

SECOND REGULAR SESSION

SENATE BILL NO. 708

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIFTON.

Read 1st time January 14, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

5386S.011

AN ACT

To repeal section 115.279, RSMo, section 115.275 as enacted by house committee substitute for senate substitute for senate committee substitute for senate bill no. 116, ninety-seventh general assembly, first regular session, section 115.275 as enacted by house bill no. 511, ninety-second general assembly, first regular session, section 115.291 as enacted by house committee substitute for senate substitute for senate committee substitute for senate bill no. 116, ninety-seventh general assembly, first regular session, and section 115.291 as enacted by senate committee substitute for house committee substitute for house bill nos. 1524 & 2260, ninety-fifth general assembly, second regular session, and to enact in lieu thereof three new sections relating to absentee voting for emergency workers, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 115.279, RSMo, section 115.275 as enacted by house
2 committee substitute for senate substitute for senate committee substitute for
3 senate bill no. 116, ninety-seventh general assembly, first regular session, section
4 115.275 as enacted by house bill no. 511, ninety-second general assembly, first
5 regular session, section 115.291 as enacted by house committee substitute for
6 senate substitute for senate committee substitute for senate bill no. 116, ninety-
7 seventh general assembly, first regular session, and section 115.291 as enacted
8 by senate committee substitute for house committee substitute for house bill nos.
9 1524 & 2260, ninety-fifth general assembly, second regular session, are repealed
10 and three new sections enacted in lieu thereof, to be known as sections 115.275,
11 115.279, and 115.291, to read as follows:

115.275. As used in sections 115.275 to 115.304, unless the context clearly

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 indicates otherwise, the following terms shall mean:

3 (1) "Absentee ballot", any of the ballots a person is authorized to cast
4 away from a polling place pursuant to the provisions of sections 115.275 to
5 115.304;

6 (2) **"Emergency worker", a registered voter in this state engaged
7 in responding to an emergency declared in this state or in any other
8 state, or by the federal government;**

9 (3) "Interstate former resident", a former resident and registered voter in
10 this state who moves from Missouri to another state after the deadline to register
11 to vote in any presidential election in the new state and who otherwise possesses
12 the qualifications to register and vote in such state;

13 [(3)] (4) "Intrastate new resident", a registered voter of this state who
14 moves from one election authority's jurisdiction in the state to another election
15 authority's jurisdiction in the state after the last day authorized in this chapter
16 to register to vote in an election and otherwise possesses the qualifications to
17 vote;

18 [(4)] (5) "New resident", a person who moves to this state after the last
19 date authorized in this chapter to register to vote in any presidential election;

20 [(5)] (6) "Persons in federal service" includes:

21 (a) Members of the Armed Forces of the United States, while in active
22 service, and their spouses and dependents;

23 (b) Active members of the Merchant Marine of the United States and their
24 spouses and dependents;

25 (c) Civilian employees of the United States government working outside
26 the boundaries of the United States, and their spouses and dependents;

27 (d) Active members of religious or welfare organizations assisting
28 servicemen, and their spouses and dependents;

29 (e) Persons who have been honorably discharged from the Armed Forces
30 or who have terminated their service or employment in any group mentioned in
31 this section within sixty days of an election, and their spouses and dependents.

[115.275. As used in sections 115.275 to 115.304, unless the
2 context clearly indicates otherwise, the following terms shall mean:

3 (1) "Absentee ballot", any of the ballots a person is
4 authorized to cast away from a polling place pursuant to the
5 provisions of sections 115.275 to 115.304;

6 (2) "Interstate former resident", a former resident and

7 registered voter in this state who moves from Missouri to another
8 state after the deadline to register to vote in any presidential
9 election in the new state and who otherwise possesses the
10 qualifications to register and vote in such state;

11 (3) "Intrastate new resident", a registered voter of this state
12 who moves from one election authority's jurisdiction in the state to
13 another election authority's jurisdiction in the state after the last
14 day authorized in this chapter to register to vote in an election and
15 otherwise possesses the qualifications to vote;

16 (4) "New resident", a person who moves to this state after
17 the last date authorized in this chapter to register to vote in any
18 presidential election;

19 (5) "Overseas voter" includes:

20 (a) An absent uniformed services voter who, by reason of
21 active duty or service is absent from the United States on the date
22 of the election involved;

23 (b) A person who resides outside the United States and is
24 qualified to vote in the last place in which the person was
25 domiciled before leaving the United States; or

26 (c) A person who resides outside the United States and (but
27 for such residence) would be qualified to vote in the last place in
28 which the person was domiciled before leaving the United States;

29 (6) "Persons in federal service" includes:

30 (a) Members of the Armed Forces of the United States,
31 while in active service, and their spouses and dependents;

32 (b) Active members of the Merchant Marine of the United
33 States and their spouses and dependents;

34 (c) Civilian employees of the United States government
35 working outside the boundaries of the United States, and their
36 spouses and dependents;

37 (d) Active members of religious or welfare organizations
38 assisting servicemen, and their spouses and dependents;

39 (e) Persons who have been honorably discharged from the
40 Armed Forces or who have terminated their service or employment
41 in any group mentioned in this section within sixty days of an
42 election, and their spouses and dependents.]

