STATE OF NEW YORK

4326

2021-2022 Regular Sessions

IN ASSEMBLY

February 1, 2021

Introduced by M. of A. DeSTEFANO, MONTESANO, BRABENEC, B. MILLER, NORRIS, DiPIETRO, McDONOUGH, SALKA, REILLY, MANKTELOW, BYRNE, BLANKENBUSH, M. MILLER -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, the administrative code of the city of New York, the public health law and the vehicle and traffic law, in relation to requiring a government issued photo identification card to be presented when casting a ballot

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

Section 1. Section 8-303 of the election law, as added by chapter 420 of the laws of 2004 and subparagraph 1 of paragraph (b) of subdivision 3 as amended by chapter 160 of the laws of 2005, is amended to read as follows:

§ 8-303. [~~Initial voter~~] **Voter** identification. 1. Applicability. Each board of elections, in a uniform and nondiscriminatory manner, shall require a voter to meet the requirements of subdivision two of this section [~~if:~~

~~(a) the individual registered to vote in a jurisdiction by mail on or after January first, two thousand three; and~~

~~(b) the individual has not previously voted in an election for federal office in the jurisdiction of the board of elections~~].

2. Requirements. (a) In general. An individual meets the requirements of this subdivision if the individual:

(1) in the case of an individual who votes in person[~~: (i)~~] presents to the appropriate election inspector, clerk or coordinator a current and valid **government issued** photo identification; [~~or~~

~~(ii) presents to the appropriate election inspector, clerk or coordinator a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter;~~] or

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

LBD08113-01-1

(2) in the case of an individual who votes by mail, submits in the outer envelope with the envelope containing the ballot: [~~(i)~~] a copy of a current and valid government issued photo identification[~~; or~~

~~(ii) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter~~].

A current and valid government issued photo identification shall include: a New York state driver's license or non-driver ID; a United States Passport; an identification card issued by a United States educational institution; a United States military identification card; a government issued medical card or any identification card issued by the United States or the state of New York.

(b) Fail-safe voting. [~~(1)~~] An individual who desires to vote in person, but who does not meet the requirements of [~~subparagraph one of paragraph (a) of~~] this subdivision[~~,~~] may [~~cast an affidavit ballot, and notwithstanding this section of law, such affidavit ballot shall be duly cast and counted, even though such individual does not meet the requirements of subparagraph one of paragraph (a) of this subdivision, provided such individual casting such ballot is an otherwise eligible voter pursuant to law, provided further that such ballot otherwise complies with the requirements of law.~~

~~(2) An individual who desires to vote by mail but who does not meet the requirements of subparagraph two of paragraph (a) of this subdivision may cast such a ballot by mail and such ballot shall be duly cast and counted, notwithstanding this section, provided the voter is determined to be an eligible voter and provided further that such ballot otherwise complies with the requirements of law.~~

~~3. Inapplicability. Subdivisions one and two of this section shall not apply in the case of a person: (a) who registers to vote by mail and submits as part of such registration either:~~

~~(1) a copy of a current and valid photo identification; or~~

~~(2) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter;~~

~~(b) (1) who registers to vote by mail and submits with such registration either:~~

~~(i) a driver's license or a department of motor vehicles non-driver photo ID number; or~~

~~(ii) at least the last four digits of the individual's social security number; and~~

~~(2) with respect to whom a local board of elections matches the information submitted under subparagraph one of this paragraph with an existing state identification record bearing the number, name and date of birth of such voter; or~~

~~(c) who is: (1) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.);~~

~~(2) provided the right to vote otherwise than in person under section 3 (b) (2) (B) (ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1 (b) (2) (B) (ii)); or~~

~~(3) entitled to vote otherwise than in person under any other federal law~~] obtain a non-driver identification from the department of motor vehicles if he or she does the following:

(1) (i) If an individual does not possess the documentation accepted by the commissioner of motor vehicles to receive a non-driver identification, pursuant to section four hundred ninety of the vehicle and traf-

fic law, such individual shall obtain the affidavit provided in subdivision three of this section from a county, city, town or village clerk, the department of health, the New York city department of mental health and hygiene or the department of motor vehicles.

