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SENATE BILL NO. 313

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections
on February 26, 2010)

(Patron Prior to Substitute—Senator Martin)

A *BILL to amend and reenact §§ 24.2-653.1 and 24.2-708 of the Code of Virginia, relating to absentee voters; absentee ballots not received; return of unused ballots; lost or defaced ballots.*

Be it enacted by the General Assembly of Virginia:**1. That §§ 24.2-653.1 and 24.2-708 of the Code of Virginia are amended and reenacted as follows:**

§ 24.2-653.1. Voters who did not receive absentee ballots; provisional ballots.

A. The provisions of this section shall apply when (i) a person offers to vote pursuant to § 24.2-643 at his proper polling place *or at a central absentee voter precinct established by the governing body of the county or city where he is registered to vote*, (ii) his name is shown on the pollbook as having applied for an absentee ballot, and (iii) for any reason he did not receive or has lost the absentee ballot. In such case, he shall be entitled to cast a provisional ballot after presenting to the officer of election a statement signed by him that he did not receive the ballot or has lost the ballot, subject to felony penalties for making false statements as pursuant to § 24.2-1016.

B. Such person shall be given a paper ballot and be permitted to vote the provisional ballot in accordance with the provisions of § 24.2-653 and the instructions of the State Board. The electoral board shall process the ballot in accordance with the provisions of § 24.2-653 and the instructions of the State Board.

§ 24.2-708. Return of unused ballots; voting by applicant who did not receive or lost ballot; defaced ballots.

A. If for any reason a person, who has applied for and received a ballot, decides not to vote absentee, he shall return the ballot unopened, in the sealed envelope in which it was sent to him, to the electoral board, on or before the day of the election in which the ballot was intended to be used.

The electoral board shall note on the absentee voter applicant list, opposite the name of the person returning the ballot, the fact that the ballot was returned unused and the date of the return. The electoral board shall carefully preserve all ballots returned unused and deliver them, together with other returned ballots, to the officers of election on election day. A voter, who has returned his unused ballot as provided herein, shall be entitled to cast his vote in person on election day at his ~~precinct~~ *proper polling place or at a central absentee voter precinct established by the governing body of the county or city where the person is registered to vote.*

B. If for any reason a person who has applied for and has been sent an absentee ballot does not receive the ballot or loses the ballot, he shall be entitled to cast another ballot after presenting to the electoral board, registrar or officer of election a statement signed by him that he did not receive the ballot or has lost the ballot, subject to felony penalties for making false statements as pursuant to § 24.2-1016. If such person offers to vote at his proper polling place *or at a central absentee voter precinct established by the governing body of the county or city where he is registered to vote* on the day of the elections, he shall be entitled to cast a provisional ballot pursuant to § 24.2-653.1.

C. If a person who has applied for and has been sent an absentee ballot has unintentionally or accidentally defaced and rendered the ballot unfit for voting, he shall be entitled to cast a ballot after presenting the defaced ballot to the electoral board, registrar or officer of election. The returned ballot shall be marked spoiled by the electoral board, registrar or officer of election and placed in a spoiled-ballot envelope to be retained with the ballots for the election. *A voter who has returned his defaced ballot as provided herein shall be entitled to cast his vote in person on election day at his proper polling place or at a central absentee voter precinct established by the governing body of the county or city where he is registered to vote.*