

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 436 Session of 2017

INTRODUCED BY TALLMAN, MILLARD, DIAMOND, ROTHMAN, BARRAR,  
 MACKENZIE, KAUFFMAN, JAMES, RYAN, GROVE, DOWLING, HICKERNELL,  
 WARD, METCALFE, DUSH, SACCONI, SAYLOR, RADER, KEEFER,  
 MCGINNIS, MOUL AND WARNER, FEBRUARY 10, 2017

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 10, 2017

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 preliminary provisions, further providing for  
 12 definitions; in the Secretary of the Commonwealth, further  
 13 providing for requirements relating to voter identification;  
 14 and, in preparation for and conduct of primaries and  
 15 elections, further providing for manner of applying to vote,  
 16 persons entitled to vote, voter's certificates, entries to be  
 17 made in district register, numbered list of voters and  
 18 challenges.

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

21 Section 1. Section 102(z.5) of the act of June 3, 1937  
 22 (P.L.1333, No.320), known as the Pennsylvania Election Code, is  
 23 amended and the section is amended by adding a subsection to  
 24 read:

25 Section 102. Definitions.--The following words, when used in

1 this act, shall have the following meanings, unless otherwise  
2 clearly apparent from the context:

3 \* \* \*

4 (z.5) The words "proof of identification" shall mean:

5 [(1) In the case of an elector who has a religious objection  
6 to being photographed, a valid-without-photo driver's license or  
7 a valid-without-photo identification card issued by the  
8 Department of Transportation.

9 (2) For an elector who appears to vote under section 1210, a  
10 document that:

11 (i) shows the name of the individual to whom the document  
12 was issued and the name substantially conforms to the name of  
13 the individual as it appears in the district register;

14 (ii) shows a photograph of the individual to whom the  
15 document was issued;

16 (iii) includes an expiration date and is not expired,  
17 except:

18 (A) for a document issued by the Department of  
19 Transportation which is not more than twelve (12) months past  
20 the expiration date; or

21 (B) in the case of a document from an agency of the Armed  
22 forces of the United States or their reserve components,  
23 including the Pennsylvania National Guard, establishing that the  
24 elector is a current member of or a veteran of the United States  
25 Armed Forces or National Guard which does not designate a  
26 specific date on which the document expires, but includes a  
27 designation that the expiration date is indefinite; and

28 (iv) was issued by one of the following:

29 (A) The United States Government.

30 (B) The Commonwealth of Pennsylvania.

1 (C) A municipality of this Commonwealth to an employee of  
2 that municipality.

3 (D) An accredited Pennsylvania public or private institution  
4 of higher learning.

5 (E) A Pennsylvania care facility.

6 (3) For a qualified absentee elector under section 1301:

7 (i) in the case of an elector who has been issued a current  
8 and valid driver's license, the elector's driver's license  
9 number;

10 (ii) in the case of an elector who has not been issued a  
11 current and valid driver's license, the last four digits of the  
12 elector's Social Security number;

13 (iii) in the case of an elector who has a religious  
14 objection to being photographed, a copy of a document that  
15 satisfies paragraph (1); or

16 (iv) in the case of an elector who has not been issued a  
17 current and valid driver's license or Social Security number, a  
18 copy of a document that satisfies paragraph (2).]

19 (1) in the case of an elector who has been issued a current  
20 and valid driver's license, the elector's driver's license  
21 number;

22 (2) in the case of an elector who has not been issued a  
23 current and valid driver's license, the last four digits of the  
24 elector's Social Security number;

25 (3) in the case of an elector who has a religious objection  
26 to being photographed, a copy of a valid-without-photo driver's  
27 license or a valid-without-photo identification card issued by  
28 the Department of Transportation; or

29 (4) in the case of an elector who has not been issued a  
30 current and valid driver's license or Social Security number, a

1 copy of a document that:

2 (i) shows the name of the individual to whom the document  
3 was issued and the name substantially conforms to the name of  
4 the individual as it appears in the district register;

5 (ii) shows a photograph of the individual to whom the  
6 document was issued;

7 (iii) includes an expiration date and is not expired,  
8 except:

9 (A) for a document issued by the Department of  
10 Transportation that is not more than twelve (12) months past the  
11 expiration date; or

12 (B) in the case of a document from an agency of the armed  
13 forces of the United States or their reserve components,  
14 including the Pennsylvania National Guard, establishing that the  
15 elector is a current member of or a veteran of the armed forces  
16 of the United States or National Guard that does not designate a  
17 specific date on which the document expires, but includes a  
18 designation that the expiration date is indefinite; and

19 (iv) was issued by one of the following:

20 (A) The United States Government.

