

2868--B

2009-2010 Regular Sessions

I N   S E N A T E

March 4, 2009

---

Introduced by Sens. ADDABBO, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Elections in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to absentee ballots

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivisions 1, 3 and 4 of section 8-400 of the election  
2     law, the opening paragraph of subdivision 1 as amended by chapter 359 of  
3     the laws of 1989, paragraph (c) of subdivision 1 as amended by chapter  
4     426 of the laws of 2009, subparagraph (i) of paragraph (c) of subdivi-  
5     sion 3 as amended by chapter 234 of the laws of 1976, subparagraph (iii)  
6     of paragraph (c) of subdivision 3 as amended by chapter 426 of the laws  
7     of 2009, paragraph (d) of subdivision 3 as added by chapter 373 of the  
8     laws of 1986, subdivision 4 as amended by chapter 163 of the laws of  
9     1985, are amended to read as follows:  
10    1. A qualified voter may vote as an absentee voter under this chapter  
11    if, on the occurrence of any village election conducted by the board of  
12    elections, primary election, special election, general election or New  
13    York city community school board district or city of Buffalo school  
14    district election, he [will] OR SHE EXPECTS TO be:  
15    (a) [unavoidably] absent from the county of his OR HER residence, or,  
16    if a resident of the city of New York absent from said city[, because  
17    his duties, occupation, business, or studies require him to be elsewhere  
18    on the day of election]; or  
19    (b) [absent from such county or city because he is on vacation else-  
20    where on the day of election; or

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD08957-03-0

(c)] unable to appear personally at the polling place of the election district in which he or she is a qualified voter because of illness or physical disability[, whether permanent or temporary,] or duties related to the primary care of one or more individuals who are ill or physically disabled, or because he or she will be or is a patient in a hospital; or [(d) he is a person entitled to a ballot because he is a qualified voter registered as] (C) an inmate or patient of a veteran's administration hospital; or

[(e) absent from the county of his residence, or if a resident of the city of New York, absent from said city, because of his accompanying a spouse, parent or child who would be entitled to apply for the right to vote by absentee ballot if a qualified voter; or

(f)] (D) absent from his OR HER voting residence because he OR SHE is detained in jail awaiting action by a grand jury or awaiting trial, or confined in JAIL OR prison after a conviction for an offense other than a felony, provided that he OR SHE is qualified to vote in the election district of his OR HER residence.

3. The application for an absentee ballot when filed must contain in each instance the following information:

(a) Applicant's full name, DATE OF BIRTH, and residence address, including the street and number, if any, rural delivery route, if any, mailing address if different from the residence address and his OR HER town or city and an address to which the ballot shall be mailed.

(b) A statement that the applicant is a qualified and registered voter[, and that he does not know of any reason why he is no longer qualified to vote].

(c) A statement, as appropriate, that on the day of such election the applicant expects in good faith to be in one of the following categories:

(i) [unavoidably] absent from the county of his OR HER residence, or if a resident of the city of New York absent from said city[, because his duties, occupation, business or studies require him to be elsewhere on such day, and where such duties, occupation, business or studies are not of such a nature as ordinarily to require such absence, a statement briefly describing the special circumstances requiring such absence and]; PROVIDED, HOWEVER, IF THE APPLICANT EXPECTS TO BE ABSENT FROM SUCH COUNTY OR CITY FOR A DURATION COVERING MORE THAN ONE ELECTION AND SEEKS AN ABSENTEE BALLOT FOR EACH ELECTION, HE OR SHE SHALL STATE the dates when he OR SHE expects to begin and end such absence; or

(ii) [absent from the county of his residence, or if a resident of the city of New York absent from said city, because he will be on vacation elsewhere on such day, the dates upon which he expects to begin and end such vacation, the place or places where he expects to be on such vacation, the name and address of his employer, if any, or if self-employed or retired a statement to such effect; or

(iii)] unable to appear at a polling place because of illness or physical disability or duties related to the primary care of one or more individuals who are ill or physically disabled; or

[(iv) entitled to a ballot because he is a qualified voter registered as] (III) an inmate or patient of a veteran's [administraion] ADMINISTRATION hospital; or

[(v)] (IV) detained in jail awaiting action by a grand jury or awaiting trial or confined in JAIL OR prison after a conviction for an offense other than a felony and stating the place where he OR SHE is so detained or confined[; or

(vi) absent from the county of his residence, or if a resident of the city of New York absent from said city, because of his accompanying his spouse, parent or child who falls within one of the foregoing categories; a statement that the applicant resides in the same election district as such spouse, parent or child, the name and address of such spouse, parent or child, and, unless the application accompanies the application of such spouse, parent or child, the information as to the status of such spouse, parent or child required by the applicable category].

(d) Such application shall permit the applicant to apply for an absentee ballot for either a primary election or the general election in any year and for those persons who will be continuously absent from their county of residence during the period between the fall primary election and the general election in any year to apply for ballots for both such elections in such year. A VOTER WHO APPLIES FOR AN ABSENTEE BALLOT SHALL BE SENT AN ABSENTEE BALLOT FOR ANY SPECIAL ELECTION OR WINTER PRIMARY THAT OCCURS DURING THE PERIOD OF ABSENCE SPECIFIED IN THE APPLICATION.

4. A voter who claims permanent illness or physical disability may make application for an absentee ballot and the right to receive an absentee ballot for each election thereafter as provided herein without further application, by filing with the board of elections an application which shall contain a statement to be executed by the voter [showing the particulars of his illness or disability]. Upon filing of such application the board of elections shall [investigate the facts stated therein and if satisfied as to the truth thereof, shall] cause the registration records of the voter to be marked "Permanently Disabled" and thereafter shall send an absentee ballot for each succeeding primary, special or general election to such voter at his OR HER last known address by first class mail with a request to the postal authorities not to forward such ballot but to return it in five days in the event that it cannot be delivered to the addressee. The mailing of such ballot for each election shall continue until such voter's registration is cancelled.

S 2. This act shall take effect immediately.