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SENATE BILL NO. 1373

Offered January 19, 2001

A BILL to amend and reenact §§ 24.2-700, 24.2-701, and 24.2-706 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 24.2-703.1, and to repeal §§ 24.2-702, 24.2-702.1, and 24.2-703 of the Code of Virginia, relating to qualifications, procedures and special provisions for absentee voting and providing for "no excuse" absentee voting.

Patrons—Puller, Byrne, Howell, Lambert, Maxwell, Miller, Y.B., Ticer and Whipple

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-700, 24.2-701, and 24.2-706 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-703.1 as follows:

§ 24.2-700. Persons entitled to vote by absentee ballot.

The following Any registered voters voter may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are he is qualified to vote:

1. Any person who, in the regular and orderly course of his business, profession, or occupation or while on personal business or vacation, will be absent from the county or city in which he is entitled to vote;

2. Any person who is (i) a member of a uniformed service of the United States, as defined in 42 U.S.C. § 1973ff-6(7), on active duty, or (ii) a member of the merchant marine of the United States, or (iii) regularly employed in a business, profession or occupation outside the continental limits of the United States, or (iv) the spouse or dependent residing with any person listed in (i), (ii), or (iii), and who will be absent on the day of the election from the county or city in which he is entitled to vote;

3. Any student attending a school or institution of learning, or his spouse, who will be absent on the day of election from the county or city in which he is entitled to vote;

4. Any person who is unable to go in person to the polls on the day of election because of a physical disability or physical illness;

5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor, provided that the trial or release date is scheduled on or after the third day preceding the election. Any person who is awaiting trial and is a resident of the county or city where he is confined shall, on his request, be taken to the polls to vote on election day if his trial date is postponed and he did not have an opportunity to vote absentee;

6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of voting equipment;

7. Any duly registered person who is unable to go in person to the polls on the day of the election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home;

8. Any duly registered person who is unable to go in person to the polls on the day of the election because of an obligation occasioned by his religion; or

9. Any person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work for eleven or more hours of the thirteen hours that the polls are open pursuant to § 24.2-603, § 24.2-701. Application for absentee ballot.

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

Beginning with the general election in November 1999, the State Board shall implement a system which enables eligible persons to request and receive an absentee ballot application electronically through the global information system known as the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § 24.2-703 24.2-703.1, a separate application shall be completed for each election in which the applicant offers to vote. No application, except those submitted pursuant to § 24.2-703 24.2-703.1, shall be accepted more than ten months prior to the election for which the ballot is requested. Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general or primary elections and on the Saturday immediately preceding any special election.

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59 Unless physically disabled, all applications for absentee ballots shall be signed by the applicant who
 60 shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the
 61 best of his knowledge and belief the facts contained in the application are true and correct and that he
 62 has not and will not vote in the election at any other place in Virginia or in any other state. If the
 63 applicant is unable to sign the application, the witness will note this fact on the applicant signature line.

64 B. Applications for absentee ballots shall be completed in the following manner:

65 1. An application completed in person shall be made not less than three days prior to the election in
 66 which the applicant offers to vote and completed only in the office of the general registrar. The
 67 applicant shall sign the application in the presence of a registrar or the secretary of the electoral board.

68 2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile
 69 device if one is available to the office of the general registrar or the office of the State Board if a
 70 device is not available locally, or other means. The application shall be on a form furnished by the
 71 registrar or, if made under subdivision 2 of ~~§ 24.2-700~~ § 24.2-703.1, may be on a Federal Post Card
 72 Application prescribed pursuant to 42 U.S.C. § 1973ff (b) (2). The application shall be made to the
 73 appropriate registrar not less than five days prior to the election in which the applicant offers to vote.

