INTRODUCED BY MOUL, RYAN, JAMES, STAATS, MILLARD, PYLE, THOMAS AND MENTZER, JUNE 23, 2020

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 23, 2020

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," in the Secretary of the Commonwealth, further
12 providing for powers and duties of the Secretary of the
13 Commonwealth; in county boards of elections, further
14 providing for powers and duties of county boards; in
15 preparation for and conduct of primaries and elections,
16 providing for deadline for change of enrollment of political
17 party; in voting by qualified absentee electors, further
18 providing for applications for official absentee ballots, for
19 date of application for absentee ballot, for approval of
20 application for absentee ballot, for official absentee voters
21 ballots, for voting by absentee electors and for canvassing
22 of official absentee ballots and mail-in ballots; in voting
23 by qualified mail-in electors, further providing for
24 applications for official mail-in ballots, for date of
25 application for mail-in ballot, for official mail-in elector
26 ballots and for voting by mail-in electors; and making a
27 related repeal.

The General Assembly of the Commonwealth of Pennsylvania

hereby enacts as follows:

Section 1. Section 201 of the act of June 3, 1937 (P.L.1333,
No.320), known as the Pennsylvania Election Code, is amended by
adding a subsection to read:

Section 201. Powers and Duties of the Secretary of the
Commonwealth.—The Secretary of the Commonwealth shall exercise
in the manner provided by this act all powers granted to him by
this act, and shall perform all the duties imposed upon him by
this act, which shall include the following:

* * *

(i) To develop a tracking system by which each ballot,
absentee ballot and mail-in ballot is assigned a unique
scannable identification number to ensure that multiple ballots
are not cast by a qualified elector.

Section 2. Section 302(p) of the act, amended March 27, 2020
(P.L.41, No.12), is amended and the section is amended by adding
a subsection to read:

Section 302. Powers and Duties of County Boards.—The county
boards of elections, within their respective counties, shall
exercise, in the manner provided by this act, all powers granted
to them by this act, and shall perform all the duties imposed
upon them by this act, which shall include the following:

* * *

(p) A county board of elections shall not pay compensation
to a judge of elections who wilfully fails to deliver by two
o'clock A. M. on the day following the election envelopes;
supplies, including all uncast provisional ballots; and returns,
including all provisional ballots cast in the election district
and [statements signed under sections 1306 and 1302-D.]
completed absentee ballot and envelopes containing the
declaration of the elector received by the judge of elections
under sections 1306(b)(3) and 1306-D(b)(3).
(g) To administer the ballot tracking system developed by
the Secretary of the Commonwealth under section 201(i) as
prescribed and directed by the Secretary of the Commonwealth.
Section 3. The act is amended by adding a section to read:

Section 1231.1. Deadline for Change of Enrollment of
Political Party.--Not later than thirty days prior to an
election, a registered elector who desires to change the
enrollment of political designation or who, although registered,
has not previously enrolled as a member of a party may appear
before a commissioner, registrar or clerk or may submit an
application by mail under 25 Pa.C.S. § 1324 (relating to
application by mail) and state in a signed writing the political
party in which the registered elector desires to be enrolled. If
the signature of the elector is verified by comparison with the
registered elector's signature as it appears on file with the
commission, the commissioner, registrar or clerk shall make the
change in its registration records. If supported by other
evidence of identity, a mark may be made in lieu of a signature
by a registered elector who is unable to write. The mark must be
made in the presence of a witness who must sign the registration
application.

Section 4. Section 1302(i)(1) of the act, amended March 27,
2020 (P.L.41, No.12), is amended to read:

Section 1302. Applications for Official Absentee Ballots.--*
*  *
(i) (1) Application for official absentee ballots shall be
on physical and electronic forms prescribed by the Secretary of
the Commonwealth.

(1.1) The application shall state that an elector who
applies for an absentee ballot pursuant to section 1301 shall
not be eligible to vote at a polling place on election day unless the elector brings the elector’s absentee ballot to the elector's polling place, remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and signs a statement subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) to the same effect.] except by provisional ballot. The application shall also state that an elector may deliver an absentee ballot and the envelope containing the declaration of the elector to the judge of elections of the elector's election district at the elector's polling place during the hours that the polling place is open on election day.

