

S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 2, 2009

Introduced by M. of A. GALEF, GORDON, MOLINARO, ESPAILLAT, PAULIN, REILLY -- Multi-Sponsored by -- M. of A. BOYLAND, CALHOUN, CLARK, CROUCH, MAYERSOHN, SPANO -- read once and referred to the Committee on Election Law -- recommitted to the Committee on Election Law in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to absentee voting at village elections

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

1 Section 1. Section 15-120 of the election law, paragraph (b) of subdi-
2 vision 1 and subdivision 8 as amended by chapter 373 of the laws of
3 1978, subdivision 2 as amended by chapter 279 of the laws of 1983,
4 subdivision 3 as amended by chapter 333 of the laws of 1983, subdivi-
5 sions 4 and 5 as amended by chapter 84 of the laws of 1986 and subdivi-
6 sion 6 as amended by chapter 216 of the laws of 1982, is amended to read
7 as follows:
8 S 15-120. Absentee voting at village elections. 1. A qualified [elec-
9 tor] VOTER of a village may vote as an absentee voter under this section
10 if during all the hours of voting on the day of a general or special
11 village election he OR SHE will be:
12 [(a) Unavoidably absent from the county in which his residence is
13 located because:
14 i. he is a member of the armed forces of the United States of America;
15 or
16 ii. he is a student matriculated at an institution of learning located
17 outside such county; or

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

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1 iii. he is a patient at a veterans administration hospital; or
2 iv. his duties, occupation or business require him to be so absent,
3 provided, however, such absence is not caused by the fact that his regu-
4 lar and daily place of business is located outside of said county.

5 (b) Absent from the county in which his residence is located because
6 he is on vacation outside said county.

7 (c) He is the spouse, parent or child of, and resides in the same
8 household with, a person qualified under any of the foregoing paragraphs
9 of this subdivision and will also be absent from said county by reason
10 of accompanying the person so qualified.]

11 (A) ABSENT FROM THE COUNTY OF HIS OR HER RESIDENCE; OR

12 (B) UNABLE TO APPEAR AT THE POLLING PLACE BECAUSE OF ILLNESS OR PHYS-
13 ICAL DISABILITY, OR DUTIES RELATED TO THE PRIMARY CARE OF ONE OR MORE
14 INDIVIDUALS WHO ARE ILL OR PHYSICALLY DISABLED, OR BECAUSE HE OR SHE
15 WILL BE OR IS A PATIENT IN A HOSPITAL; OR

16 (C) AN INMATE OR PATIENT OF A VETERAN'S ADMINISTRATION HOSPITAL; OR

17 (D) ABSENT FROM HIS OR HER VOTING RESIDENCE BECAUSE HE OR SHE IS
18 DETAINED IN JAIL AWAITING ACTION BY A GRAND JURY OR AWAITING TRIAL, OR
19 CONFINED IN JAIL OR PRISON AFTER A CONVICTION FOR AN OFFENSE OTHER THAN
20 A FELONY, PROVIDED THAT HE OR SHE IS QUALIFIED TO VOTE IN THE ELECTION
21 DISTRICT OF HIS OR HER RESIDENCE.

22 2. Each person entitled to vote as an absentee voter pursuant to this
23 section and desirous of obtaining an absentee ballot shall make written
24 application therefor to the village clerk. Application forms for use
25 pursuant to this section shall be in a form prescribed by the state
26 board of elections. The use of any application which is on a form
27 prescribed by the state board of elections shall be acceptable.

28 3. An application for an absentee ballot must be signed by the appli-
29 cant. Such application may require that the applicant submit a certif-
30 icate in lieu of any affidavit which shall state that the information
31 contained in the application is true. Such certificate shall be accepted
32 for all purposes as the equivalent of an affidavit and shall have the
33 following language printed in bold face type above the signature line:

34 "I UNDERSTAND THAT THIS CERTIFICATE WILL BE ACCEPTED FOR
35 ALL PURPOSES AS THE EQUIVALENT OF AN AFFIDAVIT AND, IF
36 IT CONTAINS A MATERIAL FALSE STATEMENT, SHALL SUBJECT ME
37 TO THE SAME PENALTIES AS IF I HAD BEEN DULY SWORN."

38 4. THE APPLICATION FOR AN ABSENTEE BALLOT WHEN FILED MUST CONTAIN IN
39 EACH INSTANCE THE FOLLOWING INFORMATION:

40 (A) APPLICANT'S FULL NAME, DATE OF BIRTH, AND RESIDENCE ADDRESS,
41 INCLUDING THE STREET AND NUMBER, IF ANY, RURAL DELIVERY ROUTE, IF ANY,
42 MAILING ADDRESS IF DIFFERENT FROM THE RESIDENCE ADDRESS AND HIS OR HER
43 VILLAGE AND AN ADDRESS TO WHICH THE BALLOT SHALL BE MAILED.

44 (B) A STATEMENT THAT THE APPLICANT IS A QUALIFIED AND REGISTERED
45 VOTER.