115.279. 1. Application for an absentee ballot may be made by the
2 applicant in person, or by mail, or for the applicant, in person, by his or her
3 guardian or a relative within the second degree by consanguinity or affinity. The
4 election authority shall accept applications by facsimile transmission within the
5 limits of its telecommunications capacity.

6 2. Each application shall be made to the election authority of the
7 jurisdiction in which the person is or would be registered. Each application shall
8 be in writing and shall state the applicant's name, address at which he or she is
9 or would be registered, his or her reason for voting an absentee ballot, the
10 address to which the ballot is to be mailed, if mailing is requested, and for absent
11 uniformed services and overseas applicants, the applicant's email address if
12 electronic transmission is requested. Each application to vote in a primary
13 election shall also state which ballot the applicant wishes to receive. If any
14 application fails to designate a ballot, the election authority shall, within three
15 working days after receiving the application, notify the applicant by mail that it
16 will be unable to deliver an absentee ballot until the applicant designates which
17 political party ballot he or she wishes to receive. If the applicant does not
18 respond to the request for political party designation, the election authority is
19 authorized to provide the voter with that part of the ballot for which no political
20 party designation is required.

21 3. Except as provided in subsection 3 of section 115.281, all applications
22 for absentee ballots received prior to the sixth Tuesday before an election shall
23 be stored at the office of the election authority until such time as the applications
24 are processed in accordance with section 115.281. **Except as provided in**
25 **section 115.291**, no application for an absentee ballot received in the office of
26 the election authority by mail, by facsimile transmission or by a guardian or
27 relative after 5:00 p.m. on the Wednesday immediately prior to the election shall
28 be accepted by any election authority. No application for an absentee ballot
29 submitted by the applicant in person after 5:00 p.m. on the day before the election
30 shall be accepted by any election authority, except as provided in subsections 6,
31 8 and 9 of this section.

32 4. Each application for an absentee ballot shall be signed by the applicant
33 or, if the application is made by a guardian or relative pursuant to this section,
34 the application shall be signed by the guardian or relative, who shall note on the
35 application his or her relationship to the applicant. If an applicant, guardian or
36 relative is blind, unable to read or write the English language or physically

37 incapable of signing the application, he or she shall sign by mark, witnessed by
38 the signature of an election official or person of his or her own choosing. Any
39 person who knowingly makes, delivers or mails a fraudulent absentee ballot
40 application shall be guilty of a class one election offense.

41 5. (1) Notwithstanding any law to the contrary, any resident of the state
42 of Missouri who resides outside the boundaries of the United States or who is on
43 active duty with the Armed Forces of the United States or members of their
44 immediate family living with them may request an absentee ballot for both the
45 primary and subsequent general election with one application.

46 (2) The election authority shall provide each absent uniformed services
47 voter and each overseas voter who submits a voter registration application or an
48 absentee ballot request, if the election authority rejects the application or request,
49 with the reasons for the rejection.

50 (3) Notwithstanding any other law to the contrary, if a standard oath
51 regarding material misstatements of fact is adopted for uniformed and overseas
52 voters pursuant to the Help America Vote Act of 2002, the election authority shall
53 accept such oath for voter registration, absentee ballot, or other election-related
54 materials.

55 (4) Not later than sixty days after the date of each regularly scheduled
56 general election for federal office, each election authority which administered the
57 election shall submit to the secretary of state in a format prescribed by the
58 secretary a report on the combined number of absentee ballots transmitted to,
59 and returned by, absent uniformed services voters and overseas voters for the
60 election. The secretary shall submit to the Election Assistance Commission a
61 combined report of such information not later than ninety days after the date of
62 each regularly scheduled general election for federal office and in a standardized
63 format developed by the commission pursuant to the Help America Vote Act of
64 2002. The secretary shall make the report available to the general public.

65 (5) As used in this section, the terms "absent uniformed services voter"
66 and "overseas voter" shall have the meaning prescribed in 42 U.S.C. 1973ff-6.

