

SECOND REGULAR SESSION

SENATE BILL NO. 749

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIFTON.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4034S.02I

AN ACT

To repeal sections 115.275, 115.279, and 115.291, RSMo, 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Section A. Sections 115.275, 115.279, and 115.291, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 115.275,
3 115.279, and 115.291, to read as follows:

115.275. As used in sections 115.275 to 115.304, unless the context clearly
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) "Covered voter":

7 (a) A uniformed services voter who is registered to vote in this state;

8 (b) A uniformed services voter defined in this section whose voting
9 residence is in this state and who otherwise satisfies this state's voter eligibility
10 requirements;

11 (c) An overseas voter;

12 (d) Civilian employees of the United States government working outside
13 the boundaries of the United States, and their spouses and dependents;

14 (e) Active members of religious or welfare organizations assisting
15 servicemen, and their spouses and dependents; or

16 (f) Persons who have been honorably discharged from the Armed Forces
17 or who have terminated their service or employment in any group mentioned in

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

18 this section within sixty days of an election, and their spouses and dependents;

19 (3) **"Emergency worker", a registered voter in this state engaged**
20 **in responding to an emergency declared in this state or in any other**
21 **state, or by the federal government;**

22 (4) "Interstate former resident", a former resident and registered voter in
23 this state who moves from Missouri to another state after the deadline to register
24 to vote in any presidential election in the new state and who otherwise possesses
25 the qualifications to register and vote in such state;

26 [(4)] (5) "Intrastate new resident", a registered voter of this state who
27 moves from one election authority's jurisdiction in the state to another election
28 authority's jurisdiction in the state after the last day authorized in this chapter
29 to register to vote in an election and otherwise possesses the qualifications to
30 vote;

31 [(5)] (6) "New resident", a person who moves to this state after the last
32 date authorized in this chapter to register to vote in any presidential election;

33 [(6)] (7) "Overseas voter":

34 (a) A person who resides outside the United States and is qualified to vote
35 in the last place in which the person was domiciled before leaving the United
36 States; or

37 (b) A person who resides outside the United States and, but for such
38 residence, would be qualified to vote in the last place in which the person was
39 domiciled before leaving the United States;

40 [(7)] (8) "Uniformed services":

41 (a) Active and reserve components of the Army, Navy, Air Force, Marine
42 Corps, or Coast Guard of the United States;

43 (b) The Merchant Marine, the commissioned corps of the Public Health
44 Service, or the commissioned corps of the National Oceanic and Atmospheric
45 Administration of the United States; or

46 (c) The Missouri National Guard;

47 [(8)] (9) "Uniformed services voter", an individual who is qualified to vote
48 and is:

49 (a) A member of the active or reserve components of the Army, Navy, Air
50 Force, Marine Corps, or Coast Guard of the United States who is on active duty;

51 (b) A member of the Merchant Marine, the commissioned corps of the
52 Public Health Service, or the commissioned corps of the National Oceanic and
53 Atmospheric Administration of the United States;

54 (c) A member on activated status of the National Guard; or
55 (d) A spouse or dependent of a member referred to in this subdivision;
56 [(9)] (10) "United States", used in the territorial sense, the several
57 states, the District of Columbia, Puerto Rico, the United States Virgin Islands,
58 and any territory or insular possession subject to the jurisdiction of the United
59 States.

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. If the reason for the applicant voting
13 absentee is due to the reasons established under subdivision (6) of subsection 1
14 of section 115.277, the applicant shall state the voter's identification information
15 provided by the address confidentiality program in lieu of the applicant's name,
16 address at which he or she is or would be registered, and address to which the
17 ballot is to be mailed, if mailing is requested. Each application to vote in a
18 primary election shall also state which ballot the applicant wishes to receive. If
19 any application fails to designate a ballot, the election authority shall, within
20 three working days after receiving the application, notify the applicant by mail
21 that it will be unable to deliver an absentee ballot until the applicant designates
22 which political party ballot he or she wishes to receive. If the applicant does not
23 respond to the request for political party designation, the election authority is
24 authorized to provide the voter with that part of the ballot for which no political
25 party designation is required.

26 3. Except as provided in subsection 3 of section 115.281, all applications
27 for absentee ballots received prior to the sixth Tuesday before an election shall
28 be stored at the office of the election authority until such time as the applications
29 are processed in accordance with section 115.281. **Except as provided in**
30 **section 115.291**, no application for an absentee ballot received in the office of

31 the election authority by mail, by facsimile transmission or by a guardian or
32 relative after 5:00 p.m. on the Wednesday immediately prior to the election shall
33 be accepted by any election authority. No application for an absentee ballot
34 submitted by the applicant in person after 5:00 p.m. on the day before the election
35 shall be accepted by any election authority, except as provided in subsections 6,
36 8 and 9 of this section.

