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SENATE BILL NO. 455

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact § 24.2-709, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to absentee voting; counting military and overseas absentee ballots received after close of polls on election day.*

Patrons—Reeves, Chase, Morrissey, Peake, Pillion and Surovell; Delegates: LaRock and Orrock

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-709, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 24.2-709. (Effective for elections prior to the general election on November 3, 2020) Ballot to be returned in manner prescribed by law.

A. Any ballot returned to the office of the general registrar in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the general registrar before the closing of the polls. The 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. No returned absentee ballot shall be deemed void because the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed.

B. Notwithstanding the provisions of subsection A, absentee ballots *cast by absentee voters who are eligible under subdivision A 2 of § 24.2-700 that are* (i) received after the close of the polls on any election day; ~~(ii) received but~~ 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 and (ii) postmarked on or before the date of such election~~ 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. For purposes of this subsection, a postmark shall include any official indicia of confirmation of mailing by the United States Postal Service or other postal or delivery service.~~

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.

§ 24.2-709. (Effective for elections beginning with the general election on November 3, 2020) Ballot to be returned in manner prescribed by law.

A. Any ballot returned to the office of the general registrar in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the general registrar before the closing of the polls. The 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. No returned absentee ballot shall be deemed void because the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed.

B. Notwithstanding the provisions of subsection A, absentee ballots *cast by absentee voters who are eligible under subdivision A 2 of § 24.2-700 that are* (i) received after the close of the polls on any election day; ~~(ii) received but~~ 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 A 2 of § 24.2-700 and (ii) postmarked on or before the date of such election~~ 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. For purposes of this subsection, a postmark shall include any official indicia of confirmation of mailing by the United States Postal Service~~

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66 absentee ballots on election day shall be counted pursuant to the procedures set forth in this chapter if
67 the voter is found to have been entitled to vote at the time that he returned the ballot.