

1916

2009-2010 Regular Sessions

I N S E N A T E

February 9, 2009

Introduced by Sens. MORAHAN, DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

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  
20 physical disability[, whether permanent or temporary, or because he will  
21 be or is a patient in a hospital] OR DUTIES RELATED TO THE CARE OF ONE  
22 OR MORE INDIVIDUALS WHO ARE ILL OR PHYSICALLY DISABLED; or  
23 [(d) he is a person entitled to a ballot because he is a qualified  
24 voter registered as] (C) an inmate or patient of a veteran's adminis-  
25 tration hospital; or

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

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1 [(e) absent from the county of his residence, or if a resident of the  
2 city of New York, absent from said city, because of his accompanying a  
3 spouse, parent or child who would be entitled to apply for the right to  
4 vote by absentee ballot if a qualified voter; or  
5 (f)] (D) absent from his OR HER voting residence because he OR SHE is  
6 detained in jail awaiting action by a grand jury or awaiting trial, or  
7 confined in JAIL OR prison after a conviction for an offense other than  
8 a felony, provided that he OR SHE is qualified to vote in the election  
9 district of his OR HER residence.

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

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

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

19 (c) A statement, as appropriate, that on the day of such election the  
20 applicant expects in good faith to be in one of the following catego-  
21 ries:

22 (i) [unavoidably] absent from the county of his OR HER residence, or  
23 if a resident of the city of New York absent from said city[, because  
24 his duties, occupation, business or studies require him to be elsewhere  
25 on such day, and where such duties, occupation, business or studies are  
26 not of such a nature as ordinarily to require such absence, a statement  
27 briefly describing the special circumstances requiring such absence  
28 and]; PROVIDED, HOWEVER, IF THE APPLICANT EXPECTS TO BE ABSENT FROM SUCH  
29 COUNTY OR CITY FOR A DURATION COVERING MORE THAN ONE ELECTION AND SEEKS  
30 AN ABSENTEE BALLOT FOR EACH ELECTION, HE OR SHE SHALL STATE the dates  
31 when he OR SHE expects to begin and end such absence; or  
32 (ii) [absent from the county of his residence, or if a resident of the  
33 city of New York absent from said city, because he will be on vacation  
34 elsewhere on such day, the dates upon which he expects to begin and end  
35 such vacation, the place or places where he expects to be on such vaca-  
36 tion, the name and address of his employer, if any, or if self-employed  
37 or retired a statement to such effect; or  
38 (iii) ill or physically disabled] UNABLE TO APPEAR AT THE POLLING  
39 PLACE BECAUSE OF ILLNESS OR PHYSICAL DISABILITY OR DUTIES RELATED TO THE  
40 CARE OF ONE OR MORE INDIVIDUALS WHO ARE ILL OR PHYSICALLY DISABLED;  
41 [that he has been advised by his medical practitioner or christian  
42 science practitioner, giving said practitioner's name and address, that  
43 he will not be able to go to his polling place for such election, and  
44 whether said illness is permanent or temporary; if he expects to be a  
45 patient in a hospital he shall state the name and address of said hospi-  
46 tal;] or  
47 [(iv) entitled to a ballot because he is a qualified voter registered  
48 as] (III) an inmate or patient of a veteran's administration hospital;  
49 or  
50 [(v)] (IV) detained in jail awaiting action by a grand jury or await-  
51 ing trial or confined in JAIL OR prison after a conviction for an  
52 offense other than a felony and stating the place where he OR SHE is so  
53 detained or confined[; or  
54 (vi) absent from the county of his residence, or if a resident of the  
55 city of New York absent from said city, because of his accompanying his  
56 spouse, parent or child who falls within one of the foregoing catego-

1 ries; a statement that the applicant resides in the same election  
2 district as such spouse, parent or child, the name and address of such  
3 spouse, parent or child, and, unless the application accompanies the  
4 application of such spouse, parent or child, the information as to the  
5 status of such spouse, parent or child required by the applicable cate-  
6 gory].

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

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

32 S 2. This act shall take effect immediately.