

STATE OF NEW YORK

139

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sen. CARLUCCI -- 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 providing for automatic voter registration; establishing a task force on automatic voter registration; and providing for the repeal of certain provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Title 2 of article 5 of the election law is amended by
2 adding a new section 5-200 to read as follows:

3 § 5-200. Automatic voter registration. 1. Notwithstanding any other
4 manner of registration required by this article, each person in the
5 state qualified to vote pursuant to section 5-102 of this article, shall
6 be automatically registered to vote as provided in this section,
7 provided that the person does not elect to decline registration to vote
8 at the point of service.

9 2. The state board of elections or county board of elections shall
10 register to vote or update the registration record of any person in the
11 state qualified to vote pursuant to section 5-102 of this article who
12 does not elect to decline registration to vote or update the registra-
13 tion record at the point of service and does any of the following:

14 (a) completes an application for a new or renewed driver's license,
15 non-driver identification card, pre-licensing course certificate,
16 learner's permit or certification of supervised driving with the depart-
17 ment of motor vehicles, or notifies such department in writing of a
18 change of his or her name or address;

19 (b) completes an application for services, renewal or recertification
20 for services, or change of address relating to such services from agen-
21 cies designated in section 5-211 of this title;

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

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1 (c) completes an application for services, renewal or recertification
2 for services, or change of address relating to such services from any
3 municipal housing authority as set forth in article thirteen of the
4 public housing law;

5 (d) registers for classes at institutions of the state university of
6 New York and the city university of New York;

7 (e) completes a maximum sentence of imprisonment or is discharged from
8 parole;

9 (f) completes an application for unemployment insurance;

10 (g) becomes a member or employee of the New York division of military
11 and naval affairs; or

12 (h) completes an application with any other state or federal agency
13 designated as a source agency pursuant to paragraph (b) of subdivision
14 three of this section.

15 3. (a) The term "source agency" includes the department of motor vehi-
16 cles, any government agency designated pursuant to section 5-211 of this
17 title, the state university of New York and the city university of New
18 York, all public housing authorities listed in article thirteen of the
19 public housing law, the department of corrections and community super-
20 vision, the department of labor, the New York division of military and
21 naval affairs and any agency designated by the state board of elections
22 pursuant to paragraph (b) of this subdivision.

23 (b) The state board of elections may designate additional state agen-
24 cies to serve as sources for voter registration. In designating an agen-
25 cy under this paragraph, the state board of elections shall consider:

26 (i) the likelihood that source records reflect a large number of
27 eligible citizens;

28 (ii) the extent to which source records reflect eligible citizens who
29 would not otherwise be registered under the act to modernize voter
30 registration;

31 (iii) the accuracy of personal identification data in source records;
32 and

33 (iv) any additional factors designated by the chief election official
34 as reasonably related to accomplishing the purposes of the act to
35 modernize voter registration.

36 4. The state board of elections and the source agencies shall enter
37 into agreements to ensure that for each person described in subdivision
38 two of this section, each source agency electronically transmits to the
39 state or local boards of elections the following information in a format
40 that can be read by the computerized statewide voter registration list:

41 (a) given name or names and surname or surnames;

42 (b) mailing address and residential address;

43 (c) date of birth;

44 (d) citizenship;

45 (e) driver's license or non-driver identification card number, last
46 four digits of the person's social security number, or a space for the
47 person to indicate that he or she does not have any such number;

48 (f) political party enrollment, if any;

49 (g) an indication that the person intends to apply for an absentee
50 ballot, if any; and

51 (h) an image of the person's signature.

52 In the event that any transmission of data pursuant to this section
53 fails to include an image of an individual's signature, the absence of a
54 signature shall not preclude the registration of an eligible citizen.
55 The board of elections shall develop procedures to enable an eligible
56 citizen, whose information is transmitted pursuant to this section and

1 whose information lacks an electronic signature, to provide a signature
2 at the polling place or with an application for an absentee ballot
3 before voting. The board may require an elector who has not provided a
4 signature before arriving at the polling place or submitting an absentee
5 ballot to present a current and valid photo identification or a copy of
6 a current utility bill, bank statement, government check, paycheck, or
7 other government document that shows the name and address of the voter.

8 5. If an agency does not routinely request information concerning the
9 citizenship status of individuals, it shall maintain records sufficient
10 to transmit to the board of elections indications of United States citi-
11 zenship for each person described in subdivision two of this section,
12 but shall not retain, use, or share any such information relating to an
13 individual's citizenship for any other purpose.

