

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 622

An Act to amend and reenact §§ 24.2-705, 24.2-705.1, and 24.2-710 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-705.2, relating to absentee voting in certain emergencies and duties of the electoral board and general registrar.

[H 1667]

Approved March 25, 2001

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-705, 24.2-705.1, and 24.2-710 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-705.2 as follows:

§ 24.2-705. Emergency applications and absentee ballots for persons incapacitated or hospitalized.

Any person registered and otherwise qualified to vote who becomes incapacitated on or after the seventh day preceding an election may request at any time prior to ~~noon~~ 2:00 p.m. on the day preceding the election that an emergency absentee ballot application be delivered to him. A voter who becomes hospitalized on or after the fourteenth day preceding the election and who is unable, because of his condition, to request an absentee ballot earlier than the seventh day preceding the election may request at any time prior to ~~noon~~ 2:00 p.m. on the day before an election that an emergency absentee ballot be delivered to him in the hospital. For purposes of this section, "incapacitated" means hospitalized, ill and confined to his residence, bereaved by the death of a spouse, child, or parent, or otherwise incapacitated by an emergency which is found by the electoral board to justify providing an emergency ballot application; and "hospital" means a hospital as defined in § 32.1-123 and any comparable hospital in the District of Columbia or any state contiguous to Virginia.

On receipt of the request, the electoral board shall provide an emergency absentee ballot application to the incapacitated voter's designated representative who shall deliver the application to the voter. If the voter is hospitalized, the delivery shall be made to him at the hospital; and if the voter is otherwise incapacitated, the delivery shall be made to him at his current residence address as shown on the registration records. The representative shall be age eighteen or older and shall not be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate.

The application shall be on a form prescribed by the State Board and shall require the applicant (i) to state the cause of his incapacity, (ii) to state that he is unable to be present at the polls on election day, and that he was either incapacitated on or after the seventh day preceding the election or hospitalized on or after the fourteenth day preceding the election and unable to request the application earlier than the seventh day preceding the election, (iii) to designate a representative to receive, deliver and return the ballot, and (iv) to provide other information required by law for an absentee ballot application.

If the voter is hospitalized, a hospital administrative official or a licensed physician attending the applicant shall certify on the form to the hospitalization of the applicant and the applicant's inability to be present at the polls on election day. If the voter is ill and confined to his residence, a licensed physician or an accredited religious practitioner attending the applicant shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. If the voter is bereaved, a licensed physician, an accredited religious practitioner or a funeral service licensee (as defined in § 54.1-2800) shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. If the voter is otherwise incapacitated as determined by the electoral board, the secretary of the electoral board shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. The applicant shall sign the application and state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct. His signature shall be witnessed by the designated representative who shall sign and return the completed application to the office of the general registrar no later than 5:00 p.m. on the day preceding the election. For the purposes of this section, "accredited religious practitioner" means a person who has been trained in spiritual healing or the other healing arts and has been so accredited by a formal religious order.

On receipt of the completed application and a determination of the qualification of the applicant to vote, the general registrar or secretary of the electoral board shall provide, in accordance with the applicable provisions of this chapter, an absentee ballot to the designated representative for delivery to the incapacitated voter.

The incapacitated voter shall vote the absentee ballot as provided by law and mark it in the presence of the designated representative. The representative shall complete a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that (i) he is the representative of the incapacitated voter; (ii) he personally delivered the ballot to the voter who applied for it; (iii) in his

presence, the voter marked the ballot, the ballot was placed in the envelope provided, the envelope was sealed, and the statement on its reverse side was signed by the incapacitated voter; and (iv) the ballot was returned, under seal, to the electoral board at the registrar's office.

The ballot shall be counted only if the ballot is received by the electoral board (i) prior to noon on the day of the election in any county, city, or town which does not have a central absentee voter election district or (ii) prior to the closing of the polls in any county, city, or town which has a central absentee voter precinct.

§ 24.2-705.1. Late applications and in-person absentee voting for business and medical emergencies.

