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

202

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to permitting all persons to vote by absentee ballot

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

Section 1. Section 1-104 of the election law is amended by adding two new subdivisions 38 and 39 to read as follows:

38. "ABSENTEE BALLOT" MEANS ANY MILITARY BALLOT AS DEFINED IN SECTION 10-102 OF THIS CHAPTER OR ANY ABSENTEE BALLOT UNDER SECTION 7-122 OF THIS CHAPTER THAT IS CAST BY AN ABSENTEE VOTER AS DEFINED IN THIS SECTION.

39. "ABSENTEE VOTER" MEANS ANY PERSON QUALIFIED TO CAST A MILITARY BALLOT PURSUANT TO ARTICLE TEN OF THIS CHAPTER OR ANY QUALIFIED AND REGISTERED VOTER OF THE STATE WHO WANTS TO VOTE BY ABSENTEE BALLOT AS PERMITTED BY SECTIONS 8-400 AND 15-120 OF THIS CHAPTER.

S 2. Subdivision 8 of section 7-122 of the election law, as amended by chapter 235 of the laws of 2000, is amended to read as follows:

8. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF ABSENTEE VOTER

I do declare that I am a citizen of the United States, that I am duly registered in the election district shown on the reverse side of this envelope and I am qualified to vote in such district; [that I will be unable to appear personally on the day of the election for which this ballot is voted at the polling place of the election district in which I am a qualified voter because of the reason given on my application heretofore submitted;] that I [have not qualified nor do I] DO NOT intend to vote elsewhere, that I have not committed any act nor am I under any impediment which denies me the right to vote.

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

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I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of absentee voter, I shall be guilty of a misdemeanor.

Date.....20..... .....
Signature or mark of voter

.....
Signature of Witness (required only if voter does not sign his own name)

.....
Address of Witness

S 3. Subdivisions 1, 2, 3 and 4 of section 8-400 of the election law, the opening paragraph of subdivision 1 as amended by chapter 359 of the laws of 1989, the opening paragraph of subdivision 2 as amended and paragraph (d) of subdivision 2 as added by chapter 216 of the laws of 1988, paragraph (a) of subdivision 2 as amended by chapter 263 of the laws of 1991, paragraph (c) of subdivision 2 as amended by chapter 321 of the laws of 1988, subparagraph (i) of paragraph (c) of subdivision 3 as amended by chapter 234 of the laws of 1976, paragraph (d) of subdivision 3 as added by chapter 373 of the laws of 1986 and subdivision 4 as amended by chapter 163 of the laws of 1985, are amended to read as follows:

1. A qualified voter may vote as an absentee voter under this chapter if, on the occurrence of any village election conducted by the board of elections, primary election, special election, general election or New York city community school board district or city of Buffalo school district election, he [will be:

(a) unavoidably absent from the county of his 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 the day of election; or

(b) absent from such county or city because he is on vacation elsewhere on the day of election; or

(c) unable to appear personally at the polling place of the election district in which he is a qualified voter because of illness or physical disability, whether permanent or temporary, or because he 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 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) absent from his voting residence because he is detained in jail awaiting action by a grand jury or awaiting trial, or confined in prison after a conviction for an offense other than a felony, provided that he is qualified to vote in the election district of his residence.] OR SHE IS A QUALIFIED AND REGISTERED VOTER OF THIS STATE WHO WANTS TO VOTE BY ABSENTEE BALLOT.

2. A qualified voter desiring to vote at such election as an absentee voter [for any reason specified in subdivision one hereof must] SHALL

make application for an absentee ballot on a form to be obtained and filed as provided [herein] IN THIS CHAPTER or by letter as provided in paragraph (d) of this subdivision.

(a) Application forms shall be furnished by and may be obtained from any board of elections at any time until the day before such election. Application forms shall also be supplied by the board of inspectors of the election district in which applicant is a qualified voter on all of the days provided for local registration. In addition, application forms shall be supplied upon the request of the person authorized to vote pursuant to this section, any such person's spouse, parent or child, a person residing with the applicant as a member of his OR HER household, or the applicant's duly authorized agent. Application forms sent outside of the United States to a country other than Canada or Mexico, shall be sent airmail. Any reference to "board of elections" in the remaining provisions of this section, except with respect to the furnishing and obtaining of applications for absentee ballots, means only the board of elections of the county or city in which the applicant is a qualified voter.

(b) Applications may be filed either with the board of elections or in person with the board of inspectors of the election district in which the applicant is a qualified voter, on one of the days provided for local registration.

(c) All applications must be mailed to the board of elections not later than the seventh day before the election for which a ballot is first requested or delivered to such board not later than the day before such election.

(d) The board of elections shall mail an absentee ballot to every qualified voter [otherwise eligible for such a ballot,] who requests such an absentee ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not earlier than the thirtieth day nor later than the seventh day before the election for which the ballot is first requested and which states the address where the voter is registered and the address to which the ballot is to be mailed. The board of elections shall enclose with such ballot a form of application for absentee ballot.

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

(a) Applicant's full name 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 OR SHE does not know of any reason why he OR SHE 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 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 the dates when he 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) ill or physically disabled; that he has been advised by his medical practitioner or christian science practitioner, giving said practitioner's name and address, that he will not be able to go to his polling place for such election, and whether said illness is permanent or temporary; if he expects to be a patient in a hospital he shall state the name and address of said hospital; or

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

(v) detained in jail awaiting action by a grand jury or awaiting trial or confined in prison after a conviction for an offense other than a felony and stating the place where he 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 OR BOTH 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].

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 OR HER 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 4. Subdivision 1 of section 15-120 of the election law, paragraph (b) as amended by chapter 373 of the laws of 1978, is amended to read as follows:

1. A qualified elector of a village may vote as an absentee voter under this section if [during all the hours of voting] on the day of a general or special village election he [will be:

(a) Unavoidably absent from the county in which his residence is located because:

i. he is a member of the armed forces of the United States of America; or

ii. he is a student matriculated at an institution of learning located outside such county; or

iii. he is a patient at a veterans administration hospital; or

iv. his duties, occupation or business require him to be so absent, provided, however, such absence is not caused by the fact that his regular and daily place of business is located outside of said county.

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

(c) He is the spouse, parent or child of, and resides in the same household with, a person qualified under any of the foregoing paragraphs of this subdivision and will also be absent from said county by reason of accompanying the person so qualified.] OR SHE IS A QUALIFIED ELECTOR OF THE VILLAGE WHO WANTS TO VOTE BY ABSENTEE BALLOT.

S 5. This act shall take effect immediately.