

# STATE OF NEW YORK

4673

2023-2024 Regular Sessions

## IN SENATE

February 13, 2023

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

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-b 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 and such subdivision as renumbered by chapter 763 of the  
4 laws of 2021, is amended to read as follows:

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

16 § 2. Subparagraph (ii) of paragraph (e) of subdivision 3 of section  
17 8-302 of the election law, as amended by section 8 of part XX of chapter  
18 55 of the laws of 2019, is amended to read as follows:

19 (ii) He or she may swear to and subscribe an affidavit stating that he  
20 or she has duly registered to vote, the address in such election  
21 district from which he or she registered, that he or she remains a duly  
22 qualified voter in such election district, that his or her registration  
23 poll record appears to be lost or misplaced or that his or her name  
24 and/or his or her signature was omitted from the computer generated  
25 registration list or such record indicates the voter already voted when

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

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

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

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

48 § 4. This act shall take effect immediately.