(1.2) [Such physical] Physical application forms shall be made freely available to the public at county board of elections, municipal buildings and at such other locations designated by the secretary.

(1.3) [Such electronic] Electronic application forms shall be made freely available to the public through publicly accessible means.

(1.4) No written application or personal request shall be necessary to receive or access the application forms.

(1.5) Copies and records of all completed physical and electronic applications for official absentee ballots shall be retained by the county board of elections.

* * *

Section 5. Section 1302.1(a) and (a.3)(1) and (2) of the act, amended October 31, 2019 (P.L.552, No.77), are amended to read:

Section 1302.1. Date of Application for Absentee Ballot.
(a) Except as provided in subsection (a.3), applications for absentee ballots shall be received in the office of the county board of elections not earlier than fifty (50) days before the primary or election, except that if a county board of elections determines that it would be appropriate to its operational needs, any applications for absentee ballots received more than fifty (50) days before the primary or election may be processed before that time. Applications for absentee ballots shall be processed if received not later than five o'clock P.M. of the [first Tuesday] fifteenth day prior to the day of any primary or election.

(a.3) (1) The following categories of electors may apply for an absentee ballot under this subsection, if otherwise qualified:

(i) An elector whose physical disability or illness prevented the elector from applying for an absentee ballot before five o'clock P.M. on the [first Tuesday] fifteenth day prior to the day of the primary or election.

(ii) An elector who, because of the elector's business, duties or occupation, was unable to apply for an absentee ballot before five o'clock P.M. on the [first Tuesday] fifteenth day prior to the day of the primary or election.

(iii) An elector who becomes so physically disabled or ill after five o'clock P.M. on the [first Tuesday] fifteenth day prior to the day of the primary or election that the elector is unable to appear at the polling place on the day of the primary or election.

(iv) An elector who, because of the conduct of the elector's business, duties or occupation, will necessarily be absent from the elector's municipality of residence on the day of the
primary or election, which fact was not and could not reasonably be known to the elector on or before five o'clock P.M. on the [first Tuesday] fifteenth day prior to the day of the primary or election.

(2) An elector described in paragraph (1) may submit an application for an absentee ballot at any time up until the time of the closing of the polls on the day of the primary or election. The application shall include a declaration describing the circumstances that prevented the elector from applying for an absentee ballot before five o'clock P.M. on the [first Tuesday] fifteenth day prior to the day of the primary or election or that prevent the elector from appearing at the polling place on the day of the primary or election, and the elector's qualifications under paragraph (1). The declaration shall be made subject to the provisions of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

* * *

Section 6. Sections 1302.2(c), 1303(e) and 1306(a) introductory paragraph and (b)(3) of the act, amended March 27, 2020 (P.L.41, No.12), are amended to read:

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

* * *

(c) The county board of elections, upon receipt of any application of a qualified elector required to be registered under the provisions of preceding section 1301, shall determine the qualifications of such applicant by verifying the proof of identification and comparing the information set forth on such application with the information contained on the applicant's permanent registration card. If the board is satisfied that the
applicant is qualified to receive an official absentee ballot, the application shall be marked "approved." Such approval decision shall be final and binding, except that challenges may be made only on the ground that the applicant was not a qualified elector. Such challenges must be made to the county board of elections prior to five o'clock p.m. on the Friday prior to the election, or during the pre-canvassing of an elector's absentee ballot, whichever is earlier: Provided, however, That a challenge to an application for an absentee ballot shall not be permitted on the grounds that the elector used an application for an absentee ballot instead of an application for a mail-in ballot or on the grounds that the elector used an application for a mail-in ballot instead of an application for an absentee ballot.