67 6. An application for an absentee ballot by a new resident, as defined in
68 section 115.275, shall be submitted in person by the applicant in the office of the
69 election authority in the election jurisdiction in which such applicant
70 resides. The application shall be received by the election authority no later than
71 7:00 p.m. on the day of the election. Such application shall be in the form of an
72 affidavit, executed in duplicate in the presence of the election authority or any

73 authorized officer of the election authority, and in substantially the following
74 form:

75 "STATE OF.....

76 COUNTY OF....., ss.

77 I,....., do solemnly swear that:

78 (1) Before becoming a resident of this state, I resided at
79 (residence address) in (town,
80 township, village or city) of County in the state of
81

82 (2) I moved to this state after the last day to register to vote in such
83 general presidential election and I am now residing in the county of
84, state of Missouri;

85 (3) I believe I am entitled pursuant to the laws of this state to vote in the
86 presidential election to be held November, (year);

87 (4) I hereby make application for a presidential and vice presidential
88 ballot. I have not voted and shall not vote other than by this ballot at such
89 election.

90 Signed

91 (Applicant)

92

93 (Residence Address)

94 Subscribed and sworn to before me this day of,

95 Signed

96 (Title and name of officer authorized to administer oaths)"

97 7. The election authority in whose office an application is filed pursuant
98 to subsection 6 of this section shall immediately send a duplicate of such
99 application to the appropriate official of the state in which the new resident
100 applicant last resided and shall file the original of such application in its office.

101 8. An application for an absentee ballot by an intrastate new resident, as
102 defined in section 115.275, shall be made in person by the applicant in the office
103 of the election authority in the election jurisdiction in which such applicant
104 resides. The application shall be received by the election authority no later than
105 7:00 p.m. on the day of the election. Such application shall be in the form of an
106 affidavit, executed in duplicate in the presence of the election authority or an
107 authorized officer of the election authority, and in substantially the following
108 form:

109 "STATE OF

110 COUNTY OF, ss.

111 I,, do solemnly swear that:

112 (1) Before becoming a resident of this election jurisdiction, I resided at
113 (residence address) in (town, township,
114 village or city) of county in the state of

115 (2) I moved to this election jurisdiction after the last day to register to
116 vote in such election;

117 (3) I believe I am entitled pursuant to the laws of this state to vote in the
118 election to be held (date);

119 (4) I hereby make application for an absentee ballot for candidates and
120 issues on which I am entitled to vote pursuant to the laws of this state. I have
121 not voted and shall not vote other than by this ballot at such election.

122 Signed

123 (Applicant)

124

125 (Residence Address)

126 Subscribed and sworn to before me this day of,

127 Signed

128 (Title and name of officer authorized to administer oaths)"

129 9. An application for an absentee ballot by an interstate former resident,
130 as defined in section 115.275, shall be received in the office of the election
131 authority where the applicant was formerly registered by 5:00 p.m. on the
132 Wednesday immediately prior to the election, unless the application is made in
133 person by the applicant in the office of the election authority, in which case such
134 application shall be made no later than 7:00 p.m. on the day of the election.

115.291. 1. Upon receiving an absentee ballot in person or by mail, the
2 voter shall mark the ballot in secret, place the ballot in the ballot envelope, seal
3 the envelope and fill out the statement on the ballot envelope. The affidavit of
4 each person voting an absentee ballot shall be subscribed and sworn to before the
5 election official receiving the ballot, a notary public or other officer authorized by
6 law to administer oaths, unless the voter is voting absentee due to incapacity or
7 confinement due to the provisions of section 115.284, illness or physical disability,
8 or the voter is a covered voter as defined in section 115.902. If the voter is blind,
9 unable to read or write the English language, or physically incapable of voting
10 the ballot, the voter may be assisted by a person of the voter's own choosing. Any

11 person assisting a voter who is not entitled to such assistance, and any person
12 who assists a voter and in any manner coerces or initiates a request or a
13 suggestion that the voter vote for or against or refrain from voting on any
14 question, ticket or candidate, shall be guilty of a class one election offense. If,
15 upon counting, challenge or election contest, it is ascertained that any absentee
16 ballot was voted with unlawful assistance, the ballot shall be rejected.

17 2. Except as provided in subsection 4 of this section, each absentee ballot
18 shall be returned to the election authority in the ballot envelope and shall only
19 be returned by the voter in person, or in person by a relative of the voter who is
20 within the second degree of consanguinity or affinity, by mail or registered carrier
21 or by a team of deputy election authorities; except that persons in federal service,
22 when sent from a location determined by the secretary of state to be inaccessible
23 on election day, shall be allowed to return their absentee ballots cast by use of
24 facsimile transmission or under a program approved by the Department of
25 Defense for electronic transmission of election materials.

