

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 24.2-604, 24.2-639, 24.2-653, and 24.2-655 of the Code of Virginia, relating to authorized representatives at polling places; use of wireless communication devices.

[S 49]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-604, 24.2-639, 24.2-653, and 24.2-655 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-604. Prohibited activities at polls; notice of prohibited area; electioneering; presence of representatives of parties or candidates; simulated elections; observers; news media; penalties.

A. During the times the polls are open and ballots are being counted, it shall be unlawful for any person (i) to loiter or congregate within 40 feet of any entrance of any polling place; (ii) within such distance to give, tender, or exhibit any ballot, ticket, or other campaign material to any person or to solicit or in any manner attempt to influence any person in casting his vote; or (iii) to hinder or delay a qualified voter in entering or leaving a polling place.

B. Prior to opening the polls, the officers of election shall post, in the area within 40 feet of any entrance to the polling place, sufficient notices which state "Prohibited Area" in two-inch type. The notices shall also state the provisions of this section in not less than 24-point type. The officers of election shall post the notices within the prohibited area to be visible to voters and the public.

C. The officers of election shall permit one authorized representative of each political party or independent candidate in a general or special election, or one authorized representative of each candidate in a primary election, to remain in the room in which the election is being conducted at all times. A representative may serve part of the day and be replaced by successive representatives. The officers of election shall have discretion to permit up to three authorized representatives of each political party or independent candidate in a general or special election, or up to three authorized representatives of each candidate in a primary election, to remain in the room in which the election is being conducted. The officers shall permit one such representative for each pollbook station. However, no more than one such representative for each pollbook station or three representatives of any political party or independent candidate, whichever number is larger, shall be permitted in the room at any one time. Each authorized representative shall be a qualified voter of ~~the county or city within which the polling place is located~~ *any jurisdiction of the Commonwealth*. Each representative shall present to the officers of election a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. Such statement, bearing the chairman's or candidate's original signature, may be photocopied, and such photocopy shall be as valid as if the copy had been signed. No candidate whose name is printed on the ballot shall serve as a representative of a party or candidate for purposes of this section. Authorized representatives shall be allowed, whether in a regular polling place or central absentee voter precinct, to be close enough to the process to be able to hear and see what is occurring. Any representative who complains to the chief officer of election that he is unable to hear or see the process may accept the chief officer's decision or, if dissatisfied, he may immediately appeal the decision to the local electoral board. *Authorized representatives shall be allowed, whether in a regular polling place or central absentee voter precinct, to use a handheld wireless communications device, except that authorized representatives shall not be allowed to use such devices when they contain a camera or other imaging device to film or photograph inside a polling place or central absentee voter precinct. The officers of election may prohibit the use of cellular telephones or other handheld wireless communications devices if such use will result in a violation of subsection A or D or § 24.2-607.* Authorized representatives shall not be allowed in any case to provide assistance to any voter as permitted under § 24.2-649 or to wear any indication that they are authorized to assist voters either inside the polling place or within 40 feet of any entrance to the polling place.

D. It shall be unlawful for any authorized representative, voter, or any other person in the room to (i) hinder or delay a qualified voter; (ii) give, tender, or exhibit any ballot, ticket, or other campaign material to any person; (iii) solicit or in any manner attempt to influence any person in casting his vote; (iv) hinder or delay any officer of election; or (v) otherwise impede the orderly conduct of the election.

E. The officers of election may require any person who is found by a majority of the officers present to be in violation of this section to remain outside of the prohibited area. Any person violating subsection A or D of this section shall be guilty of a Class 1 misdemeanor.

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57 F. This section shall not be construed to prohibit a candidate from entering any polling place on the
 58 day of the election to vote, or to visit a polling place for no longer than 10 minutes per polling place
 59 per election day, provided that he complies with the restrictions stated in subsections A and D of this
 60 section.

