

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1147 Session of
2003

INTRODUCED BY NAILOR, FAIRCHILD, JOSEPHS, B. SMITH, BAKER,
BARRAR, BEBKO-JONES, BELFANTI, BISHOP, BROWNE, CAWLEY,
CREIGHTON, CURRY, FLEAGLE, FLICK, FRANKEL, FREEMAN, GABIG,
GEIST, GINGRICH, GRUCELA, HARHAI, HENNESSEY, HERMAN, HERSHEY,
HICKERNELL, HORSEY, JAMES, LAUGHLIN, LEACH, LEDERER, LYNCH,
MACKERETH, MANDERINO, MARSICO, MCGEEHAN, MCILHATTAN,
R. MILLER, S. MILLER, NICKOL, READSHAW, REICHLEY, RUBLEY,
SANTONI, SCRIMENTI, SEMMEL, SOLOBAY, STABACK, E. Z. TAYLOR,
TIGUE, VANCE, WANSACZ, WASHINGTON AND YOUNGBLOOD,
APRIL 11, 2003

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 11, 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.--

1 (a) Applications for absentee ballots unless otherwise
2 specified shall be received in the office of the county board of
3 elections not earlier than fifty (50) days before the primary or
4 election and not later than [five o'clock P.M. of] the close of
5 business on the first Tuesday prior to the day of any primary or
6 election: Provided, however, That in the event any elector
7 otherwise qualified to vote by absentee ballot delivers an
8 application for absentee ballot to the county board of elections
9 in person between the close of business on the first Tuesday
10 prior to the day of any primary or election and the close of
11 business on the first Friday preceding any primary or election
12 the elector shall be entitled to an absentee ballot at the time
13 the elector delivers the application to the county board of
14 elections: and further Provided, however, That in the event any
15 elector otherwise qualified who is so physically disabled or ill
16 on or before the first Tuesday prior to any primary or election
17 that he is unable to file his application or who becomes
18 physically disabled or ill after the first Tuesday prior to any
19 primary or election and is unable to appear at his polling place
20 or any elector otherwise qualified who because of the conduct of
21 his business, duties or occupation will necessarily be absent
22 from the municipality of his residence on the day of the primary
23 or election, which fact was not and could not reasonably be
24 known to said elector on or before the first Tuesday prior to
25 any primary or election, shall be entitled to an absentee ballot
26 at any time prior to five o'clock P.M. on the first Friday
27 preceding any primary or election upon execution of an Emergency
28 Application in such form prescribed by the Secretary of the
29 Commonwealth.

30 (b) In the case of an elector who is physically disabled or

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

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

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

22 Section 1305. Delivering or Mailing Ballots.--

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

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

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

1 on the first Friday immediately preceding the primary or
2 election, the elector shall be provided with an absentee ballot
3 at the time the elector delivers the application to the county
4 board of elections.

5 Section 3. Section 1306 of the act, amended February 13,
6 1998 (P.L.72, No.18), is amended to read:

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

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

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

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

16

17 (Date) (Signature of Elector)

18

19 (Local Judge of Elections)

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

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