

5276

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. GALEF, BRADLEY, KAVANAGH, DINOWITZ, THIELE, HOYT, BRENNAN, ENGLEBRIGHT, MAGNARELLI, PEOPLES, PAULIN, PHEFFER, SCHIMEL, JAFFEE, REILLY, KOLB, DeMONTE, ROSENTHAL, ALFANO -- Multi-Sponsored by -- M. of A. BARRA, BOYLAND, BURLING, CAHILL, CALHOUN, CLARK, COLTON, CONTE, CORWIN, DenDEKKER, DIAZ, DUPREY, ERRIGO, FIELDS, FINCH, GIGLIO, GOTTFRIED, GUNTHER, LIFTON, MAGEE, MAYERSOHN, McDONOUGH, McENENY, MILLER, MOLINARO, POWELL, P. RIVERA, ROBINSON, SCARBOROUGH, SPANO, SWEENEY, WALKER, WEISENBERG -- read once and referred to the Committee on Election Law

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

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

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1 physical disability[, whether permanent or temporary, or because he will
2 be or is a patient in a hospital] OR DUTIES RELATED TO THE CARE OF ONE
3 OR MORE INDIVIDUALS WHO ARE ILL OR PHYSICALLY DISABLED; or
4 [(d) he is a person entitled to a ballot because he is a qualified
5 voter registered as] (C) an inmate or patient of a veteran's adminis-
6 tration hospital; or
7 [(e) absent from the county of his residence, or if a resident of the
8 city of New York, absent from said city, because of his accompanying a
9 spouse, parent or child who would be entitled to apply for the right to
10 vote by absentee ballot if a qualified voter; or
11 (f)] (D) absent from his OR HER voting residence because he OR SHE is
12 detained in jail awaiting action by a grand jury or awaiting trial, or
13 confined in JAIL OR prison after a conviction for an offense other than
14 a felony, provided that he OR SHE is qualified to vote in the election
15 district of his OR HER residence.
16 3. The application for an absentee ballot when filed must contain in
17 each instance the following information:
18 (a) Applicant's full name and residence address, including the street
19 and number, if any, rural delivery route, if any, mailing address if
20 different from the residence address and his OR HER town or city and an
21 address to which the ballot shall be mailed.
22 (b) A statement that the applicant is a qualified and registered
23 voter[, and that he does not know of any reason why he is no longer
24 qualified to vote].
25 (c) A statement, as appropriate, that on the day of such election the
26 applicant expects in good faith to be in one of the following cate-
27 gories:
28 (i) [unavoidably] absent from the county of his OR HER residence, or
29 if a resident of the city of New York absent from said city[, because
30 his duties, occupation, business or studies require him to be elsewhere
31 on such day, and where such duties, occupation, business or studies are
32 not of such a nature as ordinarily to require such absence, a statement
33 briefly describing the special circumstances requiring such absence
34 and]; PROVIDED, HOWEVER, IF THE APPLICANT EXPECTS TO BE ABSENT FROM SUCH
35 COUNTY OR CITY FOR A DURATION COVERING MORE THAN ONE ELECTION AND SEEKS
36 AN ABSENTEE BALLOT FOR EACH ELECTION, HE OR SHE SHALL STATE the dates
37 when he OR SHE expects to begin and end such absence; or
38 (ii) [absent from the county of his residence, or if a resident of the
39 city of New York absent from said city, because he will be on vacation
40 elsewhere on such day, the dates upon which he expects to begin and end
41 such vacation, the place or places where he expects to be on such vaca-
42 tion, the name and address of his employer, if any, or if self-employed
43 or retired a statement to such effect; or
44 (iii) ill or physically disabled] UNABLE TO APPEAR AT THE POLLING
45 PLACE BECAUSE OF ILLNESS OR PHYSICAL DISABILITY; [that he has been
46 advised by his medical practitioner or christian science practitioner,
47 giving said practitioner's name and address, that he will not be able to
48 go to his polling place for such election, and whether said illness is
49 permanent or temporary; if he expects to be a patient in a hospital he
50 shall state the name and address of said hospital;] or
51 [(iv) entitled to a ballot because he is a qualified voter registered
52 as] (III) an inmate or patient of a veteran's administration hospital;
53 or
54 [(v)] (IV) detained in jail awaiting action by a grand jury or await-
55 ing trial or confined in JAIL OR prison after a conviction for an

1 offense other than a felony and stating the place where he OR SHE is so
2 detained or confined[; or
3 (vi) absent from the county of his residence, or if a resident of the
4 city of New York absent from said city, because of his accompanying his
5 spouse, parent or child who falls within one of the foregoing cate-
6 gories; a statement that the applicant resides in the same election
7 district as such spouse, parent or child, the name and address of such
8 spouse, parent or child, and, unless the application accompanies the
9 application of such spouse, parent or child, the information as to the
10 status of such spouse, parent or child required by the applicable cate-
11 gory].

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

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

37 S 2. This act shall take effect immediately.