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HOUSE BILL NO. 50

Offered January 13, 2010

Prefiled December 22, 2009

A BILL to amend and reenact § 24.2-706 of the Code of Virginia, relating to absentee voting; duties of the general registrar; penalty.

Patron—Cole

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-706 of the Code of Virginia is amended and reenacted as follows:

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

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

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

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

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the electoral board shall within three business days of receiving an application for an absentee ballot, or as soon thereafter as is reasonably possible, send to the applicant by mail, obtaining a certificate of mailing, or deliver to him in person in the office of the secretary or registrar, the following items and nothing else:

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

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

"Statement of Voter."

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

Signature of Voter

Date

Signature of witness"

For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope containing the standard oath prescribed by the presidential designee under section 101 (b) (7)

INTRODUCED

HB50

57 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.) shall be sent
58 to voters who are qualified to vote absentee under that Act.

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

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

63 For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of
64 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time the
65 voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with
66 his ballot: (i) a copy of a current and valid photo identification; or (ii) a copy of a current utility bill,
67 bank statement, government check, paycheck or other document that shows the name and address of the
68 voter. Such individual who desires to vote by mail but who does not submit one of the forms of
69 identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as
70 a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide
71 instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to
72 subsection B of § 24.2-653 and this section.

73 5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee
74 Voting Act (42 U.S.C. § 1973ff et seq.), information provided by the State Board specific to the voting
75 rights and responsibilities for such citizens, or information provided by the registrar specific to the status
76 of the voter registration and absentee ballot application of such voter, may be included.

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

78 If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed
79 ballots for the election are available, the general registrar or the secretary of the electoral board, on the
80 determination of the qualifications of the applicant to vote, shall provide to the applicant the items set
81 forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the
82 general registrar or the secretary of the electoral board. On the request of the applicant, made no later
83 than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general
84 registrar or the secretary may send the items set forth in subdivisions 1 through 4 to the applicant by
85 mail, obtaining a certificate of mailing.

86 If the applicant states as the reason for his absence on election day any of the reasons set forth in
87 subdivision 2 of § 24.2-700, the electoral board shall mail or deliver in person to the applicant in the
88 office of the secretary or general registrar, the items as set forth in subdivisions 1 through 4 and, if
89 necessary, an application for registration. A certificate of mailing shall not be required. The electoral
90 board shall send the blank ballot, the form for the envelope for returning the marked ballot, and
91 instructions to the voter by electronic transmission if the voter so requests and if the applicant voter is
92 located outside of the Commonwealth. The voted ballot shall be returned to the electoral board as
93 otherwise required by this chapter.

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

96 The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this
97 section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole
98 or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur,
99 or (iii) the campaign committee or the appropriate district political party chairman of such candidate.
100 *Any general registrar who fails, due to gross negligence or willful misconduct, to send or deliver an*
101 *absentee ballot within three business days of receiving a properly completed application is guilty of a*
102 *Class 4 misdemeanor.*