

111TH CONGRESS
1ST SESSION

S. 528

To prevent voter caging.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2009

Mr. WHITEHOUSE (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. NELSON of Florida, Mr. KERRY, Mr. SCHUMER, Mr. HARKIN, Mr. DODD, Mr. BROWN, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To prevent voter caging.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Caging Prohibition Act
5 of 2009”.

6 **SEC. 2. PROHIBITION ON VOTER CAGING.**

7 (a) DEFINITIONS.—In this section:

8 (1) VOTER CAGING DOCUMENT.—The term
9 “voter caging document” means—

(A) any nonforwardable document that is sent to an individual at the address at which such individual is registered or seeking to become registered as a voter in a Federal election and that is returned to the sender or to a third party as undelivered or undeliverable; and

(B) any document (other than a notice described in section 8(d) of the National Voter Registration Act of 1993) that is sent to an individual at the address at which such individual is registered as a voter in a Federal election and that contains instructions to return the document to the sender or a third party but is not so returned.

(2) VOTER CAGING LIST.—The term “voter caging list” means any list of individuals compiled from voter caging documents.

(3) UNVERIFIED LIST MATCH.—The term “unverified list match” means a list produced by either of the following:

(A) Matching—

(i) the identity of registered voters or applicants for voter registration, with

(ii) the identity of individuals who are ineligible to vote in the registrar’s jurisdic-

1 tion, by virtue of death, conviction, change
 2 of address, mental impairment, or other-
 3 wise,
 4 unless the process for matching the identities
 5 under this subparagraph establishes beyond a
 6 reasonable doubt that the identities belong to
 7 the same individual.

8 (B) Failing to match—

9 (i) the identity of registered voters or
 10 applicants for voter registration, with

11 (ii) the identity of individuals who are
 12 listed in the database of the State motor
 13 vehicle authority or in information pro-
 14 vided by the Commissioner of Social Secu-
 15 rity under an agreement under section
 16 205(r)(8) of the Social Security Act (42
 17 U.S.C. 405(r)(8)).

18 (b) CONDUCT BY ELECTION OFFICIALS PROHIB-
 19 ITED.—No State or local election official shall prevent an
 20 individual from registering or voting (including voting by
 21 provisional ballot) in any election for Federal office, or
 22 permit in connection with any election for Federal office
 23 a formal challenge under State law to an individual’s reg-
 24 istration status or eligibility to vote (including eligibility

1 to cast a provisional ballot), if the sole basis for such deci-
 2 sion or challenge is evidence consisting of—

3 (1) a voter caging document or voter caging
 4 list;

5 (2) an unverified list match;

6 (3) the foreclosure status of the individual's
 7 residence; or

8 (4) information indicating a change of resi-
 9 dence, except in the case of change of residence in-
 10 formation obtained in conformance with section 8(d)
 11 of the National Voter Registration Act of 1993 (42
 12 U.S.C. 1973gg-6(d)).

13 (c) REQUIREMENTS FOR CHALLENGES BY PERSONS
 14 OTHER THAN ELECTION OFFICIALS.—

15 (1) ATTESTATION OF FIRST-HAND KNOWLEDGE
 16 OF INELIGIBILITY.—No person, other than a State
 17 or local election official, shall submit a formal chal-
 18 lenge to an individual's eligibility to register to vote
 19 in an election for Federal office or to vote in an elec-
 20 tion for Federal office unless the challenge—

21 (A) sets forth in writing the specific reason
 22 to believe that the individual who is the subject
 23 of the challenge is ineligible, including a de-
 24 scription of the evidence supporting that belief;
 25 and

1 (B) is subject to an oath or attestation
 2 under penalty of perjury that such individual is
 3 ineligible to register to vote or to vote in that
 4 election.

5 (2) PROHIBITING CHALLENGES BASED ON CER-
 6 TAIN EVIDENCE.—No person shall submit a formal
 7 challenge to an individual’s eligibility to register to
 8 vote in an election for Federal office or to vote in
 9 an election for Federal office if the sole basis for
 10 such challenge is evidence consisting of—

11 (A) a voter caging document or voter cag-
 12 ing list;

13 (B) an unverified list match;

14 (C) the foreclosure status of the individ-
 15 ual’s residence; or

16 (D) information indicating a change of res-
 17 idence, except in the case of change of residence
 18 information obtained in conformance with sec-
 19 tion 8(d) of the National Voter Registration Act
 20 of 1993 (42 U.S.C. 1973gg–6(d)).

21 (3) PENALTIES FOR KNOWING MISCONDUCT.—
 22 Whoever, other than a State or local election official,
 23 knowingly challenges the eligibility of any individual
 24 to register or vote or knowingly causes the eligibility
 25 of such individuals to be challenged in violation of

1 paragraph (1) or (2) with the intent that one or
2 more such individuals be disqualified from voting,
3 shall be fined not more than \$50,000 for each such
4 violation.

5 (d) NO EFFECT ON NATIONAL VOTER REGISTRA-
6 TION ACT OF 1993.—Nothing in this section shall be con-
7 strued to override the protections of the National Voter
8 Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

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