21 (B) The Commonwealth of Pennsylvania.

22 (C) A municipality of this Commonwealth to an employee of  
23 that municipality.

24 (D) An accredited Pennsylvania public or private institution  
25 of higher learning.

26 (E) A Pennsylvania care facility.

27 (z.6) The words "care facility" shall mean any of the  
28 following:

29 (1) A long-term care nursing facility as defined in section  
30 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the

1 "Health Care Facilities Act."

2 (2) An assisted living residence or a personal care home as  
3 defined in section 1001 of the act of June 13, 1967 (P.L.31,  
4 No.21), known as the "Human Services Code."

5 Section 2. Sections 206 and 1210 of the act are amended to  
6 read:

7 Section 206. Requirements Relating to Voter

8 Identification.--[(a)] The Secretary of the Commonwealth shall  
9 prepare and disseminate information to the public regarding the  
10 proof of identification requirements established under sections  
11 1210 and 1302.

12 [(b) Notwithstanding the provisions of 75 Pa.C.S. § 1510(b)  
13 (relating to issuance and content of driver's license) to the  
14 contrary, the Department of Transportation shall issue an  
15 identification card described in 75 Pa.C.S. § 1510(b) at no cost  
16 to any registered elector who has made application therefor and  
17 has included with the completed application a statement signed  
18 by the elector declaring under oath or affirmation that the  
19 elector does not possess proof of identification as defined in  
20 section 102(z.5)(2) and requires proof of identification for  
21 voting purposes.

22 (c) The Secretary of the Commonwealth shall prepare the form  
23 of the statement described in subsection (b) and shall  
24 distribute the form to the counties and the Department of  
25 Transportation. The Secretary of the Commonwealth, the Secretary  
26 of Transportation and the county boards of election shall  
27 disseminate information to the public regarding the availability  
28 of identification cards under subsection (b).]

29 Section 1210. Manner of Applying to Vote; Persons Entitled  
30 to Vote; Voter's Certificates; Entries to Be Made in District

1 Register; Numbered Lists of Voters; Challenges.--(a) At every  
2 primary and election each elector who appears to vote and who  
3 desires to vote shall first present to an election officer  
4 [proof of identification.] one of the following forms of photo  
5 identification:

6 (1) a valid driver's license or identification card issued  
7 by the Department of Transportation;

8 (2) a valid identification card issued by any other agency  
9 of the Commonwealth;

10 (3) a valid identification card issued by the United States  
11 Government;

12 (4) a valid United States passport;

13 (5) a valid student identification card;

14 (6) a valid employe identification card; or

15 (7) a valid armed forces of the United States identification  
16 card.

17 The election officer shall examine the [proof of] identification  
18 presented by the elector and sign an affidavit stating that this  
19 has been done.

20 (a.1) (1) Where the elector does not have a photo  
21 identification as provided for in subsection (a), the elector  
22 shall present for examination one of the following forms of  
23 identification that shows the name and address of the elector:

24 (i) nonphoto identification issued by the Commonwealth, or  
25 any agency thereof;

26 (ii) nonphoto identification issued by the United States  
27 Government, or agency thereof;

28 (iii) a firearm permit;

29 (iv) a current utility bill;

30 (v) a current bank statement;

1       (vi) a paycheck;

2       (vii) a government check.

3       (2) The election officer shall examine the identification  
4 presented under paragraph (1) by the elector and sign an  
5 affidavit stating that this has been done.

6       (a.2) [If any of the following apply, the elector shall be  
7 permitted to cast a provisional ballot in accordance with  
8 subsection (a.4):

9       (1) The elector is unable to produce proof of  
10 identification:

11       (i) on the grounds that the elector is indigent and unable  
12 to obtain proof of identification without the payment of a fee;  
13 or

14       (ii) on any other grounds.