74 C. Applications for absentee ballots shall contain the following information:

75 1. The reason the applicant will be absent or cannot vote at his polling place on the day of the
 76 election;

77 2. A statement that he *the applicant* is registered in the county or city in which he offers to vote and
 78 his residence address in such county or city; ~~Any person who makes application under subdivision 2 of~~
 79 ~~§ 24.2-700 who is not a registered voter and who is entitled to register by absentee application pursuant~~
 80 ~~to § 24.2-419, may file the applications to register and for a ballot simultaneously; and~~

81 3. The complete address to which the ballot is to be sent directly to the applicant, provided that the
 82 application is not made in person at a time when the printed ballots for the election are available. The
 83 address given shall be either the address of the applicant on file in the registration records or the address
 84 at which he will be located while absent from his county or city. No ballot shall be sent to, or in care
 85 of, any other person; and .

86 4. In the case of a person, or the spouse or dependent of a person, who is on active service as a
 87 member of the armed forces of the United States or a member of the merchant marine of the United
 88 States, the branch of service to which he or the spouse belongs, and his or the spouse's rank, grade, or
 89 rate, and service identification number; or

90 5. In the case of a person, or the spouse or dependent accompanying such person, who is regularly
 91 employed outside the continental limits of the United States, the name and address of his employer; or

92 6. In the case of a student, or the spouse of a student, who is attending a school or institution of
 93 learning, the name and address of the school or institution of learning; or

94 7. In the case of a person who is unable to go in person to the polls on the day of the election
 95 because of a physical disability or physical illness, the nature of the illness or disability; or

96 8. In the case of a person who is confined awaiting trial or for having been convicted of a
 97 misdemeanor, the name and address of the institution of confinement; or

98 9. In the case of a person who will be absent on election day for business reasons, the name of his
 99 employer or business; or

100 10. In the case of a person who will be absent on election day for personal business or vacation
 101 reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or

102 11. In the case of a person who is unable to go to the polls on the day of election because he is
 103 primarily and personally responsible for the care of an ill or disabled family member who is confined at
 104 home, the name of the family member and the nature of his illness or disability; or

105 12. In the case of a person who is unable to go to the polls on the day of election because of an
 106 obligation occasioned by his religion, his religion and the nature of the obligation; or

107 13. In the case of a person who, in the regular and orderly course of his business, profession, or
 108 occupation, will be at his place of work for eleven or more hours of the thirteen hours that the polls are
 109 open pursuant to ~~§ 24.2-603~~, the name of his business or employer, address of his place of work, and
 110 hours he will be at the workplace on election day.

111 § 24.2-703.1. *Special absentee voting provisions.*

112 A. *The provisions of this section apply only to a qualified absentee voter who is (i) a member of a*
 113 *uniformed service of the United States, as defined in 42 U.S.C. § 1973ff-6(7), on active duty, or (ii) a*
 114 *member of the merchant marine of the United States, or (iii) regularly employed in a business,*
 115 *profession or occupation outside the continental limits of the United States, or (iv) the spouse or*
 116 *dependent residing with any person listed in clause (i), (ii), or (iii), and who will be absent on the day*
 117 *of the election from the county or city in which he is entitled to vote. A qualified absentee voter may file*
 118 *an application for an absentee ballot on a Federal Post Card Application prescribed pursuant to 42*
 119 *U.S.C. § 1973ff (b) (2).*

120 B. *Notwithstanding any other provision of this title, a qualified absentee voter may use a federal*

121 write-in absentee ballot in general, special, and primary elections for federal office. Such ballot shall be
122 submitted and processed in the manner provided by the Uniformed and Overseas Citizens Absentee
123 Voting Act (42 U.S.C. § 1973ff et seq.) and this article.

124 C. Notwithstanding any other provision of this title, a qualified absentee voter may file a single
125 application to receive ballots for all elections in which he is eligible to vote absentee during the
126 calendar year. The application shall be on a Federal Post Card Application. The application may be
127 filed at any time during the calendar year and shall be valid for any election conducted five or more
128 days after receipt of the application by the general registrar. The general registrar shall retain the
129 application and process the applicant's request for an absentee ballot for each election in accordance
130 with procedures established by the State Board. The applicant shall specify by party designation the
131 primary ballots he is requesting. If an official reply to the application or an absentee ballot sent to the
132 applicant is returned as undeliverable, no ballots for subsequent elections shall be sent during the
133 calendar year.