37 4. Each application for an absentee ballot shall be signed by the applicant
38 or, if the application is made by a guardian or relative pursuant to this section,
39 the application shall be signed by the guardian or relative, who shall note on the
40 application his or her relationship to the applicant. If an applicant, guardian or
41 relative is blind, unable to read or write the English language or physically
42 incapable of signing the application, he or she shall sign by mark, witnessed by
43 the signature of an election official or person of his or her own choosing. Any
44 person who knowingly makes, delivers or mails a fraudulent absentee ballot
45 application shall be guilty of a class one election offense.

46 5. (1) Notwithstanding any law to the contrary, any resident of the state
47 of Missouri who resides outside the boundaries of the United States or who is on
48 active duty with the Armed Forces of the United States or members of their
49 immediate family living with them may request an absentee ballot for both the
50 primary and subsequent general election with one application.

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

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

60 (4) Not later than sixty days after the date of each regularly scheduled
61 general election for federal office, each election authority which administered the
62 election shall submit to the secretary of state in a format prescribed by the
63 secretary a report on the combined number of absentee ballots transmitted to,
64 and returned by, absent uniformed services voters and overseas voters for the
65 election. The secretary shall submit to the Election Assistance Commission a
66 combined report of such information not later than ninety days after the date of

67 each regularly scheduled general election for federal office and in a standardized
68 format developed by the commission pursuant to the Help America Vote Act of
69 2002. The secretary shall make the report available to the general public.

70 (5) As used in this section, the terms "absent uniformed services voter"
71 and "overseas voter" shall have the meaning prescribed in 42 U.S.C. Section
72 1973ff-6.

73 6. An application for an absentee ballot by a new resident, as defined in
74 section 115.275, shall be submitted in person by the applicant in the office of the
75 election authority in the election jurisdiction in which such applicant
76 resides. The application shall be received by the election authority no later than
77 7:00 p.m. on the day of the election. Such application shall be in the form of an
78 affidavit, executed in duplicate in the presence of the election authority or any
79 authorized officer of the election authority, and in substantially the following
80 form:

81 "STATE OF
82 COUNTY OF, ss.

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

84 (1) Before becoming a resident of this state, I resided at
85 (residence address) in (town,
86 township, village or city) of County in the state of
87

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

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

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

96 Signed
97 (Applicant)

98
99 (Residence Address)

100 Subscribed and sworn to before me this day of,

101 Signed

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

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

107 8. An application for an absentee ballot by an intrastate new resident, as
108 defined in section 115.275, shall be made in person by the applicant in the office
109 of the election authority in the election jurisdiction in which such applicant
110 resides. The application shall be received by the election authority no later than
111 7:00 p.m. on the day of the election. Such application shall be in the form of an
112 affidavit, executed in duplicate in the presence of the election authority or an
113 authorized officer of the election authority, and in substantially the following
114 form:

115 "STATE OF
116 COUNTY OF, ss.

117 I,, do solemnly swear that:

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

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

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

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

128 Signed
129 (Applicant)
130

131 (Residence Address)

132 Subscribed and sworn to before me this day of,

133 Signed

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

135 9. An application for an absentee ballot by an interstate former resident,
136 as defined in section 115.275, shall be received in the office of the election
137 authority where the applicant was formerly registered by 5:00 p.m. on the
138 Wednesday immediately prior to the election, unless the application is made in

139 person by the applicant in the office of the election authority, in which case such
140 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 covered voters, when sent
22 from a location determined by the secretary of state to be inaccessible on election
23 day, shall be allowed to return their absentee ballots cast by use of facsimile
24 transmission or under a program approved by the Department of Defense for
25 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 emergency worker may**
37 **request, receive, and send absentee ballots and accompanying materials**
38 **by mail, facsimile transmission, or electronic transmission. An election**
39 **authority shall provide an absentee ballot and accompanying voting**
40 **materials to an emergency worker by mail, facsimile transmission, or**
41 **electronic transmission, as requested by the emergency worker, and**
42 **accept absentee ballots and accompanying voting materials from**
43 **emergency workers via facsimile transmission, or electronic**
44 **transmission, as requested by the emergency worker. Emergency**
45 **workers shall provide documentation from his or her employer to the**
46 **election authority showing that he or she is an emergency worker**
47 **qualified to receive an absentee ballot under this subsection.**

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

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

Section B. Because immediate action is necessary to allow the provisions
2 of this act to apply to elections prior to August 28, 2016, 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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