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## HOUSE BILL NO. 1345

Offered January 11, 2018

A BILL to amend and reenact §§ 24.2-459, 24.2-701, 24.2-703, 24.2-706, and 24.2-707 of the Code of Virginia, relating to absentee voting; deadline for requesting a mailed absentee ballot.

Patron—Guzman

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-459, 24.2-701, 24.2-703, 24.2-706, and 24.2-707 of the Code of Virginia are amended and reenacted as follows:

**§ 24.2-459. Timeliness and scope of application for military-overseas ballot.**

An application for a military-overseas ballot is timely if received by the seventh twelfth day before the election or the last day for other voters in this state to apply for an absentee ballot for that election. An application for a military-overseas ballot for a primary election, whether or not timely, is effective as an application for a military-overseas ballot for the general election.

**§ 24.2-701. Application for absentee ballot.**

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The State Board shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § 24.2-703, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

An application that is completed in person at the same time that the applicant registers to vote shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote; however, this requirement shall not be applicable to any person who is qualified to vote absentee under subdivision 2 of § 24.2-700.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general elections, except May general elections, and on the Saturday immediately preceding any primary election, May general election, or special election.

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall 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 are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643. Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision 2 of § 24.2-700, may be on a federal postcard application prescribed pursuant to 52 U.S.C. § 20301(b)(2). The federal postcard application may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the

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HB1345

59 appropriate registrar no later than 5:00 p.m. on the ~~seventh~~ *twelfth* day prior to the election in which the  
60 applicant offers to vote.

61 C. Applications for absentee ballots shall contain the following information:

62 1. The applicant's printed name, the last four digits of the applicant's social security number, and the  
63 reason the applicant will be absent or cannot vote at his polling place on the day of the election;

64 2. A statement that he is registered in the county or city in which he offers to vote and his residence  
65 address in such county or city. Any person temporarily residing outside the United States shall provide  
66 the last date of residency at his Virginia residence address, if that residence is no longer available to  
67 him. Any person who makes application under subdivision 2 of § 24.2-700 who is not a registered voter  
68 may file the applications to register and for a ballot simultaneously;

69 3. The complete address to which the ballot is to be sent directly to the applicant, unless the  
70 application is made in person at a time when the printed ballots for the election are available and the  
71 applicant chooses to vote in person at the time of completing his application. The address given shall be  
72 (i) the address of the applicant on file in the registration records; (ii) the address at which he will be  
73 located while absent from his county or city; or (iii) the address at which he will be located while  
74 temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other  
75 person; and

76 4. In the case of a person, or the spouse or dependent of a person, who is on active duty as a  
77 member of the uniformed services as defined in § 24.2-452, the branch of service to which he or the  
78 spouse belongs; or

79 5. In the case of a student, or the spouse of a student, who is attending a school or institution of  
80 higher education, the name of the school or institution of higher education; or

81 6. In the case of any duly registered person with a disability, as defined in § 24.2-101, who is unable  
82 to go in person to the polls on the day of the election because of his disability, illness, or pregnancy,  
83 that he is a person with a disability, illness, or pregnancy; or

84 7. In the case of a person who is confined awaiting trial or for having been convicted of a  
85 misdemeanor, the name of the institution of confinement; or

86 8. In the case of a person who will be absent on election day for business reasons, the name of his  
87 employer or business; or

88 9. In the case of a person who will be absent on election day for personal business or vacation  
89 reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or

90 10. In the case of a person who is unable to go to the polls on the day of election because he is  
91 primarily and personally responsible for the care of an ill or disabled family member who is confined at  
92 home, his relationship to the family member; or

93 11. In the case of a person who is unable to go to the polls on the day of election because of an  
94 obligation occasioned by his religion, that he has an obligation occasioned by his religion; or

95 12. In the case of a person who, in the regular and orderly course of his business, profession, or  
96 occupation, will be at his place of work and commuting to and from his home to his place of work for  
97 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his  
98 business or employer and hours he will be at the workplace and commuting on election day; or

99 13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in  
100 § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in  
101 § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first  
102 responder; or

103 14. In the case of a person who has been designated by a political party, independent candidate, or  
104 candidate in a primary election to be a representative of the party or candidate inside a polling place on  
105 the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639, the fact that he is so  
106 designated; or

107 15. In the case of a person who has been granted a protective order issued by or under the authority  
108 of any court of competent jurisdiction, the name of the county or city in Virginia or the state of the  
109 issuing court.

110 **§ 24.2-703. Application for absentee ballots for multiple elections for uniformed and overseas**  
111 **voters.**

112 Any person who is eligible for a military-overseas ballot as defined in § 24.2-452 may file a single  
113 application to receive ballots for all elections in which he is eligible to vote absentee. The application  
114 shall be on a federal postcard application. An application from any person who is already registered or  
115 who is eligible for late registration under § 24.2-419 that is received by the general registrar no later  
116 than 5:00 p.m. on the ~~seventh~~ *twelfth* day prior to the election shall be considered a standing request for  
117 absentee ballots through December 31 of the year following the calendar year of the date of the  
118 application or another shorter period the voter specifies. In the event that a second or subsequent federal  
119 postcard application is received from a voter, any previous applications shall be superseded and the  
120 duration of the most recently received application shall apply.

