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HOUSE BILL NO. 1262

Offered January 19, 2010

A BILL to amend and reenact §§ 24.2-706 and 24.2-707 of the Code of Virginia, relating to elections; absentee voting procedures.

Patron—Surovell

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:**1. That §§ 24.2-706 and 24.2-707 of the Code of Virginia are amended and reenacted as follows:**

§ 24.2-706. Duty of general registrar and electoral board 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 and the applications shall be available for inspection and copying by any registered voter during regular office hours.

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 State Board of Elections shall prescribe procedures for local electoral boards and 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 and notify the secretary of the electoral board. In reviewing the application for an absentee ballot, the general registrar and electoral board 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 electoral board shall within three business days of receiving an application for an absentee ballot, or as soon thereafter as is reasonably possible, send to the applicant by mail, obtaining a certificate of mailing, or deliver to him in person in the office of the secretary or 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) Virginia; that I received the enclosed ballot(s) upon application to the registrar of such county or city a locality in Virginia; 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 section 101 (b) (7) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff 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 electoral board by mail or by the applicant in person.

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

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HB1262

59 For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of
60 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time the
61 voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with
62 his ballot: (i) a copy of a current and valid photo identification; or (ii) a copy of a current utility bill,
63 bank statement, government check, paycheck or other document that shows the name and address of the
64 voter. Such individual who desires to vote by mail but who does not submit one of the forms of
65 identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as
66 a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide
67 instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to
68 subsection B of § 24.2-653 and this section.

69 5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee
70 Voting Act (42 U.S.C. § 1973ff et seq.), information provided by the State Board specific to the voting
71 rights and responsibilities for such citizens, or information provided by the registrar specific to the status
72 of the voter registration and absentee ballot application of such voter, may be included.

73 The envelopes and instructions shall be in the form prescribed by the State Board.

74 If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed
75 ballots for the election are available, the general registrar or the secretary of the electoral board, on the
76 determination of the qualifications of the applicant to vote, shall provide to the applicant the items set
77 forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the
78 general registrar or the secretary of the electoral board. On the request of the applicant, made no later
79 than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general
80 registrar or the secretary may send the items set forth in subdivisions 1 through 4 to the applicant by
81 mail, obtaining a certificate of mailing.

82 If the applicant states as the reason for his absence on election day any of the reasons set forth in
83 subdivision 2 of § 24.2-700, the electoral board shall mail or deliver in person to the applicant in the
84 office of the secretary or general registrar, the items as set forth in subdivisions 1 through 4 and, if
85 necessary, an application for registration. A certificate of mailing shall not be required. The electoral
86 board shall send the blank ballot, the form for the envelope for returning the marked ballot, and
87 instructions to the voter by electronic transmission if the voter so requests and if the applicant voter is
88 located outside of the Commonwealth. The voted ballot shall be returned to the electoral board as
89 otherwise required by this chapter.

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

92 The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this
93 section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole
94 or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur,
95 or (iii) the campaign committee or the appropriate district political party chairman of such candidate.

96 § 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting equipment.

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

101 After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope
102 provided for that purpose, (b) seal the envelope, (c) ~~fill in and~~ sign the statement printed on the back of
103 the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot
104 envelope and any required assistance form within the envelope directed to the electoral board, and (e)
105 seal that envelope and mail it to the office of the electoral board or deliver it personally to the electoral
106 board or the general registrar. For purposes of this chapter, "mail" shall include delivery by a
107 commercial delivery service, but shall not include delivery by a personal courier service or another
108 individual except as provided by §§ 24.2-703.2 and 24.2-705.

109 An applicant who makes his application to vote in person at a time when the printed ballots for the
110 election are available shall follow the same procedure set forth above except that he may complete the
111 procedure in person in the office of the general registrar or secretary of the electoral board, or at another
112 location or locations in the county or city approved by the electoral board, before a registrar or a
113 member of the electoral board, or, if a ballot is cast at that time, before the officers of election
114 appointed by the electoral board. Any such location shall be in a public building owned or leased by the
115 city, the county, or a town within the county, with adequate facilities for the protection of all records
116 concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment
117 in use at the location. Such location may be in a facility owned or leased by the Commonwealth and
118 used as a location for Department of Motor Vehicles facilities and for an office of the general registrar.
119 Such location shall be deemed the equivalent of the office of the general registrar or secretary of the
120 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.