15       (2) The elector's proof of identification is challenged by  
16 the judge of elections.] If the elector is unable to produce  
17 identification or the elector's identification is challenged by  
18 the judge of elections, the elector shall be permitted to cast a  
19 provisional ballot in accordance with subsection (a.4)

20       (a.3) (1) All electors, including any elector that shows  
21 [proof of] identification pursuant to subsection (a), shall  
22 subsequently sign a voter's certificate in blue, black or blue-  
23 black ink with a fountain pen or ball point pen, and, unless he  
24 is a State or Federal employe who has registered under any  
25 registration act without declaring his residence by street and  
26 number, he shall insert his address therein, and hand the same  
27 to the election officer in charge of the district register.

28       (2) Such election officer shall thereupon announce the  
29 elector's name so that it may be heard by all members of the  
30 election board and by all watchers present in the polling place

1 and shall compare the elector's signature on his voter's  
2 certificate with his signature in the district register. If,  
3 upon such comparison, the signature upon the voter's certificate  
4 appears to be genuine, the elector who has signed the  
5 certificate shall, if otherwise qualified, be permitted to vote:  
6 Provided, That if the signature on the voter's certificate, as  
7 compared with the signature as recorded in the district  
8 register, shall not be deemed authentic by any of the election  
9 officers, such elector shall not be denied the right to vote for  
10 that reason, but shall be considered challenged as to identity  
11 and required to make the affidavit and produce the evidence as  
12 provided in subsection (d) of this section.

13 (3) When an elector has been found entitled to vote, the  
14 election officer who examined his voter's certificate and  
15 compared his signature shall sign his name or initials on the  
16 voter's certificate, shall, if the elector's signature is not  
17 readily legible, print such elector's name over his signature,  
18 and the number of the stub of the ballot issued to him or his  
19 number in the order of admission to the voting machines, and at  
20 primaries a letter or abbreviation designating the party in  
21 whose primary he votes shall also be entered by one of the  
22 election officers or clerks.

23 (4) As each voter is found to be qualified and votes, the  
24 election officer in charge of the district register shall write  
25 or stamp the date of the election or primary, the number of the  
26 stub of the ballot issued to him or his number in the order of  
27 admission to the voting machines, and at primaries a letter or  
28 abbreviation designating the party in whose primary he votes,  
29 and shall sign his name or initials in the proper space on the  
30 registration card of such voter contained in the district



1 register.

2 (5) As each voter votes, his name in the order of voting  
3 shall be recorded in two (2) numbered lists of voters provided  
4 for that purpose, with the addition of a note of each voter's  
5 party enrollment after his name at primaries.

6 (a.4) (1) At all elections an individual who claims to be  
7 properly registered and eligible to vote at the election  
8 district but whose name does not appear on the district register  
9 and whose registration cannot be determined by the inspectors of  
10 election or the county election board shall be permitted to cast  
11 a provisional ballot. Individuals who appear to vote shall be  
12 required to produce [proof of] identification pursuant to  
13 subsection (a) or (a.1) and if unable to do so shall be  
14 permitted to cast a provisional ballot. An individual presenting  
15 a judicial order to vote shall be permitted to cast a  
16 provisional ballot.

17 (2) Prior to voting the provisional ballot, the elector  
18 shall be required to sign an affidavit stating the following:

19 I do solemnly swear or affirm that my  
20 name is \_\_\_\_\_, that my date of birth is \_\_\_\_\_,  
21 and at the time that I registered I resided at \_\_\_\_\_ in  
22 the municipality of \_\_\_\_\_ in \_\_\_\_\_ County of  
23 the Commonwealth of Pennsylvania and that this is the only  
24 ballot that I cast in this election.

25 Signature of Voter/Elector

26 Current Address

27 Check the Reason for Casting the Provisional Ballot.

28 Signed by Judge of Elections and minority inspector

29 (3) After the provisional ballot has been cast, the  
30 individual shall place it in a secrecy envelope. The individual

1 shall place the secrecy envelope in the provisional ballot  
2 envelope and shall place his signature on the front of the  
3 provisional ballot envelope. All provisional ballots shall  
4 remain sealed in their provisional ballot envelopes for return  
5 to the county board of elections.

