

2554--A

2009-2010 Regular Sessions

I N   S E N A T E

February 23, 2009

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Introduced by Sens. STEWART-COUSINS, BRESLIN, DIAZ, DUANE, C. JOHNSON, MONTGOMERY, ONORATO, STACHOWSKI, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to prohibiting the suppression of voters

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. This act shall be known and may be cited as the "deceptive  
2 practices and voter suppression prevention act".  
3     S 2. The election law is amended by adding a new section 17-151 to  
4 read as follows:  
5     S 17-151. DECEPTIVE PRACTICES.     1. ANY PERSON, POLITICAL COMMITTEE,  
6 LABOR ORGANIZATION, CORPORATION, OR OTHER ENTITY, WHETHER ACTING UNDER  
7 COLOR OF LAW OR OTHERWISE, WHO, WITHIN SIXTY DAYS BEFORE AN ELECTION,  
8 COMMUNICATES OR CAUSES TO BE COMMUNICATED DECEPTIVE INFORMATION, OR  
9 PRODUCES OR CAUSES TO BE PRODUCED DECEPTIVE INFORMATION WITH THE INTENT  
10 THAT SUCH INFORMATION BE COMMUNICATED, AND KNOWS SUCH INFORMATION TO BE  
11 FALSE AND, IN ACTING IN THE MANNER DESCRIBED, HAS THE INTENT TO PREVENT  
12 OR DISSUADE ANOTHER PERSON FROM EXERCISING THE RIGHT TO VOTE IN ANY  
13 ELECTION, SHALL BE GUILTY OF A MISDEMEANOR. FOR PURPOSES OF THIS  
14 SECTION, THE TERM "DECEPTIVE INFORMATION" SHALL MEAN FALSE INFORMATION  
15 REGARDING: (A) THE TIME, PLACE, OR MANNER OF ANY ELECTION; (B) THE QUAL-  
16 IFICATIONS FOR OR RESTRICTIONS ON VOTER ELIGIBILITY FOR ANY ELECTION,  
17 INCLUDING ANY CRIMINAL PENALTIES ASSOCIATED WITH VOTING IN ANY SUCH  
18 ELECTION BY INELIGIBLE VOTERS OR INFORMATION REGARDING A VOTER'S REGIS-  
19 TRATION STATUS OR ELIGIBILITY; (C) THE POLITICAL PARTY AFFILIATION OF  
20 ANY CANDIDATE RUNNING IN A CLOSED PRIMARY ELECTION; OR (D) THE EXPLICIT  
21 ENDORSEMENT BY ANY PERSON OR ORGANIZATION OF A CANDIDATE RUNNING FOR ANY  
22 OFFICE. FOR PURPOSES OF THIS SECTION, THE TERM "ELECTION" MEANS ANY

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 ELECTION ADMINISTERED BY THE STATE OR CITY OF NEW YORK BOARDS OF  
2 ELECTIONS, OR ANY COUNTY BOARD OF ELECTIONS, INCLUDING ANY GENERAL,  
3 PRIMARY, RUN-OFF, OR SPECIAL ELECTION FOR ANY STATE OR LOCAL OFFICE OR  
4 BALLOT PROPOSITION. FOR PURPOSES OF THIS SECTION, A COMMUNICATION SHALL  
5 BE BY WRITTEN, ELECTRONIC, TELEPHONIC OR OTHER MEANS.

6 2. ANY PERSON AGGRIEVED BY A VIOLATION OF SUBDIVISION ONE OF THIS  
7 SECTION MAY INSTITUTE A CIVIL ACTION OR OTHER PROPER PROCEEDING FOR  
8 PREVENTATIVE RELIEF, INCLUDING AN APPLICATION IN NEW YORK STATE SUPREME  
9 COURT FOR A PERMANENT OR TEMPORARY INJUNCTION, RESTRAINING ORDER,  
10 DECLARATORY JUDGMENT, OR OTHER ORDER.

11 3. (A) ANY PERSON WHO ATTEMPTS TO COMMIT AN OFFENSE DESCRIBED IN  
12 SUBDIVISION ONE OF THIS SECTION SHALL BE SUBJECT TO THE SAME PENALTIES  
13 AS THOSE PRESCRIBED FOR THE OFFENSE THAT THE PERSON ATTEMPTED TO COMMIT.

14 (B) IF TWO OR MORE PERSONS CONSPIRE TO COMMIT AN OFFENSE DESCRIBED IN  
15 SUBDIVISION ONE OF THIS SECTION, AND ONE OR MORE OF SUCH PERSONS DO ANY  
16 ACT TO EFFECT THE OBJECT OF THE CONSPIRACY, EACH PERSON SHALL BE GUILTY  
17 OF VIOLATING SECTION 17-152 OF THIS ARTICLE.