* * *

Section 1303. Official Absentee Voters Ballots.--* * *

(e) The official absentee voter ballot shall state that an elector who receives an absentee ballot pursuant to section 1301 and whose voted ballot is not timely received by the commission or voted ballot and the envelope containing the declaration of the elector is timely received by the judge of elections of the elector's election district at the elector's polling place on election day and who, on election day, is capable of voting at the appropriate polling place may only vote on election day by provisional ballot [unless the elector brings the elector's absentee ballot to the elector's polling place, remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and signs a statement subject to the penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) to the same
Section 1306. Voting by Absentee Electors.--(a) Except as provided in paragraphs (2) and (3), at any time after receiving an official absentee ballot, but on or before eight o'clock P.M. the day of the primary or election, the elector shall, in secret, proceed to mark the ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink, in fountain pen or ball point pen, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Official Election Ballot." This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election or to the judge of elections of the elector's election district at the elector's polling place.

* * *

(b) * * *

(3) Notwithstanding paragraph (2), an elector who requests an absentee ballot and who is not shown on the district register as having voted the ballot may vote at the polling place if the elector remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and the elector signs a statement subject to the penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) in substantially the following
form:

I hereby declare that I am a qualified registered elector who has obtained an absentee ballot or mail-in ballot. I further declare that I have not cast my absentee ballot or mail-in ballot, and that instead I remitted my absentee ballot or mail-in ballot and the envelope containing the declaration of the elector to the judge of elections at my polling place to be spoiled and therefore request that my absentee ballot or mail-in ballot be voided.

(Date)
(Signature of Elector)...................(Address of Elector)
(Local Judge of Elections)] deliver the completed absentee
ballot to the judge of elections of the elector's election district at the elector's polling place.

* * *

Section 7. Section 1308(g)(1.1) and (2) of the act, amended March 27, 2020 (P.L.41, No.12), is amended and the section is amended by adding a subsection to read:

Section 1308. Canvassing of Official Absentee Ballots and Mail-in Ballots.--* * *

(a.1) A judge of elections shall deliver all completed absentee ballots and envelopes containing the declaration of the elector received under sections 1306(b)(3) and 1306-D(b)(3) to the county board of elections by two o'clock A.M. on the day following the election.

* * *

(g) * * *

(1.1) The county board of elections shall meet no earlier than seven o'clock A.M. on election day at the county courthouse or the offices of the county board of election to pre-canvas
all ballots received prior to the meeting. A county board of
elections shall provide at least forty-eight hours' notice of a
pre-canvass meeting by publicly posting a notice of a pre-
canvass meeting on its publicly accessible Internet website.

The authorized representative of each candidate in an
election, the county chairperson of each political party and one
representative from each political party shall be permitted to
remain in the room in which the absentee ballots and mail-in
ballots are pre-canvassed. The proceedings of the pre-canvassing
shall be recorded and made available upon request. No person
observing, attending or participating in a pre-canvass meeting
may disclose the results of any portion of any pre-canvass
meeting prior to the close of the polls.

(2) The county board of elections shall meet no earlier than
the close of polls on the day of the election at the county
courthouse or the offices of the county board of election and no
later than the third day following the election to begin
canvassing absentee ballots and mail-in ballots not included in
the pre-canvass meeting. The meeting under this paragraph shall
continue until all absentee ballots and mail-in ballots received
prior to the close of the polls have been canvassed. The county
board of elections shall not record or publish any votes
reflected on the ballots prior to the close of the polls. The
canvass process shall continue through the eighth day following
the election for valid military-overseas ballots timely received
under 25 Pa.C.S. § 3511 (relating to receipt of voted ballot). A
county board of elections shall provide at least forty-eight
hours' notice of a canvass meeting by publicly posting a notice
on its publicly accessible Internet website. One authorized
representative of each candidate in an election, the county
chairperson of each political party and one representative from each political party shall be permitted to remain in the room in which the absentee ballots and mail-in ballots are canvassed.

The proceedings of the canvassing shall be recorded and made available upon request.

* * *

Section 8. Section 1302-D(f) of the act, amended March 27, 2020 (P.L.41, No.12), is amended and subsection (g) is amended by adding a paragraph to read:

Section 1302-D. Applications for official mail-in ballots.

