

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 795 Session of 2013

INTRODUCED BY TAYLOR, B. BOYLE, MUSTIO, TRUITT, ROSS, FLECK,  
K. BOYLE, DAVIS, CARROLL, V. BROWN, YOUNGBLOOD, KAVULICH,  
PARKER, GALLOWAY AND GIBBONS, FEBRUARY 25, 2013

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 25, 2013

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 definitions, for  
12 qualifications of electors at primaries, for only enrolled  
13 electors to vote at primaries or hold party offices and for  
14 manner of applying to vote; providing for absentee voting by  
15 unaffiliated electors; and further providing for election  
16 officers refusing to permit elector to vote in proper party  
17 at primaries and for elector voting ballot of wrong party at  
18 primary.

19 The General Assembly of the Commonwealth of Pennsylvania  
20 hereby enacts as follows:

21 Section 1. Section 102 of the act of June 3, 1937 (P.L.1333,  
22 No.320), known as the Pennsylvania Election Code, is amended by  
23 adding a definition to read:

24 Section 102. Definitions.--The following words, when used in  
25 this act, shall have the following meanings, unless otherwise

1 clearly apparent from the context:

2 \* \* \*

3 (z.6) The words "unaffiliated elector" shall mean a  
4 qualified elector who is not enrolled as a member of a political  
5 party.

6 Section 2. Sections 702 and 802 of the act are amended to  
7 read:

8 Section 702. Qualifications of Electors at Primaries.--The  
9 qualifications of electors entitled to vote at primaries shall  
10 be the same as the qualifications of electors entitled to vote  
11 at elections within the election district where the primary is  
12 held, provided that no unaffiliated elector [who is not  
13 registered and enrolled as a member of a political party, in  
14 accordance with the provisions of this act,] shall be permitted  
15 to vote the ballot of such party or any other party ballot at  
16 any primary unless he has complied with section 1210(a.5).

17 Section 802. [Only Enrolled] Electors Entitled to Vote at  
18 Primaries or Hold Party Offices.--[No] (a) Except as otherwise  
19 provided in subsection (b), no person who is not registered and  
20 enrolled as a member of a political party shall be entitled to  
21 vote at any primary of such party or to be elected or serve as a  
22 party officer, or a member or officer of any party committee, or  
23 delegate or alternate delegate to any party convention.

24 (b) An unaffiliated elector shall be entitled to vote at any  
25 primary of one political party as provided in section 1210(a.5).

26 Section 3. Section 1210(a.3)(5) and (d) of the act, amended  
27 or added October 8, 2004 (P.L.807, No.97) and March 14, 2012  
28 (P.L.195, No.18), are amended and the section is amended by  
29 adding a subsection to read:

30 Section 1210. Manner of Applying to Vote; Persons Entitled

1 to Vote; Voter's Certificates; Entries to Be Made in District  
2 Register; Numbered Lists of Voters; Challenges.--\* \* \*

3 (a.3) \* \* \*

4 (5) As each voter votes, his name in the order of voting  
5 shall be recorded in two (2) numbered lists of voters provided  
6 for that purpose, with the addition of a note of each voter's  
7 party enrollment after his name at primaries and, in the case of  
8 an unaffiliated elector, with the addition of a note of the  
9 party chosen by the unaffiliated elector after his name at  
10 primaries.

11 \* \* \*

12 (a.5) An unaffiliated elector who appears to vote at a  
13 primary and who desires to vote shall first sign an affidavit  
14 declaring that he is not enrolled in a political party and  
15 desires to vote the ballot of one political party at such  
16 primary. The election official shall confirm with the district  
17 register that the unaffiliated elector is not enrolled as a  
18 member of a political party and shall permit the unaffiliated  
19 elector to vote the ballot of the political party of the  
20 unaffiliated elector's choice.