6 (4) Within seven calendar days of the election, the county  
7 board of elections shall examine each provisional ballot  
8 envelope that is received to determine if the individual voting  
9 that ballot was entitled to vote at the election district in the  
10 election. One authorized representative of each candidate in an  
11 election and one representative from each political party shall  
12 be permitted to remain in the room in which the determination is  
13 being made. Representatives shall be permitted to keep a list of  
14 those persons who cast a provisional ballot and shall be  
15 entitled to challenge any determination of the county board of  
16 elections with respect to the counting or partial counting of  
17 the ballot under this section. Upon challenge of any provisional  
18 ballot under this clause, the ballot envelope shall be marked  
19 "challenged" together with the reason for the challenge, and the  
20 provisional ballot shall be set aside pending final  
21 determination of the challenge according to the following  
22 procedure:

23 (i) Provisional ballots marked "challenged" shall be placed  
24 unopened in a secure, safe and sealed container in the custody  
25 of the county board of elections until it shall fix a time and  
26 place for a formal hearing of all such challenges, and notice  
27 shall be given where possible to all provisional electors thus  
28 challenged and to every attorney, watcher or candidate who made  
29 the challenge.

30 (ii) The time for the hearing shall not be later than seven

1 days after the date of the challenge.

2 (iii) On the day fixed for the hearing, the county board  
3 shall proceed without delay to hear the challenges and, in  
4 hearing the testimony, the county board shall not be bound by  
5 the Pennsylvania Rules of Evidence.

6 (iv) The testimony presented shall be stenographically  
7 recorded and made part of the record of the hearing.

8 (v) The decision of the county board in upholding or  
9 dismissing any challenge may be reviewed by the court of common  
10 pleas of the county upon a petition filed by any petitioner  
11 aggrieved by the decision of the county board. The appeal shall  
12 be taken, within two days after the decision was made, whether  
13 the decision was reduced to writing or not, to the court of  
14 common pleas setting forth the objections to the county board's  
15 decision and praying for an order reversing the decision.

16 (vi) Pending the final determination of all appeals, the  
17 county board shall suspend any action in canvassing and  
18 computing all challenged provisional ballots irrespective of  
19 whether or not an appeal was taken from the county board's  
20 decision.

21 (vii) Upon completion of the computation of the returns of  
22 the county, the votes cast upon the challenged official  
23 provisional ballots shall be added to the other votes cast  
24 within the county.

25 (5) (i) Except as provided in subclause (ii), if it is  
26 determined that the individual was registered and entitled to  
27 vote at the election district where the ballot was cast, the  
28 county board of elections shall compare the signature on the  
29 provisional ballot envelope with the signature on the elector's  
30 registration form and, if the signatures are determined to be

1 genuine, shall count the ballot if the county board of elections  
2 confirms that the individual did not cast any other ballot,  
3 including an absentee ballot, in the election.

4 (ii) A provisional ballot shall not be counted if:

5 (A) either the provisional ballot envelope under clause (3)  
6 or the affidavit under clause (2) is not signed by the  
7 individual;

8 (B) the signature required under clause (3) and the  
9 signature required under clause (2) are either not genuine or  
10 are not executed by the same individual;

11 (C) a provisional ballot envelope does not contain a secrecy  
12 envelope[;]\_.

13 [(D) in the case of a provisional ballot that was cast under  
14 subsection (a.2)(1)(i), within six calendar days following the  
15 election the elector fails to appear before the county board of  
16 elections to execute an affirmation or the county board of  
17 elections does not receive an electronic, facsimile or paper  
18 copy of an affirmation affirming, under penalty of perjury, that  
19 the elector is the same individual who personally appeared  
20 before the district election board on the day of the election  
21 and cast a provisional ballot and that the elector is indigent  
22 and unable to obtain proof of identification without the payment  
23 of a fee; or

24 (E) in the case of a provisional ballot that was cast under  
25 subsection (a.2)(1)(ii), within six calendar days following the  
26 election, the elector fails to appear before the county board of  
27 elections to present proof of identification and execute an  
28 affirmation or the county board of elections does not receive an  
29 electronic, facsimile or paper copy of the proof of  
30 identification and an affirmation affirming, under penalty of

1 perjury, that the elector is the same individual who personally  
2 appeared before the district election board on the day of the  
3 election and cast a provisional ballot.]

4 (iii) One authorized representative of each candidate in an  
5 election and one representative from each party shall be  
6 permitted to remain in the room in which deliberation or  
7 determination of subclause (ii) is being made.

8 (6) If it is determined that the individual voting the  
9 provisional ballot was not registered, the provisional ballot  
10 shall not be counted and the ballot shall remain in the  
11 provisional ballot envelope and shall be marked "Rejected as  
12 Ineligible."