14 6. Each source agency shall include for each person described in
15 subdivision two of this section a statement that he or she shall be
16 registered to vote, if he or she is not already so registered, provided,
17 however, that each source agency shall provide each person described in
18 subdivision two of this section the opportunity to elect to decline
19 registration to vote at the point of service, and upon such election, he
20 or she shall not be registered to vote pursuant to the procedures in
21 this section at that time.

22 7. The state board of elections shall prepare and distribute to
23 participating agencies written instructions as to the implementation of
24 the program and shall be responsible for establishing training programs
25 for employees of source agencies listed in this section. Training shall
26 include requirements that employees of any source agency communicate to
27 each individual identified in subdivision two of this section that the
28 source agency maintains strict neutrality with respect to a person's
29 party enrollment and all persons seeking voter registration forms and
30 information shall be advised that government services are not condi-
31 tioned on being registered to vote, or eligibility to register to vote.
32 No statement shall be made nor any action taken to discourage the appli-
33 cant from registering to vote.

34 8. The agreements between the state board of elections and the source
35 agencies shall include the format in which information will be transmit-
36 ted, whether and how each entity will collect, in addition to the manda-
37 tory information listed in subdivision four of this section, additional
38 information on a voluntary basis from persons for the purpose of facili-
39 tating voter registration, the frequency of data transmissions, the
40 procedures, and other measures that will be used to ensure the security
41 and privacy of the information transmitted, and any other matter neces-
42 sary or helpful to implement the requirements of this section.

43 9. Each source agency shall cooperate with the state board of
44 elections and county board of elections to facilitate the voter regis-
45 tration of each person described in subdivision two of this section, and
46 to electronically transmit the information needed to register each such
47 person to vote or to update each such person's voter registration
48 record.

49 10. Each source agency shall enter into an agreement with the state
50 board of elections finalizing the format and content of electronic tran-
51 smissions required by this section no later than September first, two
52 thousand nineteen; provided, that each source agency shall be able to
53 comply fully with all requirements of this section, including the
54 collection and transmission of all data required to register individuals
55 to vote, by January first, two thousand twenty-two.

§ 2. Subdivision 5 of section 5-210 of the election law is amended by adding a new paragraph (n) to read as follows:

(n) Agreements adopted pursuant to section 5-200 of this title between source agencies and the state or county boards of elections are not required to include the collection or transmission of the information requested in paragraph (j) or subparagraph (i), (viii), (x) or (xii) of paragraph (k) of this subdivision, and no board of election shall refuse to register to vote or update the registration record of any person in the state whose information is transmitted pursuant to section 5-200 of this title for the reason that such information does not include the information requested by paragraph (j) or subparagraph (i), (viii), (x) or (xii) of paragraph (k) of this subdivision.

§ 3. The opening paragraph and subdivisions 11 and 12 of section 5-211 of the election law, the opening paragraph as amended by chapter 265 of the laws of 2013, subdivision 11 as amended by chapter 200 of the laws of 1996 and subdivision 12 as added by chapter 659 of the laws of 1994, are amended to read as follows:

Each agency designated as a participating agency under the provisions of this section shall implement and administer a program of distribution of voter registration forms pursuant to the provisions of this section. The following offices which provide public assistance and/or provide state funded programs primarily engaged in providing services to persons with disabilities are hereby designated as voter registration agencies:

designated as the state agencies which provide public assistance are the office of children and family services, the office of temporary and disability assistance and the department of health. Also designated as public assistance agencies are all agencies of local government that provide such assistance. Designated as state agencies that provide programs primarily engaged in providing services to people with disabilities are the department of labor, office for the aging, division of veterans' affairs, office of mental health, office of vocational and educational services for individuals with disabilities, commission on quality of care for the mentally disabled, office ~~[of mental retardation~~

~~and]~~ and] for people with developmental disabilities, commission for the blind, office of alcoholism and substance abuse services, the office of the advocate for the disabled and all offices which administer programs established or funded by such agencies. Additional ~~[state]~~ agencies designated as voter registration offices are the department of state ~~[and]~~, the division of workers' compensation, the state university of New York, the city university of New York, all public housing authorities listed in article thirteen of the public housing law, the department of corrections and community supervision and the New York division of military and naval affairs. Such agencies shall be required to offer

voter registration forms to and provide for automatic voter registration, pursuant to section 5-200 of this title, for persons upon initial application for services, renewal or recertification for services and change of address relating to such services. Such agencies shall also be responsible for providing assistance to applicants in completing voter registration forms, receiving and transmitting the completed application form from all applicants who wish to have such form transmitted to the appropriate board of elections. The state board of elections shall, together with representatives of the department of defense, develop and implement procedures for including recruitment offices of the armed forces of the United States as voter registration offices when such offices are so designated by federal law. The state board shall also make request of the United States Immigration and Naturalization Service