61 G. This section shall not be construed to prohibit a minor from entering a polling place on the day
 62 of the election to vote in a simulated election at that polling place, provided that the local electoral
 63 board has determined that such polling place can accommodate simulated election activities without
 64 interference or substantial delay in the orderly conduct of the official voting process. Persons supervising
 65 or working in a simulated election in which minors vote may remain within such polling place. The
 66 local electoral board and the chief officer for the polling place shall exercise authority over, but shall
 67 have no responsibility for the administration of, simulated election related activities at the polling place.

68 H. A local electoral board, and its general registrar, may conduct a special election day program for
 69 high school students, selected by the electoral board in cooperation with high school authorities, in one
 70 or more polling places designated by the electoral board, other than a central absentee voter precinct.
 71 The program shall be designed to stimulate the students' interest in elections and registering to vote,
 72 provide assistance to the officers of election, and ensure the safe entry and exit of elderly and disabled
 73 voters from the polling place. Each student shall take and sign an oath as an election page, serve under
 74 the direct supervision of the chief officer of election of his assigned polling place, and observe strict
 75 impartiality at all times. Election pages may observe the electoral process and seek information from the
 76 chief officer of election, but shall not handle or touch ballots, voting machines, or any other official
 77 election materials, or enter any voting booth.

78 I. A local electoral board may authorize in writing the presence of additional neutral observers as it
 79 deems appropriate, except as otherwise prohibited or limited by this section. Such observers shall
 80 comply with the restrictions in subsections A and D of this section and shall not be allowed in any case
 81 to provide assistance to any voter as permitted under § 24.2-649 or to wear any indication that they are
 82 authorized to assist voters either inside the polling place or within 40 feet of any entrance to the polling
 83 place.

84 J. The officers of election shall permit representatives of the news media to visit and film or
 85 photograph inside the polling place for a reasonable and limited period of time while the polls are open.
 86 However, the media (i) shall comply with the restrictions in subsections A and D of this section; (ii)
 87 shall not film or photograph any person who specifically asks the media representative at that time that
 88 he not be filmed or photographed; (iii) shall not film or photograph the voter or the ballot in such a way
 89 that divulges how any individual voter is voting; and (iv) shall not film or photograph the voter list or
 90 any other voter record or material at the precinct in such a way that it divulges the name or other
 91 information concerning any individual voter. Any interviews with voters, candidates or other persons,
 92 live broadcasts, or taping of reporters' remarks, shall be conducted outside of the polling place and the
 93 prohibited area. The officers of election may require any person who is found by a majority of the
 94 officers present to be in violation of this subsection to leave the polling place and the prohibited area.

95 K. The provisions of subsections A and D shall not be construed to prohibit a person who
 96 approaches or enters the polling place for the purpose of voting from wearing a shirt, hat, or other
 97 apparel on which a candidate's name or a political slogan appears or from having a sticker or button
 98 attached to his apparel on which a candidate's name or a political slogan appears.

99 § 24.2-639. Duties of officers of election.

100 The officers of election of each precinct at which voting or counting equipment is used shall meet at
 101 the polling place by 5:15 a.m. on the day of the election and arrange the equipment, furniture, and other
 102 materials for the conduct of the election. The officers of election shall verify that all required equipment,
 103 ballots, and other materials have been delivered to them for the election. The officers shall post at least
 104 two instruction cards for mechanical or direct electronic voting devices conspicuously within the polling
 105 place.

106 The keys to the equipment and any electronic activation devices that are required for the operation of
 107 electronic voting equipment shall be delivered, prior to the opening of the polls, to the officer of
 108 election designated by the electoral board in a sealed envelope on which has been written or printed the
 109 name of the precinct for which it is intended. The envelope containing the keys and any electronic
 110 activation devices shall not be opened until all of the officers of election for the precinct are present at
 111 the polling place and have examined the envelope to see that it has not been opened. The equipment
 112 shall remain locked against voting until the polls are formally opened and shall not be operated except
 113 by voters in voting.

