S. 528

To prevent voter caging.

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

A BILL

To prevent voter caging.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Caging Prohibition Act of 2009”.

SEC. 2. PROHIBITION ON VOTER CAGING.

(a) DEFINITIONS.—In this section:

(1) VOTER CAGING DOCUMENT.—The term “voter caging document” means—
(A) any nonforwardable document that is sent to an individual at the address at which such individual is registered or seeking to become registered as a voter in a Federal election and that is returned to the sender or to a third party as undelivered or undeliverable; and

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

(2) VOTER CAGING LIST.—The term “voter caging list” means any list of individuals compiled from voter caging documents.

(3) UNVERIFIED LIST MATCH.—The term “unverified list match” means a list produced by either of the following:

(A) Matching—

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

(ii) the identity of individuals who are ineligible to vote in the registrar’s jurisdic-
tion, by virtue of death, conviction, change
of address, mental impairment, or other-
wise,
unless the process for matching the identities
under this subparagraph establishes beyond a
reasonable doubt that the identities belong to
the same individual.

(B) Failing to match—

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

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

(b) CONDUCT BY ELECTION OFFICIALS PROHIB-
ITED.—No State or local election official shall prevent an
individual from registering or voting (including voting by
provisional ballot) in any election for Federal office, or
permit in connection with any election for Federal office
a formal challenge under State law to an individual’s reg-
istration status or eligibility to vote (including eligibility
to cast a provisional ballot), if the sole basis for such decision or challenge is evidence consisting of—

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

(2) an unverified list match;

(3) the foreclosure status of the individual’s residence; or

(4) information indicating a change of residence, except in the case of change of residence information obtained in conformance with section 8(d) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(d)).

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

(1) ATTESTATION OF FIRST-HAND KNOWLEDGE OF INELIGIBILITY.—No person, other than a State or local election official, shall submit a formal challenge to an individual’s eligibility to register to vote in an election for Federal office or to vote in an election for Federal office unless the challenge—

(A) sets forth in writing the specific reason to believe that the individual who is the subject of the challenge is ineligible, including a description of the evidence supporting that belief; and
(B) is subject to an oath or attestation under penalty of perjury that such individual is ineligible to register to vote or to vote in that election.

(2) Prohibiting challenges based on certain evidence.—No person shall submit a formal challenge to an individual’s eligibility to register to vote in an election for Federal office or to vote in an election for Federal office if the sole basis for such challenge is evidence consisting of—

(A) a voter caging document or voter caging list;

(B) an unverified list match;

(C) the foreclosure status of the individual’s residence; or

(D) information indicating a change of residence, except in the case of change of residence information obtained in conformance with section 8(d) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(d)).

(3) Penalties for knowing misconduct.—Whoever, other than a State or local election official, knowingly challenges the eligibility of any individual to register or vote or knowingly causes the eligibility of such individuals to be challenged in violation of
paragraph (1) or (2) with the intent that one or more such individuals be disqualified from voting, shall be fined not more than $50,000 for each such violation.

(d) **No Effect on National Voter Registration Act of 1993.**—Nothing in this section shall be construed to override the protections of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).