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**SENATE BILL NO. 391**

Offered January 14, 2004

Prefiled January 14, 2004

*A BILL to amend and reenact §§ 24.2-701 and 24.2-706 of the Code of Virginia, relating to absentee ballot applications.*

Patrons—Norment, Colgan, Deeds, Devolites, Hanger, Howell, Lambert, Mims, O'Brien, Potts, Quayle, Reynolds, Saslaw, Stolle and Whipple; Delegates: Albo, Brink, Cox, Hall, Hamilton, Hargrove, Hogan, Hurt, Landes, Marshall, D.W., May, Petersen, Phillips, Plum, Reese and Sickles

Referred to Committee on Privileges and Elections

**Be it enacted by the General Assembly of Virginia:****1. That §§ 24.2-701 and 24.2-706 of the Code of Virginia are amended and reenacted as follows:**

§ 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~~ The State Board shall implement a system that 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, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election, or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

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 elections, except May general elections held in towns, and on the Saturday immediately preceding any primary election, May general election held in a town, or special election.

Unless physically disabled, all applications for absentee ballots shall be signed by the applicant who shall 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 and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

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

1. An application completed in person shall be made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar or a member of the electoral board. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643, or if he is unable to present one of the forms of identification listed in that section, he shall sign a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he is the named registered voter who he claims to be. An applicant who requires assistance in voting by reason of physical disability or inability to read or write may request assistance pursuant to § 24.2-649 and be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding persons who are unable to sign shall be followed when assisting an applicant in completing this statement.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision 2 of § 24.2-700, may be on a Federal Post Card Application prescribed pursuant to 42 U.S.C. § 1973ff (b) (2). The Federal Post Card Application may be accepted the later of (i) 12 months before an election, or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar not less than five days prior to the election in which the applicant offers to vote.

3. *Beginning with the November 2004 general election, the State Board shall deploy an online tool*

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57 allowing submission of absentee ballot applications to local registrars. Upon completion of the form  
58 available on the official State Board website and based on the county or city of residence as declared  
59 by the applicant, the information shall be automatically, electronically transmitted directly to the  
60 indicated local registrar by e-mail. The online application shall contain all the fields of information  
61 required by law for an absentee ballot application except for the signature requirement. The online  
62 application shall include a mandatory field for the e-mail address of the person submitting the  
63 application. In lieu of the signature requirement, the online application shall include a field for the  
64 applicant to indicate (i) that to the best of his knowledge and belief the facts contained in the  
65 application are true and correct, (ii) that the applicant has not and will not vote in the election at any  
66 other place in Virginia or any other jurisdiction, (iii) that the person completing the absentee ballot  
67 application is the applicant for whom it is being completed unless the assisted voter section of the  
68 application is completed, and (iv) that the applicant has provided the facts and information on the  
69 application subject to felony penalties for making false statements pursuant to § 24.2-1016. The  
70 application shall be made through the State Board website directly to the appropriate registrar not less  
71 than five days prior to the election in which the applicant offers to vote. Upon submission of the  
72 completed online application to the registrar, the State Board website shall automatically generate an  
73 e-mail to the applicant confirming the receipt of the application and the fact that it has been submitted  
74 to the appropriate local registrar. The State Board shall not store nor retain the application information  
75 in any manner.

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

77 1. The applicant's printed name and the reason the applicant will be absent or cannot vote at his  
78 polling place on the day of the election;

79 2. A statement that he is registered in the county or city in which he offers to vote and his residence  
80 address in such county or city. Any person temporarily residing outside the United States shall provide  
81 the last date of residency at his Virginia residence address, if that residence is no longer available to  
82 him. Any person who makes application under subdivision 2 of § 24.2-700 who is not a registered voter  
83 may file the applications to register and for a ballot simultaneously, *unless the application for an*  
84 *absentee ballot is made pursuant to subdivision B 3 of this section;*

85 3. The complete address to which the ballot is to be sent directly to the applicant, unless the  
86 application is made in person at a time when the printed ballots for the election are available and the  
87 applicant chooses to vote in person at the time of completing his application. The address given shall be  
88 either the address of the applicant on file in the registration records or the address at which he will be  
89 located while absent from his county or city. No ballot shall be sent to, or in care of, any other person;  
90 and

