

110TH CONGRESS
2D SESSION

H. R. 5038

To amend title 18, United States Code, to prevent the election practice known as caging, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 2008

Mr. CONYERS (for himself, Mr. EMANUEL, Mr. VAN HOLLEN, Mr. BECERRA, Mr. NADLER, Ms. ZOE LOFGREN of California, Mr. ELLISON, Mr. COHEN, Mr. HOLT, Mr. HONDA, Ms. KILPATRICK, and Ms. MOORE of Wisconsin) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to prevent the election practice known as caging, and for other purposes.

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 2008”.

1 **SEC. 2. VOTER CAGING AND OTHER QUESTIONABLE CHAL-**
2 **LENGES PROHIBITED.**

3 (a) IN GENERAL.—Chapter 29 of title 18, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 618. Voter caging and other questionable chal-**
7 **lenges**

8 “(a) DEFINITIONS.—In this section—

9 “(1) the term ‘voter caging document’ means—

10 “(A) a nonforwardable document that is
11 returned to the sender or a third party as unde-
12 livered or undeliverable despite an attempt to
13 deliver such document to the address of a reg-
14 istered voter or applicant; or

15 “(B) any document with instructions to an
16 addressee that the document be returned to the
17 sender or a third party but is not so returned,
18 despite an attempt to deliver such document to
19 the address of a registered voter or applicant,
20 unless at least two Federal election cycles have
21 passed since the date of the attempted delivery;

22 “(2) the term ‘voter caging list’ means a list of
23 individuals compiled from voter caging documents;
24 and

25 “(3) the term ‘unverified match list’ means a
26 list produced by matching the information of reg-

1 istered voters or applicants for voter registration to
2 a list of individuals who are ineligible to vote in the
3 registrar’s jurisdiction, by virtue of death, conviction,
4 change of address, or otherwise; unless one of
5 the pieces of information matched includes a signature,
6 photograph, or unique identifying number ensuring
7 that the information from each source refers
8 to the same individual.

9 “(b) PROHIBITION AGAINST VOTER CAGING.—No
10 State or local election official shall prevent an individual
11 from registering or voting in any election for Federal office,
12 or permit in connection with any election for Federal
13 office a formal challenge under State law to an individual’s
14 registration status or eligibility to vote, if the basis for
15 such decision is evidence consisting of—

16 “(1) a voter caging document or voter caging
17 list;

18 “(2) an unverified match list;

19 “(3) an error or omission on any record or
20 paper relating to any application, registration, or
21 other act requisite to voting, if such error or omission
22 is not material to an individual’s eligibility to
23 vote under section 2004 of the Revised Statutes, as
24 amended (42 U.S.C. 1971(a)(2)(B)); or

1 “(4) any other evidence so designated for pur-
2 poses of this section by the Election Assistance Com-
3 mission,
4 except that the election official may use such evidence if
5 it is corroborated by independent evidence of the individ-
6 ual’s ineligibility to register or vote.

7 “(c) REQUIREMENTS FOR CHALLENGES BY PERSONS
8 OTHER THAN ELECTION OFFICIALS.—

9 “(1) ATTESTATION OF FIRST-HAND KNOWL-
10 EDGE OF INELIGIBILITY.—No person, other than a
11 State or local election official, shall submit a formal
12 challenge to an individual’s eligibility to register to
13 vote in an election for Federal office or to vote in
14 an election for Federal office unless that challenge
15 is supported by personal, first-hand knowledge re-
16 garding the grounds for ineligibility which is—

17 “(A) documented in writing; and

18 “(B) subject to an oath or attestation
19 under penalty of perjury that the individual
20 who is the subject of the challenge is ineligible
21 to register to vote or vote in that election.

22 “(2) PROHIBITING CHALLENGES BASED ON
23 CERTAIN EVIDENCE.—No person, other than a State
24 or local election official, shall submit a formal chal-
25 lenge to an individual’s eligibility to register to vote

1 in an election for Federal office or to vote in an elec-
2 tion for Federal office if the basis for such challenge
3 is evidence consisting of—

4 “(A) a voter caging document or voter cag-
5 ing list;

6 “(B) an unverified match list;

7 “(C) an error or omission on any record or
8 paper relating to any application, registration,
9 or other act requisite to voting, if such error or
10 omission is not material to an individual’s eligi-
11 bility to vote under section 2004 of the Revised
12 Statutes, as amended (42 U.S.C.
13 1971(a)(2)(B)); or

14 “(D) any other evidence so designated for
15 purposes of this section by the Election Assist-
16 ance Commission.

17 “(d) PENALTIES FOR KNOWING MISCONDUCT.—
18 Whoever knowingly challenges the eligibility of one or
19 more individuals to register or vote or knowingly causes
20 the eligibility of such individuals to be challenged in viola-
21 tion of this section with the intent that one or more eligi-
22 ble voters be disqualified, shall be fined under this title
23 or imprisoned not more than 5 years, or both, for each
24 such violation. Each violation shall be a separate offense.

1 “(e) NO EFFECT ON RELATED LAWS.—Nothing in
2 this section is intended to override the protections of the
3 National Voter Registration Act of 1993 (42 U.S.C.
4 1973gg et seq.) or to affect the Voting Rights Act of 1965
5 (42 U.S.C. 1973 et seq.).”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 for chapter 29 of title 18, United States Code, is amended
8 by adding at the end the following:

“618. Voter caging and other questionable challenges.”.

9 **SEC. 3. SEVERABILITY.**

10 If any provision of this Act or any amendment made
11 by this Act, or the application of a provision to any person
12 or circumstance, is held to be unconstitutional, the re-
13 mainder of this Act and the amendments made by this
14 Act, and the application of the provisions to any person
15 or circumstance, shall not be affected by the holding.

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