

STATE OF NEW YORK

309--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. MYRIE, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BROUK, COMRIE, COONEY, GIANARIS, HARCKHAM, HINCHEY, HOYLMAN, KAVANAGH, KRUEGER, MAY, MAYER, PARKER, REICHLIN-MELNICK, RIVERA, SKOUFIS, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to construction of and requirements for voting machines and systems

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

1 Section 1. Paragraphs b, e, j, s and t of subdivision 1 of section
2 7-202 of the election law, as added by chapter 181 of the laws of 2005,
3 are amended and five new paragraphs u, v, w, x and y are added to read
4 as follows:

5 b. permit a voter to vote for any person for any office, whether or
6 not nominated as a candidate by any party or independent body without
7 the ballot, or any part thereof, being removed from the machine at any
8 time after the ballot is cast;

9 e. [~~provide the voter an opportunity to privately and independently~~
10 ~~verify votes selected and the~~] require the use of an individual, dura-
11 ble, voter-verifiable paper ballot of the voter's vote that shall be
12 privately and independently marked in the polling place and made avail-
13 able for private and independent inspection and verification by the
14 voter before the voter's vote is cast and counted, and provide for the
15 voter's ability to privately and independently change such votes or
16 correct any error before the ballot is cast and counted;

17 j. [~~retain all paper ballots cast or produce and retain a voter veri-~~
18 ~~fied permanent paper record which shall be presented to the voter from~~
19 ~~behind a window or other device before the ballot is cast,~~] produce and
20 retain a paper ballot which can be verified and cast by the voter in a

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

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1 manner intended and designed to protect the privacy of the voter,
2 including storing the ballots cast in random order and not sequentially
3 or chronologically as cast by voters; such ballots [~~or record~~] shall
4 allow a manual audit and shall be preserved in accordance with the
5 provisions of section 3-222 of this chapter;

6 s. permit alternative language accessibility pursuant to the require-
7 ments of section 203 of the Voting Rights Act of 1965 (42 U.S.C.
8 1973aa-1a) such that it must have the capacity to display the full
9 ballot in the alternative languages required by the federal Voting
10 Rights Act if such voting machine or system is to be used where such
11 alternative languages are required or where the local board deems such
12 feature necessary; [~~and~~]

13 t. not include any device or functionality potentially capable of
14 externally transmitting or receiving data via the internet or via radio
15 waves or via other wireless means[~~;~~];

16 u. be constructed so that, after the paper ballot is cast by the
17 voter, the voting machine or system never passes the cast ballot under a
18 printer that can print votes onto the ballot, including as a result of
19 unauthorized, malicious or faulty software or firmware, provided that
20 machines purchased prior to June first, two thousand twenty-one may
21 continue to be used;

22 v. be constructed so the configuration or functionality of a voting
23 machine or system does not include ballot marking and tabulating within
24 the same physical device, provided that machines purchased prior to June
25 first, two thousand twenty-one may continue to be used;

26 w. not utilize, for the process of vote casting and canvassing, a bar
27 code, matrix code or any kind of recording code that cannot be verified
28 by the voter without using a code-reading device;

29 x. permit the counting of ballots by hand or permit the reading of
30 ballots with an optical character recognition device; and

31 y. use durable paper ballots printed and manufactured in the United
32 States that are not printed on thermal paper.

33 § 2. Subdivision 4 of section 7-202 of the election law, as added by
34 chapter 181 of the laws of 2005, is amended to read as follows:

35 4. Local boards of elections which obtain voting machines pursuant to
36 this chapter [~~may determine to~~] shall purchase [~~direct recording elec-~~
37 ~~tronic machines or~~] optical scan machines in conformance with the
38 requirements of this chapter.

39 § 3. This act shall take effect immediately.