(ii) When the signed affidavit is received by the county, city, town, or village where the individual was born or the department of health or the New York city department of mental health and hygiene, if the individual was born in the city of New York, no later than the seventh day before the election, it shall be the duty of the clerk or the department to provide the individual a certified copy or certified transcript of the individual's record of birth at no cost to the requesting individual, if the clerk or department has access to the individual's record of birth.

(iii) No later than the seventh day before the election, the individual shall present his or her record of birth and the signed affidavit to the department of motor vehicles. Upon receipt of the individual's record of birth and the signed affidavit, the commissioner of motor vehicles shall issue the individual a non-driver identification card at no cost to the individual, pursuant to section four hundred ninety of the vehicle and traffic law.

(2) (i) If an individual does possess the documentation accepted by the commissioner of motor vehicles to receive a non-driver identification pursuant to section four hundred ninety of the vehicle and traffic law, such individual shall obtain an affidavit provided in subdivision three of this section from a county, city, town, or village clerk, the department of health, the New York city department of mental health and hygiene, or the department of motor vehicles.

(ii) No later than the seventh day before the election, the individual shall present the signed affidavit and the accepted documentation to the department of motor vehicles. Upon receipt of the individual's documentation and the signed affidavit, the commissioner of motor vehicles shall issue the individual a non-driver identification card at no cost to the individual pursuant to section four hundred ninety of the vehicle and traffic law.

3. Affidavit. The board of elections shall furnish an affidavit to county, city, town and village clerks, as well as to the department of motor vehicles, the department of health, and the New York city department of health and mental hygiene, which an individual shall sign in ink and which shall contain the following information and substantially be in the following form:

I, the undersigned, do hereby swear that it is seven or more days before the next election on ..... and I do not possess a valid government issued photo for purposes of voting. I do hereby require the department of motor vehicles to issue me a non-driver identification for purposes of voting in the next election on the aforementioned date.

Date: .....

.....
(Signature of applicant)

On the date above indicated before me personally came the applicant whose signature appears on this affidavit, who signed same in my presence and who, being by me duly sworn, said that the foregoing statement made and subscribed by him or her, was true.

Date:.....

.....
(Signature and official title
of officer administering oath)

§ 2. Subdivision 2 of section 8-400 of the election law is amended by adding a new paragraph (e) to read as follows:

(e) All applications shall be accompanied by a copy of the applicant's valid government issued photo identification as required by section 8-303 of this article. An individual may obtain a valid government issued photo identification for no charge as prescribed in paragraph (b) of subdivision two of section 8-303 of this article.

§ 3. Subdivision a of section 17-169 of the administrative code of the city of New York is amended by adding a new paragraph 1-a to read as follows:

1-a. A certified copy or certified transcript of the record of birth shall be issued upon receipt of an affidavit signed by a person, signed no later than the seventh day before an election, pursuant to paragraph (b) of subdivision two of section 8-303 of the election law. In such instance, such birth certificate shall be issued at no cost to the person.

§ 4. Subdivision 1 of section 4174 of the public health law is amended by adding a new paragraph (b-1) to read as follows:

(b-1) upon receipt of an affidavit signed by an applicant, signed no later than the seventh day before an election, pursuant to paragraph (b) of subdivision two of section 8-303 of the election law, either a certified copy or certified transcript of such applicant's birth certificate. In such instance, such birth certificate shall be issued at no cost to the applicant;

§ 5. Paragraph (a) of subdivision 3 of section 490 of the vehicle and traffic law is amended by adding a new subparagraph (iv) to read as follows:

(iv) In the case of a person who is issued an identification card for purposes of voting pursuant to section 8-303 of the election law, the commissioner shall issue an identification card without the payment of any fee, upon such person submitting a sworn affidavit, as provided in section 8-303 of the election law and a certificate of birth or any other form of documentation accepted by the commissioner to prove the person's identity. An identification issued pursuant to this subparagraph shall expire four years after the date of issuance.

§ 6. This act shall take effect immediately.