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SENATE BILL NO. 537

Offered January 12, 2012

A *BILL to amend and reenact § 24.2-604 of the Code of Virginia, relating to conduct of elections; prohibited activities at polls; observers.*

Patron—Martin

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:**1. That § 24.2-604 of the Code of Virginia is 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 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~~ voter check-in table to be able to hear and see what is occurring; *however, such observation shall not violate the secret vote provision of Article II, Section 3 of the Constitution of Virginia or otherwise interfere with the orderly process of the election.* 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; *or (vi) be in a position to see the ballot of any other voter.*

E. The officers of election may require any person who is found by a majority of the officers present

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59 to be in violation of this section to remain outside of the prohibited area. Any person violating
60 subsection A or D of ~~this section~~ shall be guilty of a Class 1 misdemeanor.

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

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

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

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

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

99 K. The provisions of subsections A and D shall not be construed to prohibit a person who
100 approaches or enters the polling place for the purpose of voting from wearing a shirt, hat, or other
101 apparel on which a candidate's name or a political slogan appears or from having a sticker or button
102 attached to his apparel on which a candidate's name or a political slogan appears. This exemption shall
103 not apply to candidates, representatives of candidates, or any other person who approaches or enters the
104 polling place for any purpose other than voting.