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

95 5. In the case of a student, or the spouse of a student, who is attending a school or institution of  
96 learning, the name and address of the school or institution of learning; or

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

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

101 8. In the case of a person who will be absent on election day for business reasons, the name of his  
102 employer or business; or

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

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

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

110 12. In the case of a person who, in the regular and orderly course of his business, profession, or  
111 occupation, will be at his place of work and commuting to and from his home to his place of work for  
112 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his  
113 business or employer, address of his place of work, and hours he will be at the workplace and  
114 commuting on election day.

115 § 24.2-706. Duty of general registrar and electoral board on receipt of application; statement of voter.

116 On receipt of an application for an absentee ballot, the general registrar shall enroll the name and  
117 address of each registered applicant on an absentee voter applicant list that shall be maintained in the  
118 office of the general registrar with a file of the applications of the listed applicants. The list and the

119 applications shall be available for inspection and copying by any registered voter during regular office  
120 hours.

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

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

127 The general registrar shall note on each application received whether the applicant is or is not a  
128 registered voter and notify the secretary of the electoral board. In reviewing the application for an  
129 absentee ballot, the general registrar and electoral board shall not reject the application of any individual  
130 because of an error or omission on any record or paper relating to the application, if such error or  
131 omission is not material in determining whether such individual is qualified to vote absentee.

132 If the application has been properly completed and *either signed or submitted electronically to the*  
133 *State Board official website pursuant subdivision B 3 of § 24.2-701* and the applicant is a registered  
134 voter of the precinct in which he offers to vote, the electoral board shall immediately send to the  
135 applicant by mail, obtaining a certificate of mailing, or deliver to him in person in the office of the  
136 secretary or registrar, the following items and nothing else:

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

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

141 "Statement of Voter."

142 "I do hereby state, subject to felony penalties for making false statements  
143 pursuant to § 24.2-1016, that my FULL NAME is ..... (last, first,  
144 middle); that I am now or have been at some time since last November's general  
145 election a legal resident of ..... (STATE YOUR LEGAL RESIDENCE IN  
146 VIRGINIA including the house number, street name or rural route address, city,  
147 zip code); that I received the enclosed ballot(s) upon application to the  
148 registrar of such county or city; that I opened the envelope marked 'ballot  
149 within' and marked the ballot(s) in the presence of the witness, without  
150 assistance or knowledge on the part of anyone as to the manner in which I  
151 marked it (or I am returning the form required to report how I was assisted);  
152 that I then sealed the ballot(s) in this envelope; and that I have not voted  
153 and will not vote in this election at any other time or place.

154 Signature of Voter .....

155 Date .....

156 Signature of witness ..... "

157  
158 3. A properly addressed envelope for the return of the ballot to the electoral board by mail or by the  
159 applicant in person.

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

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

163 If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed  
164 ballots for the election are available, the general registrar or the secretary of the electoral board, on the  
165 determination of the qualifications of the applicant to vote, shall provide to the applicant the items set  
166 forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the  
167 general registrar or the secretary of the electoral board. On the request of the applicant, made at least  
168 five days prior to the election in which the applicant offers to vote, the general registrar or the secretary  
169 may send the items set forth in subdivisions 1 through 4 to the applicant by mail, obtaining a certificate  
170 of mailing.

171 If the applicant states as the reason for his absence on election day any of the reasons set forth in  
172 subdivision 2 of § 24.2-700, the electoral board shall mail or deliver in person to the applicant in the  
173 office of the secretary or general registrar, the items as set forth in subdivisions 1 through 4 and, if  
174 necessary, an application for registration. *However, the applications for registration and an absentee*  
175 *ballot shall not be mailed simultaneously if the applicant states as the reason for his absence on*  
176 *election day any of the reasons set forth in subdivision 2 of § 24.2-700 and he files his application for*  
177 *an absentee ballot electronically pursuant to subdivision B 3 of § 24.2-701.* A certificate of mailing shall  
178 not be required.

**179** When the statement prescribed in subdivision 2 has been properly completed and signed by the  
**180** registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.