

# STATE OF NEW YORK

7368

2021-2022 Regular Sessions

## IN SENATE

September 8, 2021

Introduced by Sen. RATH -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the election law, in relation to requirements for affidavit ballots and absentee ballots

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

1 Section 1. Paragraph (c) of subdivision 2-a of section 8-302 of the  
2 election law, as amended by section 8 of part XX of chapter 55 of the  
3 laws of 2019, is amended to read as follows:

4 (c) [~~If the voter does not produce an identification document listed~~  
5 ~~in paragraph (a) of this subdivision, the voter shall only be entitled~~  
6 ~~to vote by affidavit ballot unless a court order provides otherwise]~~ A  
7 voter voting by affidavit ballot shall be required to produce an iden-  
8 tification document listed in paragraph (a) of this subdivision. If such  
9 identification document is an identification document listed under  
10 subparagraph (ii) of paragraph (a) of this subdivision, such document  
11 shall have been issued or created not more than one hundred twenty days  
12 prior to the election. If such identification document exists in elec-  
13 tronic form, such voter shall produce a printed copy of such identifica-  
14 tion document.

15 § 2. Subparagraph (ii) of paragraph (e) of subdivision 3 of section  
16 8-302 of the election law, as amended by section 8 of part XX of chapter  
17 55 of the laws of 2019, is amended to read as follows:

18 (ii) He or she may swear to and subscribe an affidavit stating that he  
19 or she has duly registered to vote, the address in such election  
20 district from which he or she registered, that he or she remains a duly  
21 qualified voter in such election district, that his or her registration  
22 poll record appears to be lost or misplaced or that his or her name  
23 and/or his or her signature was omitted from the computer generated  
24 registration list or such record indicates the voter already voted when  
25 he or she did not do so or that he or she has moved within New York

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

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1 state since he or she last registered, the address from which he or she  
2 was previously registered and the address at which he or she currently  
3 resides, and at a primary election, the party in which he or she is  
4 enrolled. The inspectors of election shall offer such an affidavit to  
5 each such voter whose residence address is in such election district,  
6 after such voter has produced an identification document pursuant to  
7 paragraph (c) of subdivision two-a of this section. Each such affidavit  
8 shall be in a form prescribed by the state board of elections, shall be  
9 printed on an envelope of the size and quality used for an absentee  
10 ballot envelope, and shall contain an acknowledgment that the affiant  
11 understands that any false statement made therein is perjury punishable  
12 according to law. Such form prescribed by the state board of elections  
13 shall request information required to register such voter should the  
14 county board determine that such voter is not registered and shall  
15 constitute an application to register to vote. The voter's name and the  
16 entries required shall then be entered without delay and without further  
17 inquiry in the fourth section of the challenge report or in the place  
18 provided in the computer generated registration list, with the notation  
19 that the voter has executed the affidavit hereinabove prescribed, or, if  
20 such person's name appears in such registration list, the board of  
21 elections may provide a place to make such entry next to his or her name  
22 in such list. The voter shall then, without further inquiry, be permit-  
23 ted to vote an affidavit ballot provided for by this chapter. Such  
24 ballot shall thereupon be placed in the envelope containing his or her  
25 affidavit, and the envelope sealed and returned to the board of  
26 elections in the manner provided by this chapter for protested official  
27 ballots, including a statement of the number of such ballots.

28 § 3. Subdivision 1 of section 8-412 of the election law, as amended by  
29 chapter 140 of the laws of 2020, is amended to read as follows:

30 1. The board of elections shall cause all absentee ballots received by  
31 it before the close of the polls on election day and all ballots  
32 contained in envelopes showing a cancellation mark of the United States  
33 postal service or a foreign country's postal service, or showing a dated  
34 endorsement of receipt by another agency of the United States govern-  
35 ment, with a date which is ascertained to be not later than the first  
36 day of early voting for the election and received by such board of  
37 elections not later than seven days following the day of election to be  
38 cast and counted except that the absentee ballot of a voter who  
39 requested such ballot by letter, rather than application, shall not be  
40 counted unless a valid application form, signed by such voter, is  
41 received by the board of elections with such ballot. For purposes of  
42 this section, any absentee ballot received by the board of elections by  
43 mail that does not bear or display a dated postmark shall be presumed to  
44 have been timely mailed or delivered if such ballot bears a time stamp  
45 of the receiving board of elections indicating receipt by such board on  
46 the day [~~after~~] of the election.

47 § 4. This act shall take effect immediately.