

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 608 Session of
2003

INTRODUCED BY KIRKLAND, WATERS, THOMAS, McCALL, CRUZ, FLEAGLE,
GANNON, GODSHALL, HARHAI, BELARDI, BEBKO-JONES, BUXTON,
DeWEESE, FLICK, CURRY, FRANKEL, GRUCELA, HENNESSEY, HORSEY,
JOSEPHS, YOUNGBLOOD, McGEEHAN, PHILLIPS, ROEBUCK, SOLOBAY,
STURLA, EGOLF, GEORGE, BARRAR, BELFANTI, COSTA, EACHUS,
FREEMAN, HERMAN, JAMES, LEACH, MANN, PALLONE, ROBERTS,
SCRIMENTI, STABACK AND WANSACZ, MARCH 3, 2003

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 3, 2003

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 date of application for
12 absentee ballot, for delivery or mailing of ballots and for
13 voting by absentee electors.

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

16 Section 1. Section 1302.1 of the act of June 3, 1937
17 (P.L.1333, No.320), known as the Pennsylvania Election Code,
18 amended February 13, 1998 (P.L.72, No.18), is amended to read:

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

20 (a) Applications for absentee ballots unless otherwise

21 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 close of
3 business on the first Tuesday prior to the day of any primary or
4 election: Provided, however, That in the event any elector
5 otherwise qualified to vote by absentee ballot delivers an
6 application for absentee ballot to the county board of elections
7 in person between the close of business on the first Tuesday
8 prior to the day of any primary or election and the close of
9 business on the first Friday preceding any primary or election
10 the elector shall be entitled to an absentee ballot at the time
11 the elector delivers the application to the county board of
12 elections: and further Provided, however, That in the event any
13 elector otherwise qualified who is so physically disabled or ill
14 on or before the first Tuesday prior to any primary or election
15 that he is unable to file his application or who becomes
16 physically disabled or ill after the first Tuesday prior to any
17 primary or election and is unable to appear at his polling place
18 or any elector otherwise qualified who because of the conduct of
19 his business, duties or occupation will necessarily be absent
20 from the municipality of his residence on the day of the primary
21 or election, which fact was not and could not reasonably be
22 known to said elector on or before the first Tuesday prior to
23 any primary or election, shall be entitled to an absentee ballot
24 at any time prior to [five o'clock P.M.] the close of business
25 on the [first Friday preceding any] day of the primary or
26 election upon execution of an Emergency Application in such form
27 prescribed by the Secretary of the Commonwealth.

28 (b) In the case of an elector who is physically disabled or
29 ill on or before the first Tuesday prior to a primary or
30 election or becomes physically disabled or ill after the first

1 Tuesday prior to a primary or election, such Emergency
2 Application shall contain a supporting affidavit from his
3 attending physician stating that due to physical disability or
4 illness said elector was unable to apply for an absentee ballot
5 on or before the first Tuesday prior to the primary or election
6 or became physically disabled or ill after that period.

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

17 Section 2. Section 1305 of the act, amended August 13, 1963
18 (P.L.707, No.379) and December 7, 1990 (P.L.681, No.169), is
19 amended to read:

20 Section 1305. Delivering or Mailing Ballots.--

21 (a) The county board of elections upon receipt and approval
22 of an application filed by any elector qualified in accordance
23 with the provisions of section 1301, subsections (a) to (h),
24 inclusive, shall not later than fifty days prior to the day of
25 the primary or not later than seventy days prior to the day of
26 the election commence to deliver or mail to such elector who has
27 included with said application a statement that he or she is
28 unable to vote during the regular absentee balloting period by
29 reason of living or performing military service in an extremely
30 remote or isolated area of the world, and not later than forty-

1 five days prior to the day of the primary or election commence
2 to deliver or mail to all other such electors as provided for in
3 section 1301, subsections (a) to (h), inclusive, official
4 absentee ballots or special write-in absentee ballots as
5 prescribed by subsection (d) of section 1303 when official
6 absentee ballots are not yet printed; as additional applications
7 of such electors are received, the board shall deliver or mail
8 official absentee ballots or special write-in absentee ballots
9 when official absentee ballots are not yet printed to such
10 additional electors within forty-eight hours after approval of
11 their application. If the calling of a special election would
12 make it impossible to comply with the forty-five day delivery or
13 mailing requirement of this section, then the county board of
14 elections shall mail absentee ballots or special write-in
15 absentee ballots within five days of the county board's receipt
16 of the information necessary to prepare said ballots.

