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HOUSE BILL NO. 2157

Offered January 14, 2015

Prefiled January 14, 2015

A BILL to amend and reenact §§ 24.2-705 and 24.2-710 of the Code of Virginia and to repeal §§ 24.2-705.1 and 24.2-705.2 of the Code of Virginia, relating to absentee voting; emergency voting.

Patrons—Sickles, Futrell, Kory, Lindsey, McQuinn, Murphy, Plum, Preston and Simon; Senators: Dance, Ebbin, Howell and Saslaw

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-705 and 24.2-710 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-705. Emergency applications and absentee ballots for individual emergencies.

A. Any person registered and otherwise qualified to vote who becomes incapacitated on or after the seventh day preceding an election may request at any time prior to 2:00 p.m. on the day preceding the election that ~~an he be permitted to vote by~~ emergency absentee ballot application be delivered to him ~~with the assistance of his designated representative~~. A voter who becomes hospitalized on or after the fourteenth day preceding the election and who is unable, because of his condition, to request an absentee ballot earlier than the seventh day preceding the election may request at any time prior to 2:00 p.m. on the day before an election that an emergency absentee ballot be delivered to him in the hospital. For purposes of this section, "incapacitated" means hospitalized, ill and confined to his residence, bereaved by the death of a spouse, child, or parent, or otherwise incapacitated by an emergency which is found by the electoral board to justify providing an emergency ballot application; and "hospital" means a hospital as defined in § 32.1-123 or 37.2-100 and any comparable hospital in the District of Columbia or any state contiguous to Virginia. ~~The Department of Elections shall prescribe a form and the instructions for submitting such a request to the general registrar that shows that the voter requesting an emergency absentee ballot was unable to apply for an absentee ballot by the deadline due to hospitalization, illness, death of a spouse, child, or parent, or other emergency found to justify receipt of an emergency absentee ballot.~~

On receipt of the request, the electoral board shall provide an emergency absentee ballot application to the incapacitated voter's designated representative who shall deliver the application to the voter. If the voter is hospitalized, the delivery shall be made to him at the hospital; and if the voter is otherwise incapacitated, the delivery shall be made to him at his current residence address as shown on the registration records. The representative shall be age eighteen 18 or older and shall not be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate.

The application shall be on a form prescribed by the State Board and shall require the applicant (i) to state the cause of his incapacity; (ii) to state that he is unable to be present at the polls on election day, and that he was either incapacitated on or after the seventh day preceding the election or hospitalized on or after the fourteenth day preceding the election and unable to request the application earlier than the seventh day preceding the election; (iii) to designate a representative to receive, deliver and return the ballot, and (iv) to provide other information required by law for an absentee ballot application.

If the voter is hospitalized, a hospital administrative official, a licensed physician attending the applicant, or provider as defined in § 37.2-403, shall certify on the form to the hospitalization of the applicant and the applicant's inability to be present at the polls on election day. If the voter is ill and confined to his residence, a licensed physician, provider as defined in § 37.2-403, or an accredited religious practitioner attending the applicant shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. If the voter is bereaved, a licensed physician, an accredited religious practitioner, or a funeral service licensee (as defined in § 54.1-2800) shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. If the voter is otherwise incapacitated as determined by the electoral board, the secretary of the electoral board shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. The applicant requesting voter shall sign the application form and state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application form are true and correct. His signature shall be witnessed by the designated representative who shall sign and return the completed application form to the office of the general registrar no later than 5:00 p.m. on the day preceding the election. For the purposes of this section, "accredited religious practitioner" means a

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58 person who has been trained in spiritual healing or the other healing arts and has been so accredited by
59 a formal religious order. If the requesting voter is blind or physically unable to sign the form, his
60 designated representative shall write on the signature line that the voter is blind or unable to sign the
61 form.

62 On receipt of the completed application form and a determination of the qualification of the applicant
63 requesting voter to vote, the general registrar or secretary of the electoral board shall provide, in
64 accordance with the applicable provisions of this chapter, an absentee ballot to the designated
65 representative for delivery to the incapacitated requesting voter.

66 The incapacitated requesting voter shall vote the absentee ballot as provided by law and mark it in
67 the presence of the designated representative. The representative shall complete a statement, subject to
68 felony penalties for making false statements pursuant to § 24.2-1016, that (i) he is the representative of
69 the incapacitated requesting voter; (ii) he personally delivered the ballot to the voter who applied for it;
70 (iii) in his presence, the voter marked the ballot, the ballot was placed in the envelope provided, the
71 envelope was sealed, and the statement on its reverse side was signed by the incapacitated requesting
72 voter; and (iv) the ballot was returned, under seal, to the electoral board at the registrar's office.