18 4. ANY PERSON MAY REPORT TO THE NEW YORK STATE ATTORNEY GENERAL A  
19 VIOLATION OF SUBDIVISION ONE OF THIS SECTION. IMMEDIATELY AFTER RECEIV-  
20 ING SUCH A REPORT, THE ATTORNEY GENERAL SHALL CONSIDER AND REVIEW SUCH  
21 REPORT AND, IF THE ATTORNEY GENERAL DETERMINES THAT THERE IS A REASON-  
22 ABLE BASIS TO FIND THAT DECEPTIVE INFORMATION HAS BEEN COMMUNICATED,  
23 CAUSED TO BE COMMUNICATED, PRODUCED, OR CAUSED TO BE PRODUCED WITH THE  
24 INTENT THAT IT BE COMMUNICATED, THE ATTORNEY GENERAL SHALL UNDERTAKE ALL  
25 EFFECTIVE MEASURES NECESSARY TO PROVIDE CORRECT INFORMATION TO VOTERS  
26 AFFECTED BY THE FALSE INFORMATION AND TO PROSECUTE THE OFFENDERS OF THIS  
27 SECTION.

28 S 3. The election law is amended by adding a new section 17-153 to  
29 read as follows:

30 S 17-153. SUPPRESSION OF VOTERS. 1. ANY PERSON, POLITICAL COMMITTEE,  
31 LABOR ORGANIZATION, CORPORATION, OR OTHER ENTITY WHO DIRECTLY OR INDI-  
32 RECTLY SUPPRESSES OR THREATENS TO SUPPRESS ANY PERSON FOR THE PURPOSE OF  
33 INTERFERING WITH THE RIGHT OF SUCH PERSON TO LAWFULLY EXERCISE THEIR  
34 FRANCHISE, OR IN ANY OTHER MANNER PRACTICES SUPPRESSION UPON OR AGAINST  
35 A PERSON IN ORDER TO INDUCE OR COMPEL SUCH PERSON TO VOTE OR REFRAIN  
36 FROM VOTING FOR OR AGAINST A PARTICULAR CANDIDATE FOR PUBLIC OFFICE OR  
37 PARTICULAR BALLOT PROPOSITION SHALL BE GUILTY OF A MISDEMEANOR. FOR  
38 PURPOSES OF THIS SECTION, THE TERM "SUPPRESS" SHALL MEAN TO USE FORCE,  
39 AUTHORITY OR AN ABUSE OF POWER TO PREVENT, SUBDUE OR COMPEL ANOTHER INTO  
40 ACTING AGAINST HIS OR HER OWN INTERESTS OR INTENTIONS, OR INTO NOT  
41 ACTING AT ALL.

42 2. (A) ANY PERSON, POLITICAL COMMITTEE, LABOR ORGANIZATION, OR CORPO-  
43 RATION WHO ATTEMPTS TO COMMIT AN OFFENSE DESCRIBED IN SUBDIVISION ONE OF  
44 THIS SECTION SHALL BE SUBJECT TO THE SAME PENALTIES AS THOSE PRESCRIBED  
45 FOR THE OFFENSE THAT THE PERSON ATTEMPTED TO COMMIT.

46 (B) IF TWO OR MORE PERSONS CONSPIRE TO COMMIT AN OFFENSE DESCRIBED IN  
47 SUBDIVISION ONE OF THIS SECTION, AND ONE OR MORE OF SUCH PERSONS DO ANY  
48 ACT TO EFFECT THE OBJECT OF THE CONSPIRACY, EACH PERSON SHALL BE GUILTY  
49 OF VIOLATING SECTION 17-152 OF THIS ARTICLE.

50 S 4. Section 17-166 of the election law is amended to read as follows:

51 S 17-166. Penalty. Any person convicted of a misdemeanor under this  
52 article shall BE CONVICTED OF A CLASS A MISDEMEANOR for a first offense  
53 [be punished] PUNISHABLE by A SENTENCE OF imprisonment for [not more  
54 than] UP TO one year, or by a fine of not less than one hundred dollars  
55 nor more than five hundred dollars, or by both such fine and imprison-  
56 ment. Any person who, having been convicted of a misdemeanor under this

1 article, shall thereafter be convicted of another misdemeanor under this  
2 article, shall be guilty of a CLASS D felony, AND FOR ANY SUBSEQUENT  
3 MISDEMEANOR OFFENSE UNDER THIS ARTICLE, A CLASS B FELONY.

4 ANY PERSON CONVICTED OF A FELONY UNDER THIS ARTICLE SHALL BE CONVICTED  
5 OF A CLASS D FELONY FOR A FIRST OFFENSE AND FOR ANY SUBSEQUENT FELONY  
6 OFFENSE UNDER THIS ARTICLE, A CLASS B FELONY.

7 S 5. This act shall take effect immediately.