26 3. In cases of an emergency declared by the President of the United States
27 or the governor of this state where the conduct of an election may be affected, the
28 secretary of state may provide for the delivery and return of absentee ballots by
29 use of a facsimile transmission device or system. Any rule promulgated pursuant
30 to this subsection shall apply to a class or classes of voters as provided for by the
31 secretary of state.

32 4. No election authority shall refuse to accept and process any otherwise
33 valid marked absentee ballot submitted in any manner by a covered voter solely
34 on the basis of restrictions on envelope type.

35 **5. In the event of a state of emergency declared in this or any**
36 **other state, or by the federal government, an election authority shall**
37 **provide an absentee ballot and accompanying voting materials to an**
38 **emergency worker by mail, facsimile transmission, or electronic**
39 **transmission, as requested by the emergency worker, and accept**
40 **absentee ballots and accompanying voting materials from emergency**
41 **workers via facsimile transmission, or electronic transmission, as**
42 **requested by the emergency worker.**

43 **6. If the emergency is declared after the deadline for requesting**
44 **absentee ballots, emergency workers shall be eligible to request**
45 **absentee ballots until 5:00 p.m. on the Monday immediately prior to the**
46 **election.**

47 **7. In order to be counted, an absentee ballot cast by an**
48 **emergency worker shall be received at or before the time fixed by law**
49 **for the closing of the polls on election day.**

 [115.291. 1. Upon receiving an absentee ballot in person or
2 by mail, the voter shall mark the ballot in secret, place the ballot
3 in the ballot envelope, seal the envelope and fill out the statement
4 on the ballot envelope. The affidavit of each person voting an
5 absentee ballot shall be subscribed and sworn to before the election
6 official receiving the ballot, a notary public or other officer
7 authorized by law to administer oaths, unless the voter is voting
8 absentee due to incapacity or confinement due to the provisions of
9 section 115.284, illness or physical disability, or the voter is an
10 absent uniformed services voter or an overseas voter. If the voter
11 is blind, unable to read or write the English language, or physically
12 incapable of voting the ballot, the voter may be assisted by a
13 person of the voter's own choosing. Any person assisting a voter
14 who is not entitled to such assistance, and any person who assists
15 a voter and in any manner coerces or initiates a request or a
16 suggestion that the voter vote for or against or refrain from voting
17 on any question, ticket or candidate, shall be guilty of a class one
18 election offense. If, upon counting, challenge or election contest, it
19 is ascertained that any absentee ballot was voted with unlawful
20 assistance, the ballot shall be rejected.

21 2. Except as provided in subsection 4 of this section, each
22 absentee ballot shall be returned to the election authority in the
23 ballot envelope and shall only be returned by the voter in person,
24 or in person by a relative of the voter who is within the second
25 degree of consanguinity or affinity, by mail or registered carrier or
26 by a team of deputy election authorities; except that persons in
27 federal service, when sent from a location determined by the
28 secretary of state to be inaccessible on election day, shall be
29 allowed to return their absentee ballots cast by use of facsimile
30 transmission or under a program approved by the Department of
31 Defense for electronic transmission of election materials.

32 3. In cases of an emergency declared by the President of the
33 United States or the governor of this state where the conduct of an

34 election may be affected, the secretary of state may provide for the
35 delivery and return of absentee ballots by use of a facsimile
36 transmission device or system. Any rule promulgated pursuant to
37 this subsection shall apply to a class or classes of voters as
38 provided for by the secretary of state.

39 4. No election authority shall refuse to accept and process
40 any otherwise valid marked absentee ballot submitted in any
41 manner by an absent uniformed services voter or overseas voter
42 solely on the basis of restrictions on envelope type.

43 5. As provided in the Military and Overseas Voter
44 Empowerment Act, the secretary of state shall, in coordination with
45 local election authorities, develop a free access system by which an
46 absent uniformed services voter or overseas voter may determine
47 whether the voter's absentee ballot has been received by the
48 appropriate election authority.]

Section B. Because immediate action is necessary to allow the provisions
2 of this act to apply to elections prior to August 28, 2014, section A of this act is
3 deemed necessary for the immediate preservation of the public health, welfare,
4 peace and safety, and is hereby declared to be an emergency act within the
5 meaning of the constitution, and section A of this act shall be in full force and
6 effect upon its passage and approval.

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