STATE OF NEW YORK

1576

2025-2026 Regular Sessions

IN SENATE

January 10, 2025

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:

Section 1. Paragraph (c) of subdivision 2-b of section 8-302 of the election law, as amended by section 8 of part XX of chapter 55 of the laws of 2019 and such subdivision as renumbered by chapter 763 of the laws of 2021, 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 separately amended by chapters 479 and 481 of the laws of 2023, is amended to read as follows:

(ii) They may swear to and subscribe an affidavit stating that they have duly registered to vote, the address in such election district from which they registered, that they remain a duly qualified voter in such election district, that their registration poll record appears to be lost or misplaced or that their name and/or their signature was omitted from the computer generated registration list or such record indicates the voter already voted when they did not do so or that they have moved

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

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within New York state since they last registered, the address from which they were previously registered and the address at which they currently reside, and at a primary election, the party in which they are enrolled, or that such voter is eligible to vote pursuant to section 8-604 of this article. 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-b 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 early mail 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 yet 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 their 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 their 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. If a voter registration application for a voter who casts an affidavit ballot pursuant to this subparagraph was received by a board of elections by the tenth day prior to the election, the board shall cast and count an affidavit ballot from such voter, if otherwise valid, notwithstanding the fact that the voter's name was omitted from a registration poll record or list of registered voters.

§ 3. Subdivision 1 of section 8-412 of the election law, as amended by chapter 500 of the laws of 2024, 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. For the purposes of this section, an absentee ballot shall be deemed to be received by the board of elections before the close of the polls on election day if it is deposited in an absentee ballot drop box before the close of polls on election day.

Ballots received in accordance with this section shall be deemed timely and the failure of a board of elections to time stamp such ballots received in this manner on or before election day shall not prohibit the canvassing of such ballots. At the close of the polls on election day, the board of elections shall close every absentee ballot drop box and collect absentee ballots deposited in such absentee ballot drop box.

§ 4. This act shall take effect immediately.