13 (7) The following shall apply:

14 (i) Except as provided in subclause (ii), if it is  
15 determined that the individual voting the provisional ballot was  
16 eligible to vote in the county in which the ballot was cast but  
17 not at the election district where the ballot was cast, the  
18 county board of elections shall open the envelope and only count  
19 that portion of the ballot that the individual would have been  
20 eligible to vote in his proper election district and at the  
21 election district where the vote was cast if:

22 (A) the county board of elections confirms that the  
23 individual did not cast any other ballot, including an absentee  
24 ballot, in the election; and

25 (B) the individual casting the provisional ballot is a  
26 resident of the county in which the provisional ballot was cast.

27 (ii) In the event that the individual casting the  
28 provisional ballot is not found to be a resident of the county  
29 in which the provisional ballot was cast, the ballot shall not  
30 be counted.

1 (iii) In the event that the board of elections determines,  
2 based on an evidentiary record, that the individual  
3 intentionally and wilfully cast a provisional ballot in an  
4 election district in which the individual was not eligible to  
5 vote, the ballot shall not be counted.

6 (8) On election night, immediately upon completion of the  
7 count and tabulation of the votes cast, the judge of election  
8 shall prepare and certify under oath a tally displaying the  
9 number of provisional ballots received from the election board  
10 and the number of provisional ballots cast and transmitted to  
11 the county board of elections. The judge of election shall  
12 record on the tabulation the name of the individual into whose  
13 possession the provisional ballots were passed for transmission  
14 to the county board of elections.

15 (9) All provisional ballots and the tally of provisional  
16 ballots tabulated under clause (8) in the possession of an  
17 election board official shall be promptly returned by the judge  
18 of election to the custody of the proper county election board  
19 in accordance with sections 1113-A(j), 1225(b) and 1228(a).

20 (10) One authorized representative of each candidate in an  
21 election and one representative from each political party shall  
22 be permitted to remain in the room where provisional ballots are  
23 received by the county board of elections.

24 (11) The department shall establish a World Wide Web site  
25 and a toll-free telephone number to permit an individual who  
26 cast a provisional ballot to determine whether the vote of that  
27 individual was counted and, if the vote was not counted, the  
28 reason that it was not counted.

29 (12) For purposes of this subsection, "provisional ballot"  
30 means a ballot issued to an individual who claims to be a

1 registered elector by the judge of elections on election day  
2 when the individual's name does not appear on the general  
3 register and the individual's registration cannot be verified.

4 (b) If any elector was unable to sign his name at the time  
5 of registration, or, if having been able to sign his name when  
6 registered, he subsequently shall have lost his sight or lost  
7 the hand with which he was accustomed to sign his name, or shall  
8 have been otherwise rendered by disease or accident unable to  
9 sign his name when he applies to vote, he shall establish his  
10 identity to the satisfaction of the election officers, and in  
11 such case he shall not be required to sign a voter's  
12 certificate, but a certificate shall be prepared for him by one  
13 of the election officers, upon which the facts as to such  
14 disability shall be noted and attested by the signature of such  
15 election officer.

16 (c) No person who applies to vote shall be permitted by any  
17 election officer or clerk or other person to see the signature  
18 recorded as his in the district register until after he shall  
19 have signed his name to the voter's certificate.

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

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

15 (e) A person who wilfully commits fraud or who conspires to  
16 wilfully commit fraud in relation to any of the provisions of  
17 this section commits a felony of the third degree and, upon  
18 conviction, shall be sentenced to pay a fine not exceeding  
19 fifteen thousand dollars (\$15,000) or to undergo a term of  
20 imprisonment of not more than seven years, or both. An  
21 individual convicted under this subsection shall be barred for  
22 life from serving as a judge, inspector or clerk of election,  
23 machine inspector translator, county election board official,  
24 poll watcher or in any other official capacity relating to the  
25 sanctity, observation or conduct of Pennsylvania elections.

26 [(f) As used in this section, "care facility" means any of  
27 the following:

28 (1) A long-term care nursing facility as defined in section  
29 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the  
30 "Health Care Facilities Act."



1       (2) An assisted living residence or a personal care home as  
2 defined in section 1001 of the act of June 13, 1967 (P.L.31,  
3 No.21), known as the "Public Welfare Code."]

4       Section 3. The amendment of section 1210 of the act shall  
5 apply to elections held after January 1, 2017.

6       Section 4. This act shall take effect immediately.