S T A T E O F N E W Y O R K

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2011-2012 Regular Sessions

I N A S S E M B L Y

March 2, 2011

Introduced by M. of A. KAVANAGH, BROOK-KRASNY, CASTRO, CLARK, COLTON, DINOWITZ, GALEF, LATIMER, LIFTON, MILLMAN, O'DONNELL, PERRY, P. RIVERA, ROSENTHAL, SCHIMEL, SPANO, STEVENSON, WRIGHT -- Multi-Sponsored by -- M. of A. BOYLAND, BRENNAN, CRESPO, GUNTHER, HEASTIE, LANCMAN, MAYERSOHN, MOLINARO, PEOPLES-STOKES, PHEFFER, REILLY, ROBINSON, TITONE, TOWNS, WEISENBERG -- read once and referred to the Committee on Election Law

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:

Section 1. This act shall be known and may be cited as the "deceptive practices and voter suppression prevention act".

S 2. The election law is amended by adding a new section 17-151 to read as follows:

S 17-151. DECEPTIVE PRACTICES. 1. ANY PERSON, POLITICAL COMMITTEE, LABOR ORGANIZATION, CORPORATION, OR OTHER ENTITY, WHETHER ACTING UNDER COLOR OF LAW OR OTHERWISE, WHO KNOWINGLY COMMUNICATES OR KNOWINGLY CAUSES TO BE COMMUNICATED DECEPTIVE INFORMATION, KNOWING SUCH INFORMATION TO BE FALSE AND, IN ACTING IN THE MANNER DESCRIBED, PREVENTS OR DETERS ANOTHER PERSON FROM EXERCISING THE RIGHT TO VOTE IN ANY ELECTION, IS GUILTY OF A MISDEMEANOR.

2. THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS SECTION: (A) "DECEPTIVE INFORMATION" MEANS FALSE INFORMATION REGARDING: (I) THE TIME, PLACE, OR MANNER OF ANY ELECTION; (II) THE QUALIFICATIONS FOR OR RESTRICTIONS ON VOTER ELIGIBILITY FOR ANY ELECTION, INCLUDING ANY PENALTIES ASSOCIATED WITH VOTING BY INELIGIBLE VOTERS; (III) INFORMATION REGARDING A VOTER'S REGISTRATION STATUS OR ELIGIBILITY; OR (IV) THE POLITICAL PARTY AFFILIATION OF ANY CANDIDATE; AND

(B) "ELECTION" AS USED IN THIS ARTICLE SHALL BE DEEMED TO APPLY TO AND INCLUDE ALL ELECTIONS ADMINISTERED BY THE STATE OR CITY OF NEW YORK

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

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BOARDS OF ELECTIONS, OR ANY COUNTY BOARD OF ELECTIONS, INCLUDING ANY GENERAL, PRIMARY, RUN-OFF, OR SPECIAL ELECTION FOR ANY STATE OR LOCAL OFFICE OR BALLOT PROPOSITION.

3. ANY PERSON AGGRIEVED BY A VIOLATION OF SUBDIVISION ONE OF THIS SECTION MAY INSTITUTE A CIVIL ACTION OR OTHER PROPER PROCEEDING FOR PREVENTATIVE RELIEF, OR MAY APPLY FOR A PERMANENT OR TEMPORARY INJUNCTION, RESTRAINING ORDER, DECLARATORY JUDGMENT, OR OTHER ORDER IN ANY COURT WITH JURISDICTION PURSUANT TO SECTION 16-100 OF THIS CHAPTER.

4. ANY ATTEMPT TO COMMIT AN OFFENSE DESCRIBED IN SUBDIVISION ONE OF THIS SECTION, IN ACCORDANCE WITH THE APPLICABLE PROVISION OF THE PENAL LAW, IS A CLASS B MISDEMEANOR.

5. THE PROVISIONS OF ARTICLE TWENTY AND ARTICLE ONE HUNDRED FIVE OF THE PENAL LAW, RELATING TO CRIMINAL LIABILITY FOR CONDUCT OF ANOTHER AND CONSPIRACY, SHALL APPLY TO PROSECUTIONS UNDER THIS SECTION.

6. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ATTORNEY GENERAL SHALL HAVE CONCURRENT JURISDICTION WITH ANY DISTRICT ATTORNEY IN THE PROSECUTION OF ANY OFFENSES UNDER THIS SECTION RELATING TO DECEPTIVE PRACTICES AS WELL AS ANY OFFENSES ARISING OUT OF SUCH PROSECUTION.

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

S 17-153. SUPPRESSION OF VOTERS. 1. ANY PERSON, POLITICAL COMMITTEE, LABOR ORGANIZATION, CORPORATION, OR OTHER ENTITY WHO SUPPRESSES OR THREATENS TO SUPPRESS THE RIGHT OF ANY PERSON TO LAWFULLY EXERCISE THEIR FRANCHISE, OR IN ANY OTHER MANNER COMPELS SUCH PERSON TO VOTE OR TO REFRAIN FROM VOTING FOR OR AGAINST A PARTICULAR CANDIDATE FOR PUBLIC OFFICE OR FOR OR AGAINST A PARTICULAR BALLOT PROPOSITION IS GUILTY OF A CLASS A MISDEMEANOR.

2. FOR PURPOSES OF THIS SECTION, THE TERM "SUPPRESS" SHALL MEAN TO USE FORCE, AUTHORITY OR AN ABUSE OF POWER TO PREVENT, RESTRAIN, INHIBIT OR COMPEL ANOTHER FROM ACTING IN HIS OR HER OWN INTERESTS OR INTENTIONS, OR INTO NOT ACTING AT ALL.

3. ANY PERSON, POLITICAL COMMITTEE, LABOR ORGANIZATION, OR CORPORATION WHO ATTEMPTS TO COMMIT AN OFFENSE DESCRIBED IN SUBDIVISION ONE OF THIS SECTION IS GUILTY OF A CLASS B MISDEMEANOR.

4. THE PROVISIONS OF ARTICLE TWENTY AND ARTICLE ONE HUNDRED FIVE OF THE PENAL LAW, RELATING TO CRIMINAL LIABILITY FOR CONDUCT OF ANOTHER AND CONSPIRACY SHALL APPLY TO PROSECUTIONS UNDER THIS SECTION.

5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ATTORNEY GENERAL SHALL HAVE CONCURRENT JURISDICTION WITH ANY DISTRICT ATTORNEY IN THE PROSECUTION OF ANY OFFENSES UNDER THIS SECTION RELATING TO DECEPTIVE PRACTICES AS WELL AS ANY OFFENSES ARISING OUT OF SUCH PROSECUTION.

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

S 17-166. Penalty. Any person convicted of a misdemeanor under this article shall for a first offense be punished by A SENTENCE OF imprisonment for not more than one year, or by a fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment. Any person who, having been convicted of a misdemeanor under this article, shall thereafter be convicted of another misdemeanor under this article, shall be guilty of a felony.

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

S 5. This act shall take effect immediately.