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:

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

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

e. [~~**provide the voter an opportunity to privately and independently verify votes selected and the**~~] **require the use of an individual, durable, voter-verifiable paper ballot of the voter's vote that shall be privately and independently marked in the polling place and made available for private and independent inspection and verification by the voter before the voter's vote is cast and counted, and provide for the voter's** ability to privately and independently change such votes or correct any error before the ballot is cast and counted;

j. [~~**retain all paper ballots cast or produce and retain a voter verified permanent paper record which shall be presented to the voter from behind a window or other device before the ballot is cast,**~~] **produce and 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.

LBD02135-12-1

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

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

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

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

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

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

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

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

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

4. Local boards of elections which obtain voting machines pursuant to this chapter [~~**may determine to**~~] **shall** purchase [~~**direct recording electronic machines or**~~] optical scan machines in conformance with the requirements of this chapter.

§ 3. This act shall take effect immediately.