17 (b) The county board of elections upon receipt and approval
18 of an application filed by any elector qualified in accordance
19 with the provisions of section 1301, subsections (i) to (l),
20 inclusive, shall commence to deliver or mail official absentee
21 ballots on the second Tuesday prior to the primary or election.
22 As additional applications are received and approved, the board
23 shall deliver or mail official absentee ballots to such
24 additional electors within forty-eight hours: Provided, however,
25 That in the event any elector delivers an application for an
26 absentee ballot to the county board of elections in person
27 between the close of business on the first Tuesday prior to the
28 day of any primary or election and the close of business on the
29 first Friday immediately preceding the primary or election, the
30 elector shall be provided with an absentee ballot at the time

1 the elector delivers the application to the county board of
2 elections.

3 Section 3. Section 1306 of the act, amended February 13,
4 1998 (P.L.72, No.18), is amended to read:

5 Section 1306. Voting by Absentee Electors.--(a) At any time
6 after receiving an official absentee ballot, but on or before
7 [five o'clock P. M.] the close of business on the Friday prior
8 to the primary or election, the elector shall, in secret,
9 proceed to mark the ballot only in black lead pencil, indelible
10 pencil or blue, black or blue-black ink, in fountain pen or ball
11 point pen, and then fold the ballot, enclose and securely seal
12 the same in the envelope on which is printed, stamped or
13 endorsed "Official Absentee [Ballot."] Ballot": Provided,
14 however, That any elector who submits an Emergency Application
15 and receives an absentee ballot in accordance with section
16 1302.1(a) shall mark the ballot on or before the close of
17 business on the day of the primary or election. This envelope
18 shall then be placed in the second one, on which is printed the
19 form of declaration of the elector, and the address of the
20 elector's county board of election and the local election
21 district of the elector. The elector shall then fill out, date
22 and sign the declaration printed on such envelope. Such envelope
23 shall then be securely sealed and the elector shall send same by
24 mail, postage prepaid, except where franked, or deliver it in
25 person to said county board of election:

26 Provided, however, That any elector, spouse of the elector or
27 dependent of the elector, qualified in accordance with the
28 provisions of section 1301, subsections (e), (f), (g) and (h) to
29 vote by absentee ballot as herein provided, shall be required to
30 include on the form of declaration a supporting declaration in

1 form prescribed by the Secretary of the Commonwealth, to be
2 signed by the head of the department or chief of division or
3 bureau in which the elector is employed, setting forth the
4 identity of the elector, spouse of the elector or dependent of
5 the elector:

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

16 (Mark)

17

18 (Date)

19

20 (Signature of Witness)

21

22 (Complete Address of Witness)

(b) In the event that any such elector, excepting an elector in military service or any elector unable to go to his polling place because of illness or physical disability, entitled to vote an official absentee ballot shall be in the municipality of his residence on the day for holding the primary or election for which the ballot was issued, or in the event any such elector shall have recovered from his illness or physical disability sufficiently to permit him to present himself at the proper

1 polling place for the purpose of casting his ballot, such
2 absentee ballot cast by such elector shall, be declared void.

3 Any such elector referred to in this subsection, who is
4 within the municipality of his residence, must present himself
5 at his polling place and shall be permitted to vote upon
6 presenting himself at his regular polling place in the same
7 manner as he could have voted had he not received an absentee
8 ballot: Provided, That such elector has first presented himself
9 to the judge of elections in his local election district and
10 shall have signed the affidavit on the absentee voter's
11 temporary registration card, which affidavit shall be in
12 substantially the following form:

13 I hereby swear that I am a qualified registered elector who
14 has obtained an absentee ballot, however, I am present in the
15 municipality of my residence and physically able to present
16 myself at my polling place and therefore request that my
17 absentee ballot be voided.

18
19 (Date) (Signature of Elector)
20

21 (Local Judge of Elections)

22 An elector who has received an absentee ballot under the
23 emergency application provisions of section 1302.1, and for
24 whom, therefore, no temporary absentee voter's registration card
25 is in the district register, shall sign the aforementioned
26 affidavit in any case, which the local judge of elections shall
27 then cause to be inserted in the district register with the
28 elector's permanent registration card.

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