* * *

(f) Form.--The following shall apply:

(1) Application for an official mail-in ballot shall be on physical and electronic forms prescribed by the Secretary of the Commonwealth.

(2) The application shall state that a voter who applies for a mail-in ballot under section 1301-D shall not be eligible to vote at a polling place on election day [unless the elector brings the elector's mail-in ballot to the elector's polling place, remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and signs a statement subject to the penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) to the same effect.] except by provisional ballot. The application shall also state that an elector may deliver a mail-in ballot and the envelope containing the declaration of the elector to the judge of elections of the elector's election district at the elector's polling place during the hours that the polling place is open on election day.
The physical application forms shall be made freely available to the public at county board of elections, municipal buildings and at other locations designated by the Secretary of the Commonwealth.

The electronic application forms shall be made freely available to the public through publicly accessible means.

No written application or personal request shall be necessary to receive or access the application forms.

Copies and records of all completed physical and electronic applications for official mail-in ballots shall be retained by the county board of elections.

Permanent mail-in voting list.--

(1.1) A county board of elections shall remove a person from the permanent mail-in ballot list if the elector does any of the following:

(i) The person loses eligibility to vote.

(ii) The elector votes in person at the elector's polling place.

(iii) The elector requests removal from the permanent mail-in ballot list.

Section 9. Section 1302.1-D(a) of the act, added October 31, 2019 (P.L.552, No.77), is amended to read:

Section 1302.1-D. Date of application for mail-in ballot.

(a) General rule.--Applications for mail-in ballots shall be received in the office of the county board of elections not earlier than 50 days before the primary or election, except that if a county board of elections determines that it would be
appropriate to the county board of elections' operational needs, any applications for mail-in ballots received more than 50 days before the primary or election may be processed before that time. Applications for mail-in ballots shall be processed if received not later than five o'clock P.M. of the [first Tuesday] fifteenth day prior to the day of any primary or election.

* * *

Section 10. Sections 1303-D(e) and 1306-D(a) and (b)(3) of the act, amended March 27, 2020 (P.L.41, No.12), are amended to read:

Section 1303-D. Official mail-in elector ballots.

* * *

(e) Notice.--The official mail-in voter ballot shall state that a voter who receives a mail-in ballot under section 1301-D and whose voted mail-in ballot is not timely received by the commission or voted ballot and the envelope containing the declaration of the elector is timely received by the judge of elections of the elector's election district at the elector's polling place on election day may only vote on election day by provisional ballot [unless the elector brings the elector's mail-in ballot to the elector's polling place, remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and signs a statement subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) to the same effect].

Section 1306-D. Voting by mail-in electors.

(a) General rule.--At any time after receiving an official mail-in ballot, but on or before eight o'clock P.M. the day of the primary or election, the mail-in elector shall, in secret, proceed to mark the ballot only in black lead pencil, indelible
pencil or blue, black or blue-black ink, in fountain pen or ball point pen, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Official Election Ballot." This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election or to the judge of elections of the elector's election district at the elector's polling place.

* * *

(b) Eligibility.--

* * *

(3) Notwithstanding paragraph (2), an elector who requests a mail-in ballot and who is not shown on the district register as having voted the ballot may vote at the polling place if the elector remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and the elector signs a statement subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) which shall be in substantially the following form:

I hereby declare that I am a qualified registered elector who has obtained an absentee ballot or mail-in ballot. I further declare that I have not cast my absentee ballot or mail-in ballot, and that instead I remitted my absentee ballot or mail-in ballot to the judge of elections at my polling place.
polling place to be spoiled and therefore request that my absentee ballot or mail-in ballot be voided.

(Date)

(Signature of Elector)............(Address of Elector)

(Local Judge of Elections)] deliver the completed mail-in ballot and the envelope containing the declaration of the elector to the judge of elections of the elector's election district at the elector's polling place.

* * *

Section 11. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary for the addition of section 1231.1.

(2) 25 Pa.C.S § 1503 is repealed.

Section 12. This act shall take effect in 30 days.