73 The ballot shall be counted only if the ballot is received by the electoral board prior to the close of
74 polls, and the electoral board shall deliver the ballot to the officers of election at each appropriate
75 precinct pursuant to § 24.2-710.

76 B. A qualified voter may vote absentee in person in the office of the general registrar through 2:00
77 p.m. on the day preceding the election by complying with the requirements of § 24.2-643 and affirming
78 that one of the following emergency circumstances will prevent him from voting on election day:

79 1. After 12:00 p.m. on the Saturday before the election, an obligation arose that requires the voter
80 be absent from his county or city on election day for (i) his business, profession, or occupation; (ii) the
81 hospitalization of the voter or a member of his immediate family; or (iii) the death of a member of his
82 immediate family. For purposes of this subdivision, "immediate family" means the children, including
83 adopted children, grandchildren, parents, grandparents, legal guardians, siblings, and spouse of the
84 voter; or

85 2. The voter is an officer of election assigned after 12:00 p.m. on the Saturday before the election to
86 work in a precinct other than his own on election day.

87 C. The Commissioner of Elections may act administratively to facilitate voting by qualified voters
88 who are emergency workers, utility workers, or otherwise respond to and offer assistance to an area in
89 which a state of emergency has been declared. These administrative actions may include central
90 issuance and receipt of absentee ballots for federal and state elections using the systems and procedures
91 developed for uniformed-service voters.

92 § 24.2-710. Further duties of electoral board and general registrar; absentee voter applicant
93 lists.

94 On receipt of an absentee ballot, the electoral board or general registrar shall mark the date of receipt
95 in the appropriate column opposite the name and address of the voter on the absentee voter applicant list
96 maintained in the general registrar's office. A board member or registrar shall deposit the return
97 envelope and the unopened ballot envelope in an appropriate container provided for the purpose, in
98 which they shall remain until the day of the election.

99 On the day before the election, the general registrar shall (i) make out in triplicate on a form
100 prescribed by the State Board the absentee voter applicant list containing the names of all persons who
101 applied for an absentee ballot through the third day before the election and (ii) by noon on the day
102 before the election, deliver two copies of the list to the electoral board. The general registrar shall make
103 out a supplementary list containing the names of all persons voting absentee in person pursuant to
104 §§ 24.2-705.1 and 24.2-705.2, or applying to vote absentee pursuant to § 24.2-705, for delivery by 5:00
105 p.m. on the day before the election. The supplementary list shall be deemed part of the absentee voter
106 applicant list and shall be prepared and delivered in accordance with the instructions of the State Board.
107 The general registrar shall maintain one copy of the list in his office for two years as a public record
108 open for inspection upon request during regular office hours.

109 On the day before the election, the electoral board shall deliver one copy of the list provided to it by
110 the general registrar to the chief officer of election for each precinct. The list shall be attested by the
111 secretary of the electoral board who shall be responsible for the delivery of the attested lists to the chief
112 officer of election for each precinct.

113 Absentee ballots shall be accepted only from voters whose names appear on the attested list.

114 Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot
115 containers to, and obtain a receipt from, the officers of election at each appropriate precinct. Any ballot
116 returned to the electoral board or general registrar prior to the closing of the polls, but after the ballot
117 container has been delivered, shall be delivered in an appropriate container to the officers of election at
118 each appropriate precinct. The containers shall be sealed prior to delivery to the officers and shall
119 contain the sealed absentee ballots, the accompanying return envelopes, and a copy of the absentee voter

applicant list for each precinct.

If the county or city uses a central absentee voter precinct pursuant to § 24.2-712, the lists and containers shall be delivered, as provided in this section, to the officers of election for the absentee precinct.

Before noon on the day following the election, the general registrar shall deliver all applications for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city, except that the general registrar may retain all applications for absentee ballots until the electoral board has ascertained the results of the election pursuant to § 24.2-671, and has determined the validity of and counted all provisional ballots pursuant to § 24.2-653, at which point all applications shall then be delivered, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the sealed applications with the counted ballots.

The secretary of the electoral board shall deliver all absentee ballots received after the election to the clerk of the circuit court.

Upon request, the State Board shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such lists shall be used only for campaign and political purposes. In no event shall any list furnished under this section contain (i) any voter's social security number or any part thereof, (ii) any voter's day and month of birth, or (iii) the residence address of any voter who has provided a post office box address to be used on public lists pursuant to § 24.2-418.

2. That §§ 24.2-705.1 and 24.2-705.2 of the Code of Virginia are repealed.