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HOUSE BILL NO. 838

House Amendments in [] — January 21, 2014

A *BILL to amend and reenact § 24.2-709 of the Code of Virginia, relating to elections; return of absentee ballots.*

Patron Prior to Engrossment—Delegate Keam

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-709 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-709. Ballot to be returned in manner prescribed by law.

A. Any ballot returned to the office of the electoral board or general registrar in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the electoral board or general registrar before the closing of the polls. The board member or registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery. For all ballots returned by the general registrar to the electoral board, the board shall give to the general registrar a receipt showing the time and date of the return. *No returned absentee ballot shall be deemed void for the failure to return it as prescribed by law solely because the envelope containing the voted ballot is imperfectly sealed so long as the envelope that contains the ballot and ballot envelope is sealed [and there is evidence that there has been a good faith effort to seal the envelope containing the voted ballot] .*

B. Notwithstanding the provisions of subsection A, absentee ballots (i) received after the close of the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election pursuant to this title, (iii) requested on or before but not sent by the deadline for making absentee ballots available under § 24.2-612, and (iv) cast by an absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 shall be counted pursuant to the procedures set forth in this chapter and, if the voter is found entitled to vote, included in the election returns. The electoral board shall prepare an amended certified abstract, which shall include the results of such ballots, and shall deliver such abstract to the State Board by the business day prior to its meeting pursuant to this title, and shall deliver a copy of such abstract to the general registrar to be available for inspection when his office is open for business.

C. Notwithstanding the provisions of clause (i) of subsection B of § 24.2-427, an absentee ballot returned by a voter in compliance with § 24.2-707 and this section who dies prior to the counting of absentee ballots on election day shall be counted pursuant to the procedures set forth in this chapter if the voter is found to have been entitled to vote at the time that he returned the ballot.

ENGROSSED

HB838E