

# STATE OF NEW YORK

2301

2019-2020 Regular Sessions

## IN SENATE

January 23, 2019

Introduced by Sen. KAVANAGH -- 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 protections against illegal voter purging

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

1 Section 1. Section 4-117 of the election law is amended by adding a  
2 new subdivision 4 to read as follows:

3 4. Any person, other than an election officer, who mails or causes to  
4 be mailed, between August first and December thirty-first of any calen-  
5 dar year, any first class non-forwardable mail, where such person knows  
6 or reasonably should know that such non-forwardable mail: (a) is  
7 intended to be delivered to a registered voter or voter registration  
8 applicant; and (b) may be used by a challenger, other than an election  
9 officer, on election day to challenge the qualifications of a voter,  
10 shall file within two business days of such mailing, a duplicate copy of  
11 such non-forwardable mail, a duplicate copy of names and addresses to  
12 which such non-forwardable mail was sent, and a completed form  
13 prescribed by the state board of elections. The failure to comply with  
14 the provisions of this subdivision shall be punishable as a misdemeanor.

15 § 2. Section 8-502 of the election law, as amended by chapter 373 of  
16 the laws of 1978, is amended to read as follows:

17 § 8-502. Challenges; generally. 1. Before his or her vote is cast at  
18 an election any person may be challenged as to his or her right to vote,  
19 in accordance with the provisions of this section, or his or her right  
20 to vote by absentee, military, special federal or special presidential  
21 ballot. Such challenge may be made by an inspector or clerk, by any duly  
22 appointed watcher, or by any registered voter properly in the polling  
23 place in accordance with the provisions of this section.

24 2. An inspector shall challenge every person offering to vote, whom he  
25 or she shall know or suspect is not entitled to vote in the district,

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

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1 and every person whose name appears on the list of persons to be chal-  
2 lenged on election day which is furnished by the board of elections.

3 3. Any person, other than an inspector or clerk, may challenge the  
4 qualifications of a voter only by completing, executing and delivering  
5 to the board of inspectors a challenge affidavit that satisfies the  
6 requirements of section 8-503 of this title.

7 § 3. The election law is amended by adding a new section 8-503 to  
8 read as follows:

9 § 8-503. Challenge affidavit. 1. The state board of elections shall  
10 prescribe the content and form of a challenge affidavit for use at any  
11 general, special, town or village election and at any primary election.  
12 Such affidavit shall contain the affiant's full name, residence and  
13 business address, the name of his or her employer, the registration,  
14 serial number of the person challenged and a recital of the reasons and  
15 the facts supporting the affiant's belief that the person challenged  
16 lacks one or more of the qualifications for voting prescribed in section  
17 5-102 or 5-106 of this chapter and specified in such affidavit. The  
18 affidavit shall state if the reason for challenge are based upon the  
19 affiant's personal knowledge or upon information received from another  
20 person. If the affiant's belief is based upon information furnished by  
21 another, the affidavit shall recite the name of the person furnishing  
22 the information and the basis for his or her information. After the  
23 affiant has filed such affidavit, an inspector shall read to him or her  
24 and request him or her to sign the following oath which shall be  
25 subscribed by such affiant: "I do solemnly swear (or affirm) that I am a  
26 qualified voter of the city or county in which this affidavit is signed  
27 and that the foregoing statement made by me on (insert day, month and  
28 year) is a truthful disclosure of the reasons for my belief that the  
29 registered voter therein named is not qualified to vote in the election  
30 district in which he or she is now registered." If the affiant shall  
31 take and sign such oath, an inspector shall sign his or her name as a  
32 witness below the affiant's subscription to such oath. Each challenge  
33 affidavit may only challenge the qualifications of one voter.

34 2. The boards of elections shall make challenge affidavit forms avail-  
35 able to all qualified voters.

36 § 4. Subdivision 2 of section 8-504 of the election law, as renumbered  
37 by chapter 373 of the laws of 1978, is amended to read as follows:

38 2. (a) If the applicant shall take the preliminary oath, the inspector  
39 shall ask the applicant [~~such~~] the following questions as [~~may~~] they  
40 pertain to the reason his or her right to vote at such election in such  
41 district was challenged[~~-~~]:

42 Are you eighteen years of age or older?

43 Are you a citizen of the United States?

44 Have you been a resident of this state and of this county (and the  
45 City of New York or village, as applicable) for the past thirty days or  
46 more?