114 Before opening the polls, each officer shall examine the equipment and see that no vote has been
 115 cast and that the counters register zero. The officers shall conduct their examination in the presence of
 116 the following party and candidate representatives: one authorized representative of each political party or
 117 independent candidate in a general or special election, or one authorized representative of each candidate

in a primary election, if such representatives are available. Each authorized representative shall be a qualified voter of the ~~county or city within which the polling place is located~~ *any jurisdiction of the Commonwealth*. Each representative, who is not himself a candidate or party chairman, shall present to the officers of election a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. Such statement, bearing the chairman's or candidate's original signature, may be photocopied and such photocopy shall be as valid as if the copy had been signed.

If any counter, other than a protective or private counter, on mechanical voting equipment is found not to register zero, the officers shall make a written statement identifying the counter, together with the number registered on it, and shall sign and post the statement on the wall of the polling room, where it shall remain during the day of election. The officers shall enter a similar statement on the statement of results. In determining the results, they shall subtract such number from the final total registered on that counter. If any counter, other than a protective or private counter, on a mark sense or direct recording electronic voting device is found not to register zero, the officers of election shall immediately notify the electoral board which shall, if possible, substitute a device in good working order, that has been prepared and tested pursuant to § 24.2-634. No mark sense or direct recording electronic device shall be used if any counter, other than a protective or private counter, is found not to register zero.

§ 24.2-653. Voter whose name does not appear on pollbook; handling of provisional ballots; ballots cast after normal close of polls due to court order extending polling hours.

A. When a person offers to vote pursuant to § 24.2-652 and the general registrar is not available or cannot state that the person is registered to vote, then such person shall be allowed to vote by paper ballot in the manner provided in this section.

Such person shall be given a paper ballot and provide, subject to the penalties for making false statements pursuant to § 24.2-1016, on a green envelope supplied by the State Board, the identifying information required in § 24.2-652. Such person shall be asked to present one of the forms of identification specified in subsection B of § 24.2-643. If he is unable to present one of these forms of identification, he shall sign a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter who he claims to be, and the officers of election shall note on the green envelope that the required statement was signed in lieu of presenting one of the specified forms of identification. The officers of election shall enter the appropriate information for the person in the precinct provisional ballots log in accordance with the instructions of the State Board but shall not enter a consecutive number for the voter on the pollbook nor otherwise mark his name as having voted. The officers of election shall provide an application for registration to the person offering to vote in the manner provided in this section.

The voter shall then, in the presence of an officer of election, but in a secret manner, mark the ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the ballot shall then be placed in the ballot container by an officer of election.

An officer of election, by a written notice given to the voter, shall inform him that a determination of his right to vote shall be made by the electoral board on the following day and advise the voter of the beginning time and place for the board's meeting and of the voter's right to be present at that meeting. At the meeting, the voter may request an extension of the determination of the provisional vote to the following day in order to provide information to prove that the voter is entitled to vote in the precinct pursuant to § 24.2-401. The electoral board shall have the authority to grant such extensions which it deems reasonable to determine the status of a provisional vote.

B. The provisional votes submitted pursuant to subsection A, in their unopened envelopes, shall be sealed in a special envelope marked "Provisional Votes," inscribed with the number of envelopes contained therein, and signed by the officers of election who counted them. All provisional votes envelopes shall be delivered either (i) to the clerk of the circuit court who shall deliver all such envelopes to the secretary of the electoral board or (ii) to the general registrar in localities in which the electoral board has directed delivery of election materials to the general registrar pursuant to § 24.2-668.

The electoral board shall meet on the day following the election and determine whether each person having submitted such a provisional vote was entitled to do so as a qualified voter in the precinct in which he offered the provisional vote. If the board is unable to determine the validity of all the provisional ballots offered in the election, or has granted any voter who has offered a provisional ballot an extension to the following day as provided in subsection A, the meeting shall stand adjourned from day to day, not to exceed seven calendar days from the date of the election, until the board has determined the validity of all provisional ballots offered in the election.

