

5915

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:

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 KNOWINGLY COMMUNICATES OR KNOWINGLY CAUS-
8 ES TO BE COMMUNICATED DECEPTIVE INFORMATION, KNOWING SUCH INFORMATION TO
9 BE FALSE AND, IN ACTING IN THE MANNER DESCRIBED, PREVENTS OR DETERS
10 ANOTHER PERSON FROM EXERCISING THE RIGHT TO VOTE IN ANY ELECTION, IS
11 GUILTY OF A MISDEMEANOR.
12 2. THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS SECTION: (A)
13 "DECEPTIVE INFORMATION" MEANS FALSE INFORMATION REGARDING: (I) THE TIME,
14 PLACE, OR MANNER OF ANY ELECTION; (II) THE QUALIFICATIONS FOR OR
15 RESTRICTIONS ON VOTER ELIGIBILITY FOR ANY ELECTION, INCLUDING ANY PENAL-
16 TIES ASSOCIATED WITH VOTING BY INELIGIBLE VOTERS; (III) INFORMATION
17 REGARDING A VOTER'S REGISTRATION STATUS OR ELIGIBILITY; OR (IV) THE
18 POLITICAL PARTY AFFILIATION OF ANY CANDIDATE; AND
19 (B) "ELECTION" AS USED IN THIS ARTICLE SHALL BE DEEMED TO APPLY TO AND
20 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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1 BOARDS OF ELECTIONS, OR ANY COUNTY BOARD OF ELECTIONS, INCLUDING ANY
2 GENERAL, PRIMARY, RUN-OFF, OR SPECIAL ELECTION FOR ANY STATE OR LOCAL
3 OFFICE OR BALLOT PROPOSITION.

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

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

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

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

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

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

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

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

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

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

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

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

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

53 S 5. This act shall take effect immediately.