

VIRGINIA ACTS OF ASSEMBLY -- 2009 RECONVENED SESSION

CHAPTER 809

An Act to amend and reenact § 24.2-649 of the Code of Virginia, relating to elections; assistance for certain voters.

[H 2197]

Approved April 8, 2009

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-649 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-649. Assistance for certain voters.

A. Any voter age 65 or older or physically disabled may request and then shall be handed a paper ballot or a mark sense ballot by an officer of election outside the polling place but within 150 feet of the entrance to the polling place. The voter shall mark the paper ballot in the officer's presence but in a secret manner and fold and return the ballot to the officer. The officer shall immediately return to the polling place and deposit the ballot in the ballot container in accordance with § 24.2-646. The voter shall mark the mark sense ballot in the officer's presence but in a secret manner and cover and return the ballot to the officer who shall immediately return to the polling place and deposit the ballot in the ballot counter in accordance with the instructions of the State Board.

Any county or city that has acquired an electronic voting device that is so constructed as to be easily portable may use the voting device in lieu of a paper or mark sense ballot for the voter requiring assistance pursuant to this subsection. However, the electronic voting device may be used in lieu of a paper ballot only so long as: (i) the voting device remains in the plain view of two officers of election representing two political parties or, in a primary election, two officers of election representing the party conducting the primary, provided that if the use of two officers for this purpose would result in too few officers remaining in the polling place to meet legal requirements, the equipment shall remain in plain view of one officer who shall be either the chief officer or the assistant chief officer; and (ii) the voter casts his ballot in a secret manner unless the voter requests assistance pursuant to this section. After the voter has completed voting his ballot, the officer or officers shall immediately return the voting device to its assigned location inside the polling place. The machine number, the time that the machine was removed and the time that it was returned, the number on the machine's public counter before the machine was removed and the number on the same counter when it was returned, and the name or names of the officer or officers who accompanied the machine shall be recorded on the statement of results.

B. Any qualified voter, who requires assistance to vote by reason of physical disability or inability to read or write, may, if he so requests, be assisted in voting. If he is blind, he may designate an officer of election or any other person to assist him. If he is unable to read and write or disabled for any cause other than blindness, he may designate an officer of election or some other person to assist him other than the voter's employer or agent of that employer, or officer or agent of the voter's union.

The officer of election or other person so designated shall not enter the booth with the voter unless (i) the voter signs a request stating that he requires assistance by reason of physical disability or inability to read or write and (ii) the officer of election or other person signs a statement that he is not the voter's employer or an agent of that employer, or an officer or agent of the voter's union, and that he will act in accordance with the requirements of this section. The request and statement shall be on a single form furnished by the State Board. If the voter is unable to sign the request, his own mark acknowledged by him before an officer of election shall be sufficient signature, provided no mark shall be required of a voter who is blind. An officer of election shall advise the voter and person assisting the voter of the requirements of this section and record the name of the voter and the name and address of the person assisting him.

The officer of election or other person so designated shall assist the qualified voter in the preparation of his ballot in accordance with his instructions and without soliciting his vote or in any manner attempting to influence his vote and shall not in any manner divulge or indicate, by signs or otherwise, how the voter voted on any office or question. *If a paper ballot or a mark sense ballot is used, the officer or other person so designated shall deposit the ballot in the ballot container in accordance with § 24.2-646.*

C. If the voter requires assistance in a language other than English and has not designated a person to assist him, an officer of election, before he assists as interpreter, shall inquire of the representatives authorized to be present pursuant to § 24.2-604 whether they have a volunteer available who can interpret for the voter. One representative interpreter for each party or candidate, insofar as available, shall be permitted to observe the officer of election communicate with the voter. The voter may designate one of the volunteer party or candidate interpreters to provide assistance. A person so

designated by the voter shall meet all the requirements of this section for a person providing assistance.

D. A person who willfully violates ~~this subsection~~ *subsection B or C* shall be guilty of a Class 1 misdemeanor. In addition, the provisions of § 24.2-1016 and its felony penalties for false statements shall be applicable to any request or statement signed pursuant to this section, and the provisions of §§ 24.2-704 and 24.2-1012 and the felony penalties for violations of the law related to providing assistance to absentee voters shall be applicable in such cases.

In any precinct in which an electronic voting device is available that provides an audio ballot, the officers of election shall notify a voter requiring assistance pursuant to this subsection that such equipment is available for him to use to vote in privacy without assistance and the officers of election shall instruct the voter on the use of the voting equipment. Nothing in this subsection shall be construed to require a voter to use the equipment unassisted.