

111TH CONGRESS  
1ST SESSION

# S. 528

To prevent voter caging.

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## IN THE SENATE OF THE UNITED STATES

MARCH 5, 2009

Mr. WHITEHOUSE (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. NELSON of Florida, Mr. KERRY, Mr. SCHUMER, Mr. HARKIN, Mr. DODD, Mr. BROWN, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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## A BILL

To prevent voter caging.

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”.

6       **SEC. 2. PROHIBITION ON VOTER CAGING.**

7       (a) DEFINITIONS.—In this section:

8               (1) VOTER CAGING DOCUMENT.—The term  
9       “voter caging document” means—

1 (A) any nonforwardable document that is  
2 sent to an individual at the address at which  
3 such individual is registered or seeking to be-  
4 come registered as a voter in a Federal election  
5 and that is returned to the sender or to a third  
6 party as undelivered or undeliverable; and

7 (B) any document (other than a notice de-  
8 scribed in section 8(d) of the National Voter  
9 Registration Act of 1993) that is sent to an in-  
10 dividual at the address at which such individual  
11 is registered as a voter in a Federal election  
12 and that contains instructions to return the  
13 document to the sender or a third party but is  
14 not so returned.

15 (2) VOTER CAGING LIST.—The term “voter cag-  
16 ing list” means any list of individuals compiled from  
17 voter caging documents.

18 (3) UNVERIFIED LIST MATCH.—The term  
19 “unverified list match” means a list produced by ei-  
20 ther of the following:

21 (A) Matching—

22 (i) the identity of registered voters or  
23 applicants for voter registration, with

24 (ii) the identity of individuals who are  
25 ineligible to vote in the registrar’s jurisdic-

1           tion, by virtue of death, conviction, change  
2           of address, mental impairment, or other-  
3           wise,

4           unless the process for matching the identities  
5           under this subparagraph establishes beyond a  
6           reasonable doubt that the identities belong to  
7           the same individual.

8           (B) Failing to match—

9           (i) the identity of registered voters or  
10          applicants for voter registration, with

11          (ii) the identity of individuals who are  
12          listed in the database of the State motor  
13          vehicle authority or in information pro-  
14          vided by the Commissioner of Social Secu-  
15          rity under an agreement under section  
16          205(r)(8) of the Social Security Act (42  
17          U.S.C. 405(r)(8)).

18          (b) CONDUCT BY ELECTION OFFICIALS PROHIB-  
19          ITED.—No State or local election official shall prevent an  
20          individual from registering or voting (including voting by  
21          provisional ballot) in any election for Federal office, or  
22          permit in connection with any election for Federal office  
23          a formal challenge under State law to an individual's reg-  
24          istration status or eligibility to vote (including eligibility

1 to cast a provisional ballot), if the sole basis for such deci-  
 2 sion or challenge is evidence consisting of—

3 (1) a voter caging document or voter caging  
 4 list;

5 (2) an unverified list match;

6 (3) the foreclosure status of the individual's  
 7 residence; or

8 (4) information indicating a change of resi-  
 9 dence, except in the case of change of residence in-  
 10 formation obtained in conformance with section 8(d)  
 11 of the National Voter Registration Act of 1993 (42  
 12 U.S.C. 1973gg-6(d)).

13 (c) REQUIREMENTS FOR CHALLENGES BY PERSONS  
 14 OTHER THAN ELECTION OFFICIALS.—

15 (1) ATTESTATION OF FIRST-HAND KNOWLEDGE  
 16 OF INELIGIBILITY.—No person, other than a State  
 17 or local election official, shall submit a formal chal-  
 18 lenge to an individual's eligibility to register to vote  
 19 in an election for Federal office or to vote in an elec-  
 20 tion for Federal office unless the challenge—

21 (A) sets forth in writing the specific reason  
 22 to believe that the individual who is the subject  
 23 of the challenge is ineligible, including a de-  
 24 scription of the evidence supporting that belief;  
 25 and

1 (B) is subject to an oath or attestation  
2 under penalty of perjury that such individual is  
3 ineligible to register to vote or to vote in that  
4 election.

5 (2) PROHIBITING CHALLENGES BASED ON CER-  
6 TAIN EVIDENCE.—No person shall submit a formal  
7 challenge to an individual’s eligibility to register to  
8 vote in an election for Federal office or to vote in  
9 an election for Federal office if the sole basis for  
10 such challenge is evidence consisting of—

11 (A) a voter caging document or voter cag-  
12 ing list;

13 (B) an unverified list match;

14 (C) the foreclosure status of the individ-  
15 ual’s residence; or

16 (D) information indicating a change of res-  
17 idence, except in the case of change of residence  
18 information obtained in conformance with sec-  
19 tion 8(d) of the National Voter Registration Act  
20 of 1993 (42 U.S.C. 1973gg–6(d)).

21 (3) PENALTIES FOR KNOWING MISCONDUCT.—  
22 Whoever, other than a State or local election official,  
23 knowingly challenges the eligibility of any individual  
24 to register or vote or knowingly causes the eligibility  
25 of such individuals to be challenged in violation of

1 paragraph (1) or (2) with the intent that one or  
2 more such individuals be disqualified from voting,  
3 shall be fined not more than \$50,000 for each such  
4 violation.

5 (d) NO EFFECT ON NATIONAL VOTER REGISTRA-  
6 TION ACT OF 1993.—Nothing in this section shall be con-  
7 strued to override the protections of the National Voter  
8 Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

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