46 (C) A STATEMENT, AS APPROPRIATE, THAT ON THE DAY OF SUCH ELECTION THE
47 APPLICANT EXPECTS IN GOOD FAITH TO BE IN ONE OF THE FOLLOWING Catego-
48 ries:

49 (I) ABSENT FROM THE COUNTY OF HIS OR HER RESIDENCE; PROVIDED, HOWEVER,
50 IF THE APPLICANT EXPECTS TO BE ABSENT FROM SUCH COUNTY FOR A DURATION
51 COVERING MORE THAN ONE ELECTION AND SEEKS AN ABSENTEE BALLOT FOR EACH
52 ELECTION, HE OR SHE SHALL STATE THE DATES WHEN HE OR SHE EXPECTS TO
53 BEGIN AND END SUCH ABSENCE; OR

54 (II) UNABLE TO APPEAR AT A POLLING PLACE BECAUSE OF ILLNESS OR PHYS-
55 ICAL DISABILITY OR DUTIES RELATED TO THE PRIMARY CARE OF ONE OR MORE
56 INDIVIDUALS WHO ARE ILL OR PHYSICALLY DISABLED; OR

1 (III) AN INMATE OR PATIENT OF A VETERAN'S ADMINISTRATION HOSPITAL; OR
2 (IV) DETAINED IN JAIL AWAITING ACTION BY A GRAND JURY OR AWAITING
3 TRIAL OR CONFINED IN JAIL OR PRISON AFTER A CONVICTION FOR AN OFFENSE
4 OTHER THAN A FELONY AND STATING THE PLACE WHERE HE OR SHE IS SO DETAINED
5 OR CONFINED.

6 (D) SUCH APPLICATION SHALL PERMIT THE APPLICANT TO APPLY FOR AN ABSEN-
7 TEE BALLOT FOR EITHER A PRIMARY ELECTION OR THE GENERAL ELECTION IN ANY
8 YEAR AND FOR THOSE PERSONS WHO WILL BE CONTINUOUSLY ABSENT FROM THEIR
9 COUNTY OF RESIDENCE DURING THE PERIOD BETWEEN THE FALL PRIMARY ELECTION
10 AND THE GENERAL ELECTION IN ANY YEAR TO APPLY FOR BALLOTS FOR BOTH SUCH
11 ELECTIONS IN SUCH YEAR. A VOTER WHO APPLIES FOR AN ABSENTEE BALLOT SHALL
12 BE SENT AN ABSENTEE BALLOT FOR ANY SPECIAL ELECTION OR WINTER PRIMARY
13 THAT OCCURS DURING THE PERIOD OF ABSENCE SPECIFIED IN THE APPLICATION.

14 5. An application must be received by the village clerk no earlier
15 than [four months] THE THIRTIETH DAY before the election for which an
16 absentee ballot is sought. If the application requests that the absentee
17 ballot be mailed, such application must be received not later than seven
18 days before the election. If the applicant or his OR HER agent delivers
19 the application to the village clerk in person, such application must be
20 received not later than the day before the election. The village clerk
21 shall examine each application and shall determine from the information
22 contained therein whether the applicant is qualified under this section
23 to receive an absentee ballot. The clerk in making such decision shall
24 not determine whether the applicant is a qualified elector, said deter-
25 mination being reserved to the inspectors of election as is hereinafter
26 provided in subdivision [eight] NINE of this section.

27 [5] 6. No later than six days before the election for which an appli-
28 cation has been received and for which the village clerk has determined
29 the applicant to be qualified to vote by absentee ballot the village
30 clerk shall mail, by regular mail, an absentee ballot to each qualified
31 applicant who has applied before such day and who has requested that
32 such absentee ballot be mailed to him OR HER at the address set forth in
33 his OR HER application. If the applicant or his OR HER agent delivers
34 the application to the village clerk in person after the seventh day
35 before the village election and not later than the day before the
36 election, the village clerk shall forthwith deliver such absentee
37 ballots for those applicants whom he OR SHE determines are qualified to
38 make such applications and to receive such ballots to such applicants or
39 the agents named in the applications when such applicants or agents
40 appear in the village clerk's office.

41 [6] 7. The absentee ballot shall be caused to be prepared and printed
42 by the village clerk as provided by law for paper ballots or machine
43 ballots, whichever are to be used in said election and appropriate
44 modifications for the purposes of this section. He OR SHE shall also
45 cause to be prepared and printed return envelopes addressed to him OR
46 HER, conforming so far as may be practicable to the provisions of this
47 chapter stating thereon that in order for the ballot contained therein
48 to be counted it must be received by the village clerk not later than
49 the close of the polls on election day. On the reverse side of each
50 return envelope there shall be written instructions for the voter to
51 insert at designated places his OR HER signature, his OR HER name print-
52 ed, his OR HER residence address within the village and his OR HER
53 village election district if there be more than one district within the
54 village.

55 [7] 8. The method of marking, preparing and mailing such ballot for
56 voting shall conform, wherever practicable, to the methods used for

1 absentee ballots for a general election, except that the envelope in
2 which it is contained shall be returned to the village clerk. On the day
3 of the election, the village clerk shall deliver all such ballots, which
4 have been returned to him OR HER, in the sealed envelopes to the board
5 of inspectors of election of the proper election district. No such
6 ballot shall be deemed to have been voted unless or until it shall have
7 been delivered to the board of inspectors of election of the election
8 district in which the elector casting the ballot resides and shall have
9 been deposited by the chairman of such board in the box provided for
10 receiving such ballot.

11 [8] 9. When such ballots shall have been delivered to the board of
12 inspectors of election of the proper election district and shall have
13 been duly determined by such board to have been lawfully cast by a qual-
14 ified elector of such district, the chairman of such board shall, after
15 the close of the polls, open the envelopes containing such ballots and,
16 without unfolding such ballots or permitting the face thereof to be
17 exposed to the view of anyone, shall deposit each such ballot in a box
18 specifically furnished for such purpose by the village clerk. If the
19 board of inspectors shall determine that any such ballot has been cast
20 by an elector who would not be qualified under the provisions of this
21 section, then such ballot shall not be counted.

22 [9] 10. After all the ballots shall have been deposited, the box
23 shall be opened and such ballots canvassed in the same manner as other
24 ballots cast at such election and shall be counted and included in the
25 total of all ballots cast at such election.

26 S 2. This act shall take effect immediately.