the board is satisfied that the
24 applicant is qualified to receive an official absentee ballot,
25 the application shall be marked approved such approval decision
26 shall be final and binding except that challenges may be made
27 only on the ground that the applicant did not possess
28 qualifications of an absentee elector. Such challenges must be
29 made to the county board of elections prior to [5:00 o'clock
30 P.M. on the first Friday prior to the election] 8:00 o'clock

1 P.M. on the day of the election. When so approved, the county
2 board of elections shall cause the applicant's name and
3 residence (and at a primary, the party enrollment) to be
4 inserted in the Military, Veterans and Emergency Civilians
5 Absentee Voters File as provided in section 1302.3, subsection
6 (b): Providing, however, That no application of any qualified
7 elector in military service shall be rejected for failure to
8 include on his application any information if such information
9 may be ascertained within a reasonable time by the county board
10 of elections.

11 (b) The county board of elections, upon receipt of any
12 application filed by a qualified elector who is entitled, under
13 the provisions of the Permanent Registration Law as now or
14 hereinafter enacted by the General Assembly, to absentee
15 registration prior to or concurrently with the time of voting as
16 provided under preceding section 1301, shall ascertain from the
17 information on such application or from any other source that
18 such applicant possesses all the qualifications of a qualified
19 elector. If the board is satisfied that the applicant is
20 entitled, under the provisions of the Permanent Registration Law
21 as now or hereinafter enacted by the General Assembly, to
22 absentee registration prior to or concurrently with the time of
23 voting and that the applicant is qualified to receive an
24 official absentee ballot, the application shall be marked
25 "approved." Such approval decision shall be final and binding
26 except that challenges may be made only on the ground that the
27 applicant did not possess the qualifications of an absentee
28 elector prior to or concurrently with the time of voting. Such
29 challenges must be made to the county board of elections prior
30 to [5:00 o'clock P. M. on the first Friday prior to the

1 election.] 8.00 o'clock P.M. on the day of the election. When so
2 approved, the county board of elections shall cause the
3 applicant's name and residence (and at a primary, the party
4 enrollment) to be inserted in the Military, Veterans and
5 Emergency Civilian Absentee Voters File as provided in section
6 1302.3 subsection (b).

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

27 Provided, however, That the duties of the county boards of
28 elections and the registration commissions with respect to the
29 insertion of the absentee voter's temporary registration card of
30 any elector from the district register as set forth in section

1 1302.2 shall include only such applications and emergency
2 applications as are received on or before the first Tuesday
3 prior to the primary or election. In all cases where
4 applications are received after the first Tuesday prior to the
5 primary or election and before five o'clock P. M. on the first
6 [Friday] Monday prior to the primary or election, the county
7 board of elections shall determine the qualifications of such
8 applicant by comparing the information set forth on such
9 application with the information contained on the applicant's
10 duplicate registration card on file in the General Register
11 (also referred to as the Master File) in the office of the
12 Registration Commission and shall cause the name and residence
13 (and at primaries, the party enrollment) to be inserted in the
14 Military, Veterans and Emergency Civilian Absentee Voters File
15 as provided in section 1302.3, subsection (b). In addition, the
16 local district boards of elections shall, upon canvassing the
17 official absentee ballots under section 1308, examine the voting
18 check list of the election district of said elector's residence
19 and satisfy itself that such elector did not cast any ballot
20 other than the one properly issued to him under his absentee
21 ballot application. In all cases where the examination of the
22 local district board of elections discloses that an elector did
23 vote a ballot other than the one properly issued to him under
24 the absentee ballot application, the local district board of
25 elections shall thereupon cancel said absentee ballot and said
26 elector shall be subject to the penalties as hereinafter set
27 forth.

28 (d) In the event that any application for an official
29 absentee ballot is not approved by the county board of
30 elections, the elector shall be notified immediately to that

1 effect with a statement by the county board of the reasons for
2 the disapproval.

3 (e) The absentee voter's temporary registration card shall
4 be in duplicate and the same size as the permanent registration
5 card, in a different and contrasting color to the permanent
6 registration card and shall contain the absentee voter's name
7 and address and shall conspicuously contain the words "Absentee
8 Voter." Such card shall also contain the affidavit required by
9 subsection (b) of section 1306.

10 Section 1302.3. Absentee Electors Files and Lists.--(a) The
11 county board of elections shall maintain at its office a file
12 containing the duplicate absentee voter's temporary registration
13 cards of every registered elector to whom an absentee ballot has
14 been sent. Such duplicate absentee voter's temporary
15 registration cards shall be filed by election districts and
16 within each election district in exact alphabetical order and
17 indexed. The registration cards so filed shall constitute the
18 Registered Absentee Voters File for the Primary or Election of
19 (date of primary or election) and shall be kept on file for a
20 period commencing the Tuesday prior to the day of the primary or
21 election until the day following the primary or election or the
22 day the county board of elections certifies the returns of the
23 primary or election, whichever date is later. Such file shall be
24 open to public inspection at all times subject to reasonable
25 safeguards, rules and regulations.