21 \* \* \*

22 (d) No person, except a qualified elector who is in actual  
23 military or naval service under a requisition of the President  
24 of the United States or by the authority of this Commonwealth,  
25 and who votes under the provisions of Article XIII of this act,  
26 shall be entitled or permitted to vote at any primary or  
27 election at any polling place outside the election district in  
28 which he resides, nor shall he be permitted to vote in the  
29 election district in which he resides, unless he has been  
30 personally registered as an elector and his registration card

1 appears in the district register of such election district,  
2 except by order of the court of common pleas as provided in this  
3 act, and any person, although personally registered as an  
4 elector, may be challenged by any qualified elector, election  
5 officer, overseer, or watcher at any primary or election as to  
6 his identity, as to his continued residence in the election  
7 district or as to any alleged violation of the provisions of  
8 section 1210 of this act, and if challenged as to identity or  
9 residence, he shall produce at least one qualified elector of  
10 the election district as a witness, who shall make affidavit of  
11 his identity or continued residence in the election district:  
12 Provided, however, That, except as otherwise provided by  
13 subsection (a.5), no person shall be entitled to vote as a  
14 member of a party at any primary, unless he is registered and  
15 enrolled as a member of such party upon the district register,  
16 which enrollment shall be conclusive as to his party membership  
17 and shall not be subject to challenge on the day of the primary.

18 \* \* \*

19 Section 4. The act is amended by adding a section to read:

20 Section 1301.1. Absentee Voting by Unaffiliated Electors.--A  
21 qualified elector under section 1301 who is an unaffiliated  
22 elector may, on the absentee ballot application, declare that he  
23 is not enrolled in a political party and desires to vote the  
24 ballot of one political party of the qualified elector's choice.

25 Section 5. Sections 1824 and 1834 of the act, amended  
26 February 13, 1998 (P.L.72, No.18), are amended to read:

27 Section 1824. Election Officers Refusing to Permit Elector  
28 to Vote in Proper Party at Primaries.--Any judge, inspector or  
29 clerk of election who refuses to permit an elector at any  
30 primary at which ballots are used to receive the ballot of the

1 party with which he is enrolled, or who gives to any such  
2 elector the ballot of any party in which he is not enrolled, or  
3 any judge, inspector or clerk of election who refuses to permit  
4 an unaffiliated elector who has complied with section 1210(a.5)  
5 at any primary at which ballots are used to receive the ballot  
6 of one party, or who gives to any such elector the ballot of a  
7 political party not chosen by such unaffiliated elector, or any  
8 judge, or inspector of election, or machine inspector who, at  
9 any primary at which voting machines are used, adjusts any  
10 voting machine about to be used by an elector so as not to  
11 permit [him] such elector to vote for the candidates of the  
12 party in which he is enrolled, or so as to permit [him] such  
13 elector to vote for the candidates of any party in which he is  
14 not enrolled, or any judge, or inspector of election, or machine  
15 inspector who, at any primary at which voting machines are used,  
16 adjusts any voting machine about to be used by an unaffiliated  
17 elector who has complied with section 1210(a.5) so as not to  
18 permit such elector to vote for the candidates of any one party  
19 chosen by such unaffiliated elector, or so as to permit such  
20 unaffiliated elector to vote for the candidates of a party not  
21 chosen by such unaffiliated elector, shall be guilty of a  
22 misdemeanor of the first degree, and, upon conviction thereof,  
23 shall be sentenced to pay a fine not exceeding ten thousand  
24 (\$10,000) dollars, or to undergo an imprisonment of not more  
25 than five (5) years, or both, in the discretion of the court.

26 Section 1834. Elector Voting Ballot of Wrong Party at  
27 Primary.--(a) Any elector who shall wilfully vote at any  
28 primary the ballot of a party in which he is not enrolled, in  
29 violation of the provisions of this act, shall be guilty of a  
30 misdemeanor of the second degree, and, upon conviction thereof,

1 shall be sentenced to pay a fine not exceeding five thousand  
2 (\$5,000) dollars, or to undergo an imprisonment of not more than  
3 two (2) years, or both, in the discretion of the court.

4 (b) Subsection (a) shall not apply to an unaffiliated  
5 elector who complies with section 1210(a.5).

6 Section 6. This act shall take effect in 60 days.