The general registrar shall retain the application and process the applicant's request for an absentee ballot for each election in accordance with procedures established by the State Board. The applicant shall specify by party designation the primary ballots he is requesting.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no other ballots shall be sent. No ballot shall be sent to the applicant, and no voted ballot received from the applicant shall be valid, (i) for any election held after the voter has notified the registrar that the voter no longer wishes to be registered or (ii) after the registrar has received notification that the voter has registered to vote in another state.

**§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.**

On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications of the listed applicants. The list shall be available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

No list or application containing an individual's social security number, or any part thereof, or the individual's day and month of birth, shall be made available for inspection or copying by anyone. The Department of Elections shall prescribe procedures for general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers or parts thereof, or an individual's day and month of birth.

The completion and timely delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

The general registrar shall note on each application received whether the applicant is or is not a registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other evidence of either first-class or expedited mailing or delivery from the United States Postal Service or other commercial delivery provider, or deliver to him in person in the office of the registrar, the following items and nothing else:

1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."

2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my FULL NAME is \_\_\_\_\_ (last, first, middle); that I am now or have been at some time since last November's general election a legal resident of \_\_\_\_\_ (STATE YOUR LEGAL RESIDENCE IN VIRGINIA including the house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter \_\_\_\_\_

Date \_\_\_\_\_

Signature of witness \_\_\_\_\_"

For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters who are qualified to vote absentee under that Act.

3. A properly addressed envelope for the return of the ballot to the general registrar by mail or by the applicant in person.

4. Printed instructions for completing the ballot and statement on the envelope and returning the

182 ballot.

183 For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of  
184 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter  
185 votes in a federal election in the state, the printed instructions shall direct the voter to submit with his  
186 ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank  
187 statement, government check, paycheck or other government document that shows the name and address  
188 of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of  
189 identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as  
190 a provisional ballot under the provisions of § 24.2-653. The Department of Elections shall provide  
191 instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to  
192 subsection B of § 24.2-653 and this section.

193 5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee  
194 Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to  
195 the voting rights and responsibilities for such citizens, or information provided by the registrar specific  
196 to the status of the voter registration and absentee ballot application of such voter, may be included.

197 The envelopes and instructions shall be in the form prescribed by the Department of Elections.

198 If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed  
199 ballots for the election are available, the general registrar, on the determination of the qualifications of  
200 the applicant to vote, shall provide to the applicant the items set forth in subdivisions 1 through 4, and  
201 no item shall be removed by the applicant from the office of the general registrar. On the request of the  
202 applicant, made no later than 5:00 p.m. on the ~~seventh~~ *twelfth* day prior to the election in which the  
203 applicant offers to vote, the general registrar may send the items set forth in subdivisions 1 through 4 to  
204 the applicant by mail, obtaining a certificate or other evidence of mailing.

205 If the applicant states as the reason for his absence on election day any of the reasons set forth in  
206 subdivision 2 of § 24.2-700, the general registrar, at the time when the printed ballots for the election  
207 are available, shall mail by the deadline set forth in § 24.2-612 or deliver in person to the applicant in  
208 the office of the general registrar the items as set forth in subdivisions 1 through 4 and, if necessary, an  
209 application for registration. A certificate or other evidence of mailing shall not be required. If the  
210 applicant requests that such items be sent by electronic transmission, the general registrar, at the time  
211 when the printed ballots for the election are available but not later than the deadline set forth in  
212 § 24.2-612, shall send by electronic transmission the blank ballot, the form for the envelope for  
213 returning the marked ballot, and instructions to the voter. Such materials shall be sent using the official  
214 email address or fax number of the office of the general registrar published on the Department of  
215 Elections website. The State Board of Elections may prescribe by regulation the format of the email  
216 address used for transmitting ballots to eligible voters. A general registrar may also use electronic  
217 transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be  
218 returned to the general registrar as otherwise required by this chapter.

219 When the statement prescribed in subdivision 2 has been properly completed and signed by the  
220 registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.

221 The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this  
222 section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole  
223 or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur,  
224 or (iii) the campaign committee or the appropriate district political party chairman of such candidate.  
225 Any person who fails to discharge his duty as provided in this section through willful neglect of duty  
226 and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of  
227 § 24.2-1001.

228 **§ 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting**  
229 **equipment.**

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

234 After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope  
235 provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of  
236 the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot  
237 envelope and any required assistance form within the envelope directed to the general registrar, and (e)  
238 seal that envelope and mail it to the office of the general registrar or deliver it personally to the general  
239 registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name  
240 or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to  
241 provide in the statement on the back of the envelope his full first and last name. A voter's failure to  
242 provide the date, or any part of the date, including the year, on which he signed the statement printed  
243 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 at another location or locations in the county or city approved by the electoral board, before a registrar, 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 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~~ *twelfth* day prior to the election in which the applicant offers to vote, the general registrar may send the items set forth in subdivisions 1 through 4 of § 24.2-706 to the applicant by mail, obtaining a certificate or other evidence of mailing.

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

The general registrar 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 Department of Elections 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 Department of Elections. The procedures shall be applicable and uniformly applied by the Department of Elections 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 and the general registrar or an assistant registrar is present.