26 (b) The county board of elections shall post in a
27 conspicuous public place at its office a master list arranged in
28 alphabetical order by election districts setting forth the name
29 and residence, and at primaries, the party enrollment, of (1)
30 every military elector to whom an absentee ballot is being sent,

1 each such name to be prefixed with an "M"; (2) every bedridden
2 or hospitalized veteran outside the county of his residence who
3 is not registered and to whom an absentee ballot is being sent,
4 each such name to be prefixed with a "V"; and (3) every
5 registered elector who has filed his application for an absentee
6 ballot too late for the extraction of his original registration
7 card and to whom a ballot is being sent and every qualified
8 elector who has filed his application for an absentee ballot and
9 is entitled, under provisions of the Permanent Registration Law
10 as now or hereinafter enacted by the General Assembly, to
11 absentee registration prior to or concurrently with the time of
12 voting, each such name to be prefixed with a "C." This list
13 shall be known as the Military, Veterans and Emergency Civilians
14 Absentee Voters File for the Primary or Election of (date of
15 primary or election) and shall be posted for a period commencing
16 the Tuesday prior to the day of the primary or election until
17 the day following the primary or election or the day on which
18 the county board of elections certifies the returns of the
19 primary or election, whichever date is later. Such file shall be
20 open to public inspection at all times subject to reasonable
21 safeguards, rules and regulations. This posted list shall not
22 contain any military address or references to any military
23 organization. Upon written request, the county board shall
24 furnish a copy of such list to any candidate or party county
25 chairman.

26 [(c) Not less than five days preceding the election, the
27 chief clerk shall prepare a list for each election district
28 showing the names and post office addresses of all voting
29 residents thereof to whom official absentee ballots shall have
30 been issued. Each such list shall be prepared in duplicate,

1 shall be headed "Persons in (give identity of election district)
2 to whom absentee ballots have been issued for the election of
3 (date of election)," and shall be signed by him not less than
4 four days preceding the election. He shall post the original of
5 each such list in a conspicuous place in the office of the
6 county election board and see that it is kept so posted until
7 the close of the polls on election day. He shall cause the
8 duplicate of each such list to be delivered to the judge of
9 election in the election district in the same manner and at the
10 same time as are provided in this act for the delivery of other
11 election supplies, and it shall be the duty of such judge of
12 election to post such duplicate list in a conspicuous place
13 within the polling place of his district and see that it is kept
14 so posted throughout the time that the polls are open. Upon
15 written request, he shall furnish a copy of such list to any
16 candidate or party county chairman.]

17 Section 2. Section 1305 of the act, amended August 13, 1963
18 (P.L.707, No.379), is amended to read:

19 Section 1305. Delivering or Mailing Ballots.--

20 (a) The county boards of election upon receipt of an
21 application filed by any elector qualified in accordance with
22 the provisions of section 1301, subsections (a) to (h),
23 inclusive, shall as soon as possible after the respective
24 district ballots are printed and in no event later than the
25 second Tuesday prior to the day of the primary or election
26 commence to deliver or mail official absentee ballots to all
27 such electors whose applications have been approved; as
28 additional applications of such electors are received, the board
29 shall deliver or mail official absentee ballots to such
30 additional electors within forty-eight hours after approval of

1 their application.

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

12 Section 3. The first paragraph of subsection (a) of section
13 1306 and subsection (a) of section 1308 of the act, amended
14 December 11, 1968 (P.L.1183, No.375), are amended to read:

15 Section 1306. Voting by Absentee Electors.--(a) At any time
16 after receiving an official absentee ballot, but on or before
17 [five o'clock P. M. on the Friday prior to the primary or
18 election,] eight o'clock P.M. on the day of the primary or
19 election, the elector shall, in secret, proceed to mark the
20 ballot only in black lead pencil, indelible pencil or blue,
21 black or blue-black ink, in fountain pen or ball point pen, and
22 then fold the ballot, enclose and securely seal the same in the
23 envelope on which is printed, stamped or endorsed "Official
24 Absentee Ballot." This envelope shall then be placed in the
25 second one, on which is printed the form of declaration of the
26 elector, and the address of the elector's county board of
27 election and the local election district of the elector. The
28 elector shall then fill out, date and sign the declaration
29 printed on such envelope. Such envelope shall then be securely
30 sealed and the elector shall send same by mail, postage prepaid,

1 except where franked, or deliver it in person to said county
2 board of election:

3 * * *

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

5 (a) The county boards of election, upon receipt of official
6 absentee ballots in such envelopes, shall safely keep the same
7 in sealed or locked containers until they distribute same to the
8 appropriate local election districts in a manner prescribed by
9 the Secretary of the Commonwealth.

10 The county board of elections shall then distribute the
11 absentee ballots, unopened, to the absentee voter's respective
12 election district concurrently with the distribution of the
13 other election supplies. Absentee ballots shall be canvassed
14 immediately and continuously without interruption until
15 completed after the close of the polls on the day of the
16 election in each election district. The results of the canvass
17 of the absentee ballots shall then be included in and returned
18 to the county board with the returns of that district. No
19 absentee ballot shall be counted which is received in the office
20 of the county board of election later than [five o'clock P. M.
21 on the Friday immediately preceding the] eight o'clock P.M. on
22 the day of the primary or November election.

23 * * *

24 Section 4. This act shall take effect in 60 days.