STATE OF NEW YORK

2301--B

Cal. No. 371

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 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

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:

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

4. Any person, other than an election officer, who pays for, mails or causes to be mailed, any mail, where such person knows or reasonably should know that such mail: (a) is intended to be delivered to a registered voter or voter registration applicant; and (b) may be used by a challenger, other than an election officer, to challenge the qualifications of a voter, shall file with the state board of elections within two business days of such mailing, a duplicate copy of such mail, a duplicate copy of names and addresses to which such mail was sent, and a completed form prescribed by the state board of elections. Such form shall contain: the full name, residence and business address, and the name of the employer of the person who pays for, mails or causes to be mailed the mailing; the approximate number of pieces of such mail; and a statement certifying the accuracy of such duplicate copies and of the information contained in the complete form. The failure to comply with the provisions of this subdivision shall create a presumption that such mail shall not be used to challenge the qualifications of a voter.

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

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

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

2. An inspector shall challenge every person offering to vote, whom he or she shall know or suspect is not entitled to vote in the district, and every person whose name appears on the list of persons to be challenged on election day which is furnished by the board of elections.

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

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

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

2. The boards of elections shall make challenge affidavit forms available to all qualified voters.

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

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

Are you eighteen years of age or older?

Are you a citizen of the United States?

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

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

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

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

9. Information concerning the citizenship status of individuals, when collected and transmitted pursuant to this section, shall not be retained, used or shared for any other purpose except as may be required by law. A failure to certify that an individual is a citizen of the United States shall be considered an innocent error. Such person failing to certify United States citizenship shall not be considered as attempting to register to vote.

§ 6. Paragraphs (b) and (e) of subdivision 2 of section 8-508 of the election law, as amended by section 11 of part XX of chapter 55 of the laws of 2019, are amended to read as follows:

(b) The second section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number of each person who is challenged at the time of voting together with the reason for the challenge**, the name and address of the person challenging the qualifications of such voter, if such person challenging the qualifications is not an inspector or clerk, and the words "Permitted to Vote" or "Refused to take oath"**. If no voters are challenged, the board of inspectors shall enter the words "No Challenges" across the space reserved for such names. In lieu of preparing section two of the challenge report, the board of elections may provide, next to the name of each voter in the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section two, or provide elsewhere in such registration list, a place for the inspectors of election to enter such information.

(e) At the foot of such report or at the end of any such computer generated registration list, if applicable, shall be a certificate that such report or list contains the names of all persons who were challenged on the day of election, [~~and~~] **the reason for such challenge and the names and addresses of all challengers who are not inspectors or clerks** that each voter so reported as having been challenged took the oaths as required, that such report or list contains the names of all voters to whom such board gave or allowed assistance and lists the nature of the disability which required such assistance to be given and the names and family relationship, if any, to the voter of the persons by whom such assistance was rendered; that each such assisted voter informed such board under oath that he required such assistance and that each person rendering such assistance took the required oath; that such report or list contains the names of all voters who were permitted to vote although their registration poll records were missing; that the entries made by such board are a true and accurate record of its proceedings with respect to the persons named in such report or list.

§ 7. Subdivision 3 of section 8-510 of the election law, as amended by section 12 of part XX of chapter 55 of the laws of 2019, is amended to read as follows:

3. The inspectors shall place such completed report, **each challenge affidavit** and each court order, if any, directing that a person be permitted to vote, in the secure container provided by the county board

of elections for such ledger of registration records or computer generated registration lists and then shall close and seal each ledger of registration records or computer generated registration lists, lock such ledger in the carrying case furnished for that purpose and enclose the keys in a sealed package or seal such list in the envelope provided for that purpose.

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

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

2. An applicant for registration who shall make, incorporate or cause to be incorporated a material false statement in an application for registration, or in any challenge or other affidavit required for or made or filed in connection with registration or voting, and any person who knowingly takes a false oath before a board of inspectors of election, and any person who makes a material false statement in a medical certificate**, a challenge affidavit** or an affidavit filed in connection with an application for registration, is guilty of a misdemeanor.

§ 9. This act shall take effect January 1, 2020.