

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.

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## 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

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## 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 2009”.

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 that the  
7       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 office  
13      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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