Any person registered and otherwise qualified to vote who becomes obligated after 12:00 noon on the Saturday before an election to be absent from his county or city on election day for a purpose pertaining to (i) his business, profession, or occupation, (ii) *the hospitalization of the applicant or a member of his immediate family, or* (iii) *the death of a member of his immediate family*, may apply for an absentee ballot and vote absentee in person pursuant to this section and subject to the following conditions:

1. The applicant applies in person for an absentee ballot on the Monday immediately preceding the election, before ~~noon~~ 2:00 p.m., at the principal office of the registrar; and

2. The applicant signs a statement, which shall be deemed part of his absentee ballot application and subject to felony penalties for making false statements pursuant to § 24.2-1016, that he is required to leave the county or city before the opening of the polls on election day for a purpose pertaining to (i) his business, profession or occupation, (ii) *the hospitalization of the applicant or a member of his immediate family, or* (iii) *the death of a member of his immediate family*, and that he did not have notice or knowledge of such required travel prior to 12:00 noon on the immediately preceding Saturday. *"Immediate family" means the children, grandchildren, grandparents, parents, siblings and spouse of the applicant.*

§ 24.2-705.2. Late applications and in-person absentee voting for certain officers of election.

Any officer of election, registered and otherwise qualified to vote, who is assigned after 12:00 noon on the Saturday before an election to be absent from his precinct and to serve as an officer of election in another precinct on election day, may apply for an absentee ballot and vote absentee in person pursuant to this section and subject to the following conditions:

1. The officer of election applies in person for an absentee ballot on the Monday immediately preceding the election, before 2:00 p.m., at the principal office of the registrar; and

2. The officer signs a statement, which shall be deemed part of his absentee ballot application and subject to felony penalties for making false statements pursuant to § 24.2-1016, that he has been assigned to serve in a precinct other than the precinct where he votes and that he did not have notice or knowledge of such assignment prior to 12:00 noon on the immediately preceding Saturday.

§ 24.2-710. Further duties of electoral board and general registrar; absentee voter applicant lists.

On receipt of an absentee ballot, the electoral board or general registrar shall mark the date of receipt in the appropriate column opposite the name and address of the voter on the absentee voter applicant list maintained in the general registrar's office. A board member or registrar shall deposit the return envelope and the unopened ballot envelope in an appropriate container provided for the purpose, in which they shall remain until the day of the election.

On the day before the election, the general registrar shall (i) make out in triplicate on a form prescribed by the State Board the absentee voter applicant list containing the names of all persons who applied for an absentee ballot through the third day before the election and (ii) by noon on the day before the election, deliver two copies of the list to the electoral board and post a copy in the general registrar's office. The general registrar shall make out a supplementary list containing the names of all persons voting absentee in person pursuant to §§ 24.2-705.1 and 24.2-705.2, or *applying to vote absentee pursuant to § 24.2-705*, for delivery and posting by ~~4:00~~ 5:00 p.m. on the day before the election. The supplementary list shall be deemed part of the absentee voter applicant list and shall be prepared and delivered in accordance with the instructions of the State Board. The general registrar shall maintain one copy of the list in his office for two years as a public record open for inspection during regular office hours.

On the day before the election, the electoral board shall deliver one copy of the list provided to it by the general registrar to the chief officer of election for each precinct. The list shall be attested by the secretary of the electoral board who shall be responsible for the delivery of the attested lists to the chief officer of election for each precinct.

Absentee ballots shall be accepted only from voters whose names appear on the attested list.

Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot containers to, and obtain a receipt from, the officers of election at each appropriate precinct. The containers shall be sealed prior to delivery to the officers and shall contain the sealed absentee ballots, the accompanying return envelopes, and a copy of the absentee voter applicant list for each precinct.

If the county or city uses a central absentee voter precinct pursuant to § 24.2-712, the lists and containers shall be delivered, as provided in this section, to the officers of election for the absentee precinct.

Before noon on the day following the election, the general registrar shall deliver all applications for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the sealed applications with the counted ballots.

The secretary of the electoral board shall deliver all absentee ballots received after the election to the clerk of the circuit court.