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**HOUSE BILL NO. 669**

Offered January 8, 2014

Prefiled January 7, 2014

A *BILL to amend and reenact §§ 24.2-707 and 24.2-711 of the Code of Virginia, relating to absentee ballots; date requirement.*

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Patron—Herring

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Referred to Committee on Privileges and Elections

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-707 and 24.2-711 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting equipment.**

On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646 without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the electoral board, and (e) seal that envelope and mail it to the office of the electoral board or deliver it personally to the electoral board or the general registrar. *A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void.* For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 and 24.2-705.

An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth above except that he may complete the procedure in person in the office of the general registrar or secretary of the electoral board, or at another location or locations in the county or city approved by the electoral board, before a registrar or a member of the electoral board, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar or secretary of the electoral board for the purpose of completing the application for an absentee ballot in person pursuant to §§ 24.2-701 and 24.2-706. On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar or the secretary may send the items set forth in subdivisions 1 through 4 of § 24.2-706 to the applicant by mail, obtaining a certificate of mailing.

Failure to follow the procedures set forth above shall render the applicant's ballot void.

The electoral board of any county or city using a central absentee voting precinct may provide for the casting of absentee ballots on voting equipment prior to election day by applicants who are voting in person. The State Board shall prescribe procedures for the use of voting equipment. The procedures shall provide for the casting of absentee ballots prior to election day by in-person applicants on voting equipment which has been certified, and is currently approved, by the State Board. The procedures shall be applicable and uniformly applied by the State Board to all jurisdictions using comparable voting equipment. At least two officers of election, one representing each political party, shall be present during all hours that absentee voting is available at any location at which absentee ballots are cast prior to election day.

The requirement that officers of election shall be present if ballots are cast on voting equipment prior to election day shall not be applicable when the voting equipment is located in the office of the general registrar or secretary of the electoral board and the general registrar, an assistant registrar, or the secretary of the electoral board is present.

**§ 24.2-711. Duties of officers of election.**

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59 Before the polls open, the officers of election at each precinct shall mark, for each person on the  
60 absentee voter applicant list, the letters "AB" (meaning absentee ballot) in the voting record column on  
61 the pollbook. The pollbook may be so marked prior to election day by the general registrar, the  
62 secretary of the electoral board, or staff under the direction of the general registrar or the secretary, or  
63 when the pollbook is produced by the State Board pursuant to § 24.2-404. If the pollbook has been  
64 marked prior to election day, before the polls open the officers of election at each precinct shall check  
65 the marks for accuracy and make any additions or corrections required.

66 The chief officer of election shall keep the copy of the absentee voter applicant list in the polling  
67 place as a public record open for inspection upon request at all times while the polls are open.

68 If a voter, whose name appears on the absentee voter applicant list, has not returned an unused ballot  
69 and offers to vote in his precinct, the officers of election in the precinct shall determine the matter  
70 pursuant to §§ 24.2-653.1 and 24.2-708.

71 Immediately after the close of the polls, the container of absentee ballots shall be opened by the  
72 officers of election. As each ballot envelope is removed from the container, the name of the voter shall  
73 be called and checked as if the voter were voting in person. If the voter is found entitled to vote, an  
74 officer shall mark the voter's name on the pollbook with the first or next consecutive number from the  
75 voter count form, or shall enter that the voter has voted if the pollbook is in electronic form. The ballot  
76 envelope shall then be opened, and the ballot deposited in the ballot container without being unfolded or  
77 examined. If the voter is found not entitled to vote, the unopened envelope shall be rejected. *An*  
78 *unopened envelope shall not be rejected on the sole basis of a voter's failure to provide the date, or any*  
79 *part of the date, including the year, on which he signed the statement printed on the back of the*  
80 *envelope.* A majority of the officers shall write and sign a statement of the cause for rejection on the  
81 envelope or on an attachment to the envelope.

82 When all ballots have been accounted for and either voted or rejected, the officers shall place the  
83 empty ballot envelopes, the return envelopes, and any rejected ballot envelopes, in one envelope  
84 provided for the purpose and seal and deliver it with the ballots cast at the election as provided in this  
85 title.