1 to include applications for registration by mail with any materials
2 which are given to new citizens. ~~[All institutions of the state univer-~~
3 ~~sity of New York and the city university of New York, shall, at the~~
4 ~~beginning of the school year, and again in January of a year in which~~
5 ~~the president of the United States is to be elected, provide an applica-~~
6 ~~tion for registration to each student in each such institution.]~~ The
7 state board of elections may, by regulation, grant a waiver from any or
8 all of the requirements of this section to any office or program of an
9 agency, if it determines that it is not feasible for such office or
10 program to administer such requirement.

11 11. The participating agency shall transmit ~~[the completed applica-~~
12 ~~tions for registration and change of address forms]~~ all information
13 collected pursuant to section 5-200 of this title to the appropriate
14 board of elections not later than ten days after receipt except that all
15 such completed applications and forms received by the agency between the
16 thirtieth and twenty-fifth day before an election shall be transmitted
17 in such manner and at such time as to assure their receipt by such board
18 of elections not later than the twentieth day before such election.

19 12. ~~[Completed application forms, when received]~~ All information
20 collected pursuant to section 5-200 of this title by a participating
21 agency not later than the twenty-fifth day before the next ensuing
22 primary, general or special election and transmitted by such agency to
23 the appropriate board of elections so that they are received by such
24 board not later than the twentieth day before such election shall enti-
25 tle the applicant to vote in such election provided the board determines
26 that the applicant is otherwise qualified.

27 § 4. Subdivision 14 of section 5-211 of the election law, as amended
28 by chapter 200 of the laws of 1996, is amended and two new subdivisions
29 18 and 19 are added to read as follows:

30 14. Applications shall be processed by the board of elections in the
31 manner prescribed by ~~[section]~~ sections 5-200 and 5-210 of this title
32 or, if the applicant is already registered to vote from another address
33 in the county or city, in the manner prescribed by section 5-208 of this
34 title. The board shall send the appropriate notice of approval or
35 rejection as required by either subdivision nine of such section 5-210
36 or subdivision five of such section 5-208.

37 18. All colleges and universities located in this state shall make
38 voter registration forms available to any students eligible to register
39 to vote under paragraph (g) of subdivision five of section 5-210 of this
40 title in the same manner and subject to the same provisions and rules
41 and regulations as all other designated agencies under this section;
42 except that a college or university that is not otherwise designated as
43 a source agency pursuant to section 5-200 of this title shall not be
44 required to collect or maintain forms containing a person's declination
45 to register to vote as required by subdivision ten of this section, or
46 to conduct a study and report thereon as required by subdivision seven-
47 teen of this section.

48 19. The state board of elections or, in the city of New York, the New
49 York city board of elections, shall provide to public colleges and
50 universities a sufficient quantity of coded voter registration applica-
51 tions that identify each such application as originating from either a
52 public college or university. The state board of elections shall provide
53 for the delivery of such coded applications by the first day of August
54 of each year to each college or university covered by this chapter,
55 except that the New York city board of elections shall provide and
56 deliver such forms to each participating public university or college

1 located in the city of New York. Every board of elections scanning voter
2 registration forms shall capture any designated agency codes thereon and
3 report them on a monthly basis to the state board of elections which
4 shall make such detailed information available to the public.

5 § 5. Subdivisions 6 and 7 of section 5-212 of the election law, subdivi-
6 vision 6 as amended by chapter 200 of the laws of 1996 and subdivision 7
7 as added by chapter 659 of the laws of 1994, are amended to read as
8 follows:

9 6. The department of motor vehicles shall transmit ~~[that portion of~~
10 ~~the form which constitutes the completed application for registration or~~
11 ~~change of address form]~~ all information collected pursuant to section
12 5-200 of this title to the appropriate board of elections not later than
13 ten days after receipt except that all such completed applications and
14 forms received by the department between the thirtieth and twenty-fifth
15 day before an election shall be transmitted in such manner and at such
16 time as to assure their receipt by such board of elections not later
17 than the twentieth day before such election. All transmittals shall
18 include original signatures or an electronic image thereof as required
19 by subdivision four of section 5-200 of this title.