134 D. Notwithstanding any other provision of this title, a qualified absentee voter may apply, not later
135 than ninety days before that election, for an early absentee ballot only for elections for Governor,
136 Lieutenant Governor, or Attorney General. In order to qualify for the early absentee ballot, the voter
137 shall state that he is unable to vote in any other manner due to overseas military service or due to
138 living in an isolated or extremely remote overseas area. This statement and application may be made on
139 the Federal Post Card Application. On receipt of the application, the electoral board shall issue, at
140 least ninety days before an election, the printed ballot only for elections for Governor, Lieutenant
141 Governor, or Attorney General. No additional ballot or ballots shall be provided to such applicants for
142 that election date.

143 E. Any person who is a qualified absentee voter except that he has not registered may file the
144 applications to register and for an absentee ballot simultaneously.

145 § 24.2-706. Duty of general registrar and electoral board on receipt of application; statement of voter.
146 On receipt of an application for an absentee ballot, the general registrar shall enroll the name and
147 address of each registered applicant on an absentee voter applicant list which shall be maintained in the
148 office of the general registrar with a file of the applications of the listed applicants. The list and the
149 applications shall be available for inspection and copying by any registered voter during regular office
150 hours.

151 No list or application containing an individual's social security number shall be made available for
152 inspection or copying by anyone. The State Board of Elections shall prescribe procedures for local
153 electoral boards and general registrars to make the information in the lists and applications available in a
154 manner that does not reveal social security numbers.

155 The completion and timely delivery of an application for an absentee ballot shall be construed to be
156 an offer by the applicant to vote in the election.

157 The general registrar shall note on each application received whether the applicant is or is not a
158 registered voter and notify the secretary of the electoral board. If the application has been properly
159 completed, signed, and witnessed and the applicant is a registered voter of the precinct in which he
160 offers to vote, the electoral board shall immediately send to the applicant by mail, obtaining a certificate
161 of mailing, or deliver to him in person in the office of the secretary or registrar, the following items and
162 nothing else:

163 1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except
164 in presence of a witness."

165 2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which
166 envelope is printed the following:

167 "Statement of Voter."

168 "Statement of Voter."

169 "I do hereby state, subject to felony penalties for making false statements
170 pursuant to § 24.2-1016, that my full name is (last, first,
171 middle); that I am now or have been at some time since the last November
172 general election a legal resident of (house number, street
173 name or rural route address, city, zip code); that I received the enclosed
174 ballot(s) upon application to the registrar of such county or city; that I
175 opened the envelope marked 'ballot within' and marked the ballot(s) in the
176 presence of the witness, without assistance or knowledge on the part of anyone
177 as to the manner in which I marked it (or I am returning the form required to
178 report how I was assisted); that I then sealed the ballot(s) in this
179 envelope; and that I have not voted and will not vote in this election at any
180 other time or place.

181 Signature of Voter

182 Date

183 Signature of witness"

184

185 3. A properly addressed envelope for the return of the ballot to the electoral board by mail or by the

186 applicant in person.

187 4. Printed instructions for completing the ballot and statement on the envelope and returning the

188 ballot.

189 The envelopes and instructions shall be in the form prescribed by the State Board.

190 If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed

191 ballots for the election are available, the general registrar or the secretary of the electoral board, on the

192 determination of the qualifications of the applicant to vote, shall provide to the applicant the items set

193 forth in subdivisions 1 through 4 above and no item shall be removed by the applicant from the office

194 of the general registrar or the secretary of the electoral board.

195 If the applicant states as the reason for his absence on election day any of the reasons set forth in

196 subdivision 2 of § 24.2-700 is subject to the provisions of § 24.2-703.1, the electoral board shall mail or

197 deliver in person to the applicant in the office of the secretary or general registrar, the items as set forth

198 in subdivisions 1 through 4 above and, if necessary, an application for registration pursuant to

199 § 24.2-419. A certificate of mailing shall not be required.

200 When the statement prescribed in subdivision 2 above has been properly completed and signed by

201 the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.

202 **2. That §§ 24.2-702, 24.2-702.1, and 24.2-703 of the Code of Virginia are repealed.**