

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 544 Session of 1991

INTRODUCED BY PESCI, KUKOVICH, VEON, JOSEPHS, FREEMAN,  
LEVDANSKY, ROBINSON, FEE, GEORGE, VAN HORNE, STURLA, ROEBUCK,  
STABACK, KAISER, ARGALL, SALOOM, BATTISTO, DALEY, WOZNIAK,  
DERMODY, HARPER, STEIGHNER, McNALLY, BELARDI, JOHNSON,  
MIHALICH, GIGLIOTTI, PETRARCA, MAIALE, SURRA, MELIO, ITKIN,  
TRELLO, PISTELLA, THOMAS, BILLOW AND EVANS, MARCH 12, 1991

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 12, 1991

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

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

1 unforeseen circumstances specified in this subsection, such  
2 Emergency Application shall contain a supporting affidavit from  
3 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 be  
27 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.