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:

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

(c) [~~If the voter does not produce an identification document listed in paragraph (a) of this subdivision, the voter shall only be entitled to vote by affidavit ballot unless a court order provides otherwise~~] **A voter voting by affidavit ballot shall be required to produce an identification document listed in paragraph (a) of this subdivision. If such identification document is an identification document listed under subparagraph (ii) of paragraph (a) of this subdivision, such document shall have been issued or created not more than one hundred twenty days prior to the election. If such identification document exists in electronic form, such voter shall produce a printed copy of such identification document**.

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

(ii) He or she may swear to and subscribe an affidavit stating that he or she has duly registered to vote, the address in such election district from which he or she registered, that he or she remains a duly qualified voter in such election district, that his or her registration poll record appears to be lost or misplaced or that his or her name and/or his or her signature was omitted from the computer generated registration list or such record indicates the voter already voted when 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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state since he or she last registered, the address from which he or she was previously registered and the address at which he or she currently resides, and at a primary election, the party in which he or she is enrolled. The inspectors of election shall offer such an affidavit to each such voter whose residence address is in such election district, after such voter has produced an identification document pursuant to paragraph (c) of subdivision two-a of this section. Each such affidavit shall be in a form prescribed by the state board of elections, shall be printed on an envelope of the size and quality used for an absentee ballot envelope, and shall contain an acknowledgment that the affiant understands that any false statement made therein is perjury punishable according to law. Such form prescribed by the state board of elections shall request information required to register such voter should the county board determine that such voter is not registered and shall constitute an application to register to vote. The voter's name and the entries required shall then be entered without delay and without further inquiry in the fourth section of the challenge report or in the place provided in the computer generated registration list, with the notation that the voter has executed the affidavit hereinabove prescribed, or, if such person's name appears in such registration list, the board of elections may provide a place to make such entry next to his or her name in such list. The voter shall then, without further inquiry, be permitted to vote an affidavit ballot provided for by this chapter. Such ballot shall thereupon be placed in the envelope containing his or her affidavit, and the envelope sealed and returned to the board of elections in the manner provided by this chapter for protested official ballots, including a statement of the number of such ballots.

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

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

§ 4. This act shall take effect immediately.