

Caging Prohibition Act of 2009 (Introduced in House)

HR 103 IH

111th CONGRESS
1st Session
H. R. 103

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 6, 2009

Mr. CONYERS (for himself, Mr. NADLER of New York, Ms. ZOE LOFGREN of California, Mr. SCOTT of Virginia, Ms. JACKSON-LEE of Texas, Mr. WEXLER, Mr. COHEN, Mr. ELLISON, Mr. JOHNSON of Georgia, and Mr. SCHIFF) 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Caging Prohibition Act of 2009'.

SEC. 2. VOTER CAGING AND OTHER QUESTIONABLE CHALLENGES PROHIBITED.

(a) In General- Chapter 29 of title 18, United States Code is amended by adding at the end the following:

'Sec. 618. Voter caging and other questionable challenges

'(a) Definitions- In this section--

'(1) the term 'voter caging document' means--

'(A) a nonforwardable document that is returned to the sender or a third party as undelivered or undeliverable despite an attempt to deliver such document to the address of a registered voter or applicant; or

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

`(2) the term `voter caging list' means a list of individuals compiled from voter caging documents; and

`(3) the term `unverified match list' means a list produced by matching the information of registered voters or applicants for voter registration to a list of individuals who are ineligible to vote in the registrar's jurisdiction, by virtue of death, conviction, change of address, or otherwise; unless one of the pieces of information matched includes a signature, photograph, or unique identifying number ensuring that the information from each source refers to the same individual.

`(b) Prohibition Against Voter Caging- No State or local election official shall prevent an individual from registering or voting in any election for Federal office, or permit in connection with any election for Federal office a formal challenge under State law to an individual's registration status or eligibility to vote, if the basis for such decision is evidence consisting of--

`(1) a voter caging document or voter caging list;

`(2) an unverified match list;

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

`(4) any other evidence so designated for purposes of this section by the Election Assistance Commission,

except that the election official may use such evidence if it is corroborated by independent evidence of the individual's ineligibility to register or vote.

`(c) Requirements for Challenges by Persons Other Than Election Officials-

`(1) ATTESTATION OF FIRST-HAND KNOWLEDGE OF INELIGIBILITY- No person, other than a State or local election official, shall submit a formal challenge to an individual's eligibility to register to vote in an election for Federal office or to vote in an election for Federal office unless that challenge is supported by personal, first-hand knowledge regarding the grounds for ineligibility which is--

`(A) documented in writing; and

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

`(2) PROHIBITING CHALLENGES BASED ON CERTAIN EVIDENCE- No person, other than a State or local election official, shall submit a formal challenge to an individual's eligibility to register to vote in an election for Federal office or to vote in an election for Federal office if the basis for such challenge is evidence consisting of--

`(A) a voter caging document or voter caging list;

`(B) an unverified match list;

`(C) an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not

material to an individual's eligibility to vote under section 2004 of the Revised Statutes, as amended (42 U.S.C. 1971(a)(2)(B)); or
(D) any other evidence so designated for purposes of this section by the Election Assistance Commission.

(d) Penalties for Knowing Misconduct- Whoever knowingly challenges the eligibility of one or more individuals to register or vote or knowingly causes the eligibility of such individuals to be challenged in violation of this section with the intent that one or more eligible voters be disqualified, shall be fined under this title or imprisoned not more than 5 years, or both, for each such violation. Each violation shall be a separate offense.

(e) No Effect on Related Laws- Nothing in this section is intended to override the protections of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.) or to affect the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).'

(b) Clerical Amendment- The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end the following:

'618. Voter caging and other questionable challenges.'

SEC. 3. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or the application of a provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act and the amendments made by this Act, and the application of the provisions to any person or circumstance, shall not be affected by the holding.

END

CRS SUMMARY AS OF:

1/6/2009--Introduced.

Caging Prohibition Act of 2009 - Amends the federal criminal code to prohibit state or local **election** officials from preventing an individual from registering or voting in any **election** for federal office, or from permitting a formal challenge under state law to an individual's registration status or eligibility to vote, if the basis for such decision is evidence consisting of: (1) a voter caging document or voter caging list; (2) an unverified match list; (3) an error or omission on voter application or registration documents that is not material to an individual's eligibility to vote; or (4) any other evidence so designated by the **Election** Assistance Commission.

Defines "voter caging document" as: (1) a nonforwardable document that is returned to the sender or a third party as undelivered or undeliverable despite an attempt to deliver it to the address of a registered voter or applicant; or (2) any document with instructions to an addressee that the document be returned to a sender or third party but is not so returned, despite an attempt to deliver it to the address of a registered voter, unless at least two federal **election** cycles have passed since the date of the attempted delivery.

Defines "unverified match list" as a list produced by matching the information of registered voters or applicants to a list of individuals ineligible to vote in the registrar's jurisdiction due to death, conviction, change of address, or otherwise, unless one of the pieces of information

matched includes a signature, photograph, or unique identifying number ensuring that the information from each source refers to the same individual.

Requires any private individual who challenges the right of another citizen to vote to set forth in writing, under penalty of perjury, personal, first-hand knowledge establishing the grounds for ineligibility.