One authorized representative of each political party or independent candidate in a general or special election or one authorized representative of each candidate in a primary election, ~~who is a qualified voter of the city or county~~, shall be permitted to remain in the room in which the determination is being made so long as he does not impede the orderly conduct of the determination. Each authorized

179 representative shall be a qualified voter of ~~the county or city~~ *any jurisdiction of the Commonwealth*.
 180 Each representative, who is not himself a candidate or party chairman, shall present to the electoral
 181 board a written statement designating him to be a representative of the party or candidate and signed by
 182 the county or city chairman of his political party, the independent candidate, or the primary candidate,
 183 as appropriate. Such statement, bearing the chairman's or candidate's original signature, may be
 184 photocopied and such photocopy shall be as valid as if the copy had been signed.

185 If the electoral board determines that such person was not entitled to vote as a qualified voter in the
 186 precinct in which he offered the provisional vote, or is unable to determine his right to vote, the
 187 envelope containing his ballot shall not be opened and his vote shall not be counted. The provisional
 188 vote shall be counted if either (i) such person is entitled to vote in the precinct pursuant to § 24.2-401
 189 or (ii) the State Board or the voter presents proof that indicates the voter submitted an application for
 190 registration to the Department of Motor Vehicles or other state-designated voter registration agency prior
 191 to the close of registration pursuant to § 24.2-416 and the registrar determines that the person was
 192 qualified for registration based upon the application for registration submitted by the person pursuant to
 193 subsection A. The general registrar shall notify in writing pursuant to § 24.2-114 those persons found
 194 not properly registered.

195 If the electoral board determines that such person was entitled to vote, the name of the voter shall be
 196 entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and
 197 the ballot placed in a ballot container without any inspection further than that provided for in
 198 § 24.2-646.

199 On completion of its determination, the electoral board shall proceed to count such ballots and certify
 200 the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No
 201 adjustment shall be made to the statement of results for the precinct in which the person offered to vote.

202 The certification of the results of the count together with all ballots and envelopes, whether open or
 203 unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit
 204 court and retained by him as provided for in §§ 24.2-668 and 24.2-669.

205 C. Whenever the polling hours are extended by an order of a court of competent jurisdiction, any
 206 ballots marked after the normal polling hours by persons who were not already in line at the time the
 207 polls would have closed, notwithstanding the court order, shall be treated as provisional ballots under
 208 this section. The officers of election shall mark the green envelope for each such provisional ballot to
 209 indicate that it was cast after normal polling hours due to the court order, and when preparing the
 210 materials to deliver to the registrar or electoral board, shall separate these provisional ballots from any
 211 provisional ballots used for any other reason. The electoral board shall treat these provisional ballots as
 212 provided in subsection B of this section; however, the counted and uncounted provisional ballots marked
 213 after the normal polling hours shall be kept separate from all other ballots and recorded in a separate
 214 provisional ballots pollbook. The State Board of Elections shall provide instructions to the electoral
 215 boards for the handling and counting of such provisional ballots pursuant to this section.

216 § 24.2-655. Representatives of political parties and candidates to be present on request.

217 Before proceeding to ascertain the vote, the officers of election shall determine whether no more than
 218 two representatives of each political party having candidates in the election and one representative of
 219 each independent candidate or primary candidate request to be present while the absentee ballots are
 220 cast, votes are counted, and returns are completed.

221 Each representative shall be a qualified voter of ~~the city or county in which the polling place is~~
 222 ~~located~~ *any jurisdiction in the Commonwealth* and shall present to the officers of election a written
 223 statement certifying that he is an authorized representative, signed by his party chairman for the
 224 jurisdiction in which the election is held, the independent candidate, or the candidate in a primary, as
 225 appropriate. Such representatives shall be entitled to be present while the votes are counted and shall
 226 remain until the returns are completed.

227 In case such representatives, or any of them, do not request to be present, the officers shall notify the
 228 bystanders, if any, and select one or more to be present with any available representatives of the parties
 229 or candidates so that there are as many as four bystanders and representatives present.

230 The representatives and bystanders lawfully present shall have an unobstructed view of the officers of
 231 election and their actions while the absentee ballots are cast, votes are counted, and returns are
 232 completed. The representatives and bystanders lawfully present are prohibited from interfering with the
 233 officers of election in any way.