20 7. ~~[Completed application forms received]~~ All information collected
21 pursuant to section 5-200 of this title by the department of motor vehi-
22 cles not later than the twenty-fifth day before the next ensuing prima-
23 ry, general or special election and transmitted by such department to
24 the appropriate board of elections so that they are received not later
25 than the twentieth day before such election shall entitle the applicant
26 to vote in such election provided the board determines that the appli-
27 cant is otherwise qualified.

28 § 6. Section 8-302 of the election law is amended by adding a new
29 subdivision 3-d to read as follows:

30 3-d. A person appearing on election day whose name cannot be found or
31 whose information is incomplete or incorrect on the statewide voter
32 registration list and who affirms that that he or she interacted with a
33 source agency listed in subdivision three of section 5-200 of this chap-
34 ter and consented to voter registration shall be permitted to cast an
35 affidavit ballot. Such affidavit ballot shall be counted if at the poll-
36 ing place, the person presents proof of identity and evidence of regis-
37 tering to vote or performing any of the activities specified in subdivi-
38 sion two of section 5-200 of this chapter, and there is no affirmative
39 proof that the person is ineligible to register to vote or that the
40 person did not register or perform any of the activities specified in
41 subdivision two of section 5-200 of this chapter.

42 (a) A person may swear to and subscribe to an affidavit stating that
43 the person has registered to vote or performed any of the activities in
44 subdivision two of section 5-200 of this chapter and consented to use
45 agency information for voter registration. That affidavit shall be
46 sufficient evidence of registering to vote or performing any of the
47 activities specified in subdivision two of section 5-200 of this chapter
48 for the purposes of this section.

49 (b) A person without identification may swear to and subscribe to an
50 affidavit stating that the person did not present documentary proof of
51 identity, but that all of the identifying information on the affidavit
52 ballot envelope is complete and accurate. That affidavit shall be suffi-
53 cient evidence of identity for the purposes of this section. Nothing in
54 this subdivision shall be deemed to override the provisions of subdivi-
55 sion two-a of this section governing the requirements for a person whose
56 name appears in the computer generated registration list with a notation

1 indicating that the voter's identity was not yet verified as required by
2 the federal Help America Vote Act.

3 § 7. Subdivision 1 of section 3-220 of the election law, as amended by
4 chapter 104 of the laws of 2010, is amended to read as follows:

5 1. All registration records, certificates, lists, and inventories
6 referred to in, or required by, this chapter shall be public records and
7 open to public inspection under the immediate supervision of the board
8 of elections or its employees and subject to such reasonable regulations
9 as such board may impose, provided, however, that no data transmitted
10 pursuant to section 5-200 of this chapter shall be considered a public
11 record open to public inspection solely by reason of its transmission
12 and that the following information shall not be released for public
13 inspection:

14 (a) any voter's signature;

15 (b) the personal residence and contact information of any voter for
16 whom any provision of law requires confidentiality;

17 (c) any portion of a voter's driver's license number, [~~department of~~
18 ~~motor vehicle~~] non-driver [~~photo ID~~] identification card number, social
19 security number and facsimile number [~~shall not be released for public~~
20 ~~inspection~~];

21 (d) any voter's telephone number; and

22 (e) any voter's email address. No such records shall be handled at
23 any time by any person other than a member of a registration board or
24 board of inspectors of elections or board of elections except as
25 provided by rules imposed by the board of elections.

26 § 8. (a) A task force on automatic voter registration shall be estab-
27 lished by the state board of elections to examine, evaluate and make
28 recommendations concerning the implementation and affects of the
29 provisions of this act.

30 (b) The task force shall consist of two commissioners of the state
31 board of elections appointed by majority vote of the state board of
32 elections, the commissioner of motor vehicles, and members appointed by
33 the state board of elections who shall represent such interests as such
34 board shall deem to be relevant to the provisions of this act, includ-
35 ing:

36 (1) the state university of New York;

37 (2) the city university of New York;

38 (3) the board of elections of the city of New York;

39 (4) county boards of elections throughout the state;

40 (5) state agencies affected by the provisions of this act;

41 (6) the department of corrections and community supervision;

42 (7) the department of labor;

43 (8) the division of military and naval affairs; and

44 (9) municipal housing authorities.

45 (c) The members of the task force shall receive no compensation for
46 their services, but shall be allowed their actual and necessary expenses
47 incurred in the performance of their duties pursuant to this section.

48 (d) Within one year of the effective date of this section, and annual-
49 ly thereafter, the task force shall report its findings, conclusions and
50 recommendations to the governor and the legislature.

51 § 9. This act shall take effect one year after it shall have become a
52 law; provided that section eight of this act shall expire and be deemed
53 repealed five years after such effective date.