47 Do you still reside at the same address from which you duly registered  
48 in this election district?

49 Do you swear that you have not already voted at this election?

50 (b) If any applicant shall refuse to answer fully any of the questions  
51 [~~which may be put to him~~] in this subdivision, he or she shall not be  
52 permitted to vote.

53 § 5. Section 8-504 of the election law is amended by adding a new  
54 subdivision 9 to read as follows:

55 9. Information concerning the citizenship status of individuals, when  
56 collected and transmitted pursuant to this section, shall not be

1 retained, used or shared for any other purpose except as may be required  
2 by law.

3 § 6. Paragraphs (b) and (e) of subdivision 2 of section 8-508 of the  
4 election law, as amended by chapter 200 of the laws of 1996, are amended  
5 to read as follows:

6 (b) The second section of such report shall be reserved for the board  
7 of inspectors to enter the name, address and registration serial number  
8 of each person who is challenged on the day of election, together with  
9 the reason for the challenge, the name and address of the person chal-  
10 lenging the qualifications of such voter, if such person challenging the  
11 qualifications is not an inspector or clerk, and the words "Permitted to  
12 Vote" or "Refused to take oath". If no voters are challenged, the board  
13 of inspectors shall enter the words "No Challenges" across the space  
14 reserved for such names. In lieu of preparing section two of the chal-  
15 lenge report, the board of elections may provide, next to the name of  
16 each voter on the computer generated registration list, a place for the  
17 inspectors of election to record the information required to be entered  
18 in such section two, or provide at the end of such computer generated  
19 registration list, a place for the inspectors of election to enter such  
20 information.

21 (e) At the foot of such report and at the end of any such computer  
22 generated registration list shall be printed a certificate that such  
23 report contains the names of all persons who were challenged on the day  
24 of election, [~~and~~] the reason for such challenge and the names and  
25 addresses of all challengers who are not inspectors of clerks that each  
26 voter so reported as having been challenged took the oaths as required,  
27 that such report contains the names of all voters to whom such board  
28 gave or allowed assistance and lists the nature of the disability which  
29 required such assistance to be given and the names and family relation-  
30 ship, if any, to the voter of the persons by whom such assistance was  
31 rendered; that each such assisted voter informed such board under oath  
32 that he or she required such assistance and that each person rendering  
33 such assistance took the required oath; that such report contains the  
34 names of all voters who were permitted to vote although their registra-  
35 tion poll records were missing; that the entries made by such board are  
36 a true and accurate record of its proceedings with respect to the  
37 persons named in such report.

38 § 7. Subdivision 3 of section 8-510 of the election law, as amended by  
39 chapter 43 of the laws of 1988, is amended to read as follows:

40 3. The inspectors shall place such completed report, each challenge  
41 affidavit and each court order, if any, directing that a person be  
42 permitted to vote, inside a ledger of registration records or computer  
43 generated registration lists between the front cover, and the first  
44 registration record and then shall close and seal each ledger of regis-  
45 tration records or computer generated registration lists, affix their  
46 signature to the seal, lock such ledger in the carrying case furnished  
47 for that purpose and enclose the keys in a sealed package or seal such  
48 list in the envelope provided for that purpose.

49 § 8. Subdivisions 1 and 2 of section 17-108 of the election law, as  
50 amended by chapter 373 of the laws of 1978, are amended to read as  
51 follows:

52 1. Any person who wilfully loses, alters, destroys or mutilates the  
53 list of voters or registration poll ledgers, a challenge affidavit, or a  
54 challenge report in any election district, or a certified copy thereof,  
55 is guilty of a misdemeanor.

1     2. An applicant for registration who shall make, incorporate or cause  
2 to be incorporated a material false statement in an application for  
3 registration, or in any challenge or other affidavit required for or  
4 made or filed in connection with registration or voting, and any person  
5 who knowingly takes a false oath before a board of inspectors of  
6 election, and any person who makes a material false statement in a  
7 medical certificate, a challenge affidavit or an affidavit filed in  
8 connection with an application for registration, is guilty of a misde-  
9 meanor.